

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE DRH50962-RBx-54A* (04/16)

Short Title: Infrastructure Assessments Act. (Local)

Sponsors: Representatives Barnhart and Johnson (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PROVIDE CABARRUS COUNTY WITH A MECHANISM TO
FINANCE LONG-TERM INFRASTRUCTURE NEEDS WITH ASSESSMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 158 of the General Statutes is amended by adding a
new Article to read:

"Article 5.

"Local Development Infrastructure Assessments Act

"§ 158-50. Short title.

This Article may be cited as the "Local Development Infrastructure Assessments
Act." A unit of local government may exercise the powers and provisions of this
Article.

"§ 158-51. Authorizations constitute cumulative and alternative powers.

Nothing contained in this Article may be construed to limit or restrict the powers of
a unit of local government. The authorization provided in this Article is cumulative to
those powers and is provided as an alternate means for the provision of infrastructure.

"§ 158-52. Definitions.

The following definitions apply in this Article:

- (1) Assessment. – An assessment voluntarily agreed upon by a majority of
the owners of real property within an infrastructure improvement
district and representing at least sixty-six percent (66%) of the
assessed value of all real property within the infrastructure
improvement district. The assessment must be made upon all real
property located within the district, other than property constituting
improvements within the meaning of this section; provided that no
assessment shall be imposed on any property of the State of North
Carolina without the consent of the State, and if the governing body

1 determines that any parcel of property will not benefit from some or all
2 of the improvements, then the governing body may exempt such
3 property from the portion of the assessment attributable to such
4 improvements. Assessments may be based upon assessed value, front
5 footage, area, per parcel basis, the value of improvements to be
6 constructed within the infrastructure improvement district, or a
7 combination of them, or any other method selected by the governing
8 body so long as the governing body determines that the final basis is a
9 reasonable method designed to allocate costs in accordance with
10 benefits conferred. An assessment imposed upon real property under
11 the provisions of this article remains valid and enforceable in
12 accordance with the provisions hereof even if there is a later
13 subdivision and transfer of the property or a part of it. An
14 improvement plan may provide for a change in the basis of assessment
15 upon the subdivision and transfer of real property or upon a change in
16 use.

17 (2) Clerk. – The Clerk to the Board of Commissioners with respect to a
18 County or the City Clerk with respect to a City.

19 (3) Governing body. – The governing body of a unit of local government.

20 (4) Improvements. – Any undertaking to provide infrastructure or improve
21 any existing infrastructure and may include the acquisition of
22 necessary easements and land and all things incidental to the provision
23 of the above.

24 (5) Improvement plan. – The overall plan by which the governing body
25 proposes to effