

House Bill 1142 (AS PASSED HOUSE AND SENATE)

By: Representatives Jones of the 25th, Tanner of the 9th, Morris of the 26th, Cantrell of the 22nd, and Gilligan of the 24th

A BILL TO BE ENTITLED
AN ACT

1 To amend an Act to provide for the creation of one or more community improvement
2 districts in Forsyth County, approved May 6, 2019 (Ga. L. 2019, p. 3963), so as to authorize
3 the creation or expansion of one or more community improvement districts in any
4 municipality in Forsyth County; to provide for related matters; to repeal conflicting laws; and
5 for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 An Act to provide for the creation of one or more community improvement districts in
9 Forsyth County, approved May 6, 2019 (Ga. L. 2019, p. 3963), is amended by revising
10 Section 2 as follows:

11 "SECTION 2.

12 Purpose.

13 The purpose of this Act shall be to provide for the creation of one or more community
14 improvement districts within Forsyth County and each municipality therein, and each such
15 district shall be created for the provision of the following governmental services and facilities
16 as may be provided for in the resolution activating such district created hereby. Such
17 services and facilities shall be one or more of:

- 18 (1) Street and road construction and maintenance, including curbs, sidewalks, street
19 lights, and devices to control the flow of traffic on streets and roads;
20 (2) Parks and recreational areas and facilities;
21 (3) Storm-water and sewage collection and disposal systems;
22 (4) Development, storage, treatment, purification, and distribution of water;
23 (5) Public transportation;
24 (6) Terminal and dock facilities and parking facilities; or

25 (7) Such other services and facilities as may be provided for by general law."

26 **SECTION 2.**

27 Said Act is further amended by revising paragraph (6) of Section 3 as follows:

28 "(6) 'District' means the geographical area designated as such by the resolution of the
29 governing authority of Forsyth County or any municipality in Forsyth County consenting
30 to the creation of the community improvement district or as thereafter modified pursuant
31 to subsection (b) of Section 7 of this Act."

32 **SECTION 3.**

33 Said Act is further amended by revising subsection (a) of Section 4 as follows:

34 "(a) Pursuant to Article IX, Section VII of the Constitution of the State of Georgia, there
35 are created one or more community improvement districts to be located in Forsyth County
36 either wholly within the unincorporated area thereof, or wholly within any municipality
37 therein, or partly within one or more municipalities and partly within the unincorporated
38 area thereof, each of which shall be activated upon compliance with the conditions set forth
39 in this section. The conditions for such activation shall be:

40 (1) The adoption of a resolution consenting to the creation of each community
41 improvement district by:

42 (A) The Board of Commissioners of Forsyth County if the district is located wholly
43 within the unincorporated area of Forsyth County;

44 (B) The governing authority of the municipality if the district is located wholly within
45 the incorporated area of a municipality; or

46 (C) The governing authorities of Forsyth County and any municipality in which the
47 district is partially located if it is located partially within the unincorporated area of
48 Forsyth County and partially within the incorporated area of any municipality; and

49 (2) Written consent to the creation of the community improvement district by:

50 (A) A majority of the owners of real property within the district which will be subject
51 to taxes, fees, and assessments levied by the board of the district; and

52 (B) The owners of real property within the district which constitutes at least 75 percent
53 by value of all real property within the district which will be subject to taxes, fees, and
54 assessments levied by the board. For this purpose, value shall be determined by the
55 most recent approved county ad valorem tax digest."

56

SECTION 4.

57 Said Act is further amended by revising subsection (a) of Section 5 as follows:

58 "(a)(1) Each district created pursuant to this Act shall be administered by a board as
59 hereinafter provided:60 (A)(i) A person appointed by the chairperson of the governing authority of Forsyth
61 County, if any portion of the district lies within the unincorporated area of Forsyth
62 County, who shall serve on Post 1; or63 (ii) A person appointed by the mayor of the municipality, if the entirety of the district
64 lies within the incorporated area of a municipality in Forsyth County, who shall serve
65 on Post 1;66 (B)(i) If any portion of the district lies within the unincorporated area of Forsyth
67 County, a person appointed by a majority vote of the Forsyth County legislative
68 delegation to the General Assembly, which legislative delegation shall be composed
69 of all Representatives and Senators in the Georgia General Assembly whose districts
70 are located wholly or partially in Forsyth County, who shall serve on Post 2; or71 (ii) If the district lies entirely within the incorporated area of a municipality in
72 Forsyth County, a person appointed by a majority vote of the legislative delegation
73 to the General Assembly of such municipality, which legislative delegation shall be
74 composed of all Representatives and Senators in the Georgia General Assembly
75 whose districts are located wholly or partially in such municipality, who shall serve
76 on Post 2;77 (C) Three electors elected by a majority vote of the electors who shall serve on
78 Posts 3, 4, and 5. The initial term of office for the member serving on Post 3 shall be
79 one year, and the initial terms of office of the members serving on Posts 4 and 5 shall
80 be two years. Thereafter, the terms of the members serving on Posts 3, 4, and 5 shall
81 be two years; and82 (D) In the event that the district lies within both the unincorporated area of Forsyth
83 County and within the incorporated area of a municipality in Forsyth County, a person
84 appointed by the mayor of such municipality, who shall serve on Post 6.85 (2) Members appointed by elected officials to Posts 1, 2, or 6 shall serve at the pleasure
86 of the appointing authority concurrent with their terms, respectively. Should such a
87 member cease to be an elector, such member's position on the board shall immediately
88 become vacant and be filled for the remainder of the respective term as provided for the
89 initial appointment in this subsection."

90 **SECTION 5.**

91 Said Act is further amended by revising Section 7 as follows:

92 "SECTION 7.

93 Boundaries of the districts.

94 (a) The boundaries of each district shall be as designated as such by the Forsyth County
 95 Board of Commissioners if wholly within the unincorporated area of Forsyth County and
 96 such municipalities within which the district may be partially located if partially within the
 97 unincorporated area of Forsyth County and partially within one or more municipalities, or
 98 by the governing authority of a municipality if wholly within the incorporated area thereof,
 99 as set forth in the resolutions required in Section 4 hereof, or as may thereafter be added
 100 as hereinafter provided.

101 (b) The boundaries of a district may be increased after the initial creation of a district
 102 pursuant to the following:

103 (1) Written consent of a majority of the owners of real property within the area sought
 104 to be annexed and which will be subject to taxes, fees, and assessments levied by the
 105 board of the district;

106 (2) Written consent of owners of real property within the area sought to be annexed
 107 which constitutes at least 75 percent by value of the property which will be subject to
 108 taxes, fees, and assessments levied by the board. For this purpose, value shall be
 109 determined by the most recent approved county ad valorem tax digest;

110 (3) The adoption of a resolution consenting to the annexation by the board of the district;
 111 and

112 (4) The adoption of a resolution consenting to the boundary increase by the governing
 113 authorities of Forsyth County, if any portion of the district is or is to be in the
 114 unincorporated area of Forsyth County, and such municipalities as may have area within
 115 the district before or after the boundary increase."

116 **SECTION 6.**

117 Said Act is further amended by revising Section 9 as follows:

118 "SECTION 9.

119 Cooperation with local governments.

120 The services and facilities provided pursuant hereto shall be provided for in a cooperation
 121 agreement executed jointly by the board, the governing body of Forsyth County, and any

122 municipalities within which the district is partially located. The provisions of this section
 123 shall in no way limit the authority of Forsyth County or any such municipality to provide
 124 services or facilities within the district; and Forsyth County or such municipalities shall
 125 retain full and complete authority and control over any of its facilities located within its
 126 respective areas of any district. Said control shall include but not be limited to the
 127 modification of, access to, and degree and type of services provided through or by facilities
 128 of the municipality or county. Nothing contained in this section shall be construed to limit
 129 or preempt the application of any governmental laws, ordinances, resolutions, or
 130 regulations to the district or the services or facilities provided therein."

131 **SECTION 7.**

132 Said Act is further amended by revising Section 14 as follows:

133 "SECTION 14.

134 Dissolution.

135 (a)(1) Any district activated under the provisions of this Act may be dissolved.

136 (2) The conditions for such dissolution shall be:

137 (A) If any portion of the district is located in unincorporated Forsyth County, the
 138 adoption of a resolution approving of the dissolution of such community improvement
 139 district by the governing authority of Forsyth County;

140 (B) If any portion of the district is located in the incorporated portion of a municipality
 141 located in Forsyth County, the adoption of a resolution approving of the dissolution of
 142 such community improvement district by the governing authority of such municipality;
 143 and

144 (C) The written consent to the dissolution of the community improvement district by:

145 (i) A majority of the owners of real property within the district which are subject to
 146 taxes, fees, and assessments levied by the board of the district; and

147 (ii) The owners of real property constituting at least 75 percent by value of all real
 148 property within the district which are subject to taxes, fees, and assessments levied
 149 by the board. For this purpose, value shall be determined by the most recent approved
 150 county ad valorem tax digest.

151 (3) The written consent provided for in subparagraph (C) of paragraph (2) of this
 152 subsection shall be submitted to the Forsyth County tax commissioner, who shall certify
 153 whether subparagraph (C) of paragraph (2) of this subsection has been satisfied with
 154 respect to each proposed district dissolution.

155 (b) In the event that successful action is taken pursuant to this section to dissolve the
156 district, the dissolution shall become effective at such time as all debt obligations of the
157 district have been satisfied. Following a successful dissolution action and until the
158 dissolution becomes effective, no new projects may be undertaken, obligations or debts
159 incurred, or property acquired.

160 (c) Upon a successful dissolution action, all noncash assets of the district other than public
161 facilities or land or easements to be used for such public facilities, as described in Section 2
162 of this Act, shall be reduced to cash and, along with all other cash on hand, shall be applied
163 to the repayment of any debt obligation of the district. Any cash remaining after all
164 outstanding obligations are satisfied shall be remitted to:

165 (1) Forsyth County if no part of the district is within the corporate limits of a
166 municipality within Forsyth County;

167 (2) The municipal governing authority if the entirety of the district is within the
168 corporate limits of a municipality within Forsyth County; or

169 (3) Forsyth County and the municipal governing authority if any part of the district is in
170 unincorporated Forsyth County and within the corporate limits of any municipality in
171 Forsyth County, with such funds apportioned to such local government based upon the
172 ratio of such district within the unincorporated portions of Forsyth County and within the
173 corporate limits of any municipality in Forsyth County.

174 (d)(1) When a dissolution becomes effective, title to all property previously in the
175 ownership of the district shall revert to the governing authority of the local government
176 having jurisdiction over such property.

177 (2) All taxes, fees, and assessments of the district shall cease to be levied and collected
178 upon the dissolution of a district.

179 (e) A district may be reactivated in the same manner as an original activation.

180 (f) In the event that any district shall be dissolved in accordance with this section, the
181 board shall serve until December 31 of the year in which dissolution was approved for the
182 purpose of concluding any ongoing matters and projects. However, if such ongoing
183 matters and projects cannot be concluded by December 31 of such year, then the governing
184 authority of Forsyth County shall assume the duties of the board and shall be expressly
185 authorized to exercise the authority of the board of the dissolved district, provided that if
186 a district is located entirely within the corporate limits of a municipality then the governing
187 authority of the municipality shall assume the duties of the board and shall be authorized
188 to exercise the authority of the board.

189 (g) In the alternative to the provisions of subsection (f) of this section:

190 (1) The governing authority of Forsyth County, may, by resolution, assume all rights and
191 obligations, bonds or otherwise, of a district located entirely within the unincorporated

192 parts of Forsyth County, and the district shall cease to exist upon the adoption of such
193 resolution;

194 (2) The governing authority of any municipality located in Forsyth County may, by
195 resolution, assume all rights and obligations, bonds or otherwise, of a district located
196 entirely within the corporate limits of such municipality, and the district shall cease to
197 exist upon the adoption of such resolution; or

198 (3) The governing authorities of Forsyth County and any municipality in which a portion
199 of such district is located may, by intergovernmental agreement between such local
200 governments, assume all rights and obligations, bonds or otherwise, of a district located
201 partially within the unincorporated parts of the county and partially within the boundaries
202 of one or more municipalities located within the county, and the district shall cease to
203 exist upon the approval of such intergovernmental agreement by the contracting parties."

204 **SECTION 8.**

205 All laws and parts of laws in conflict with this Act are repealed.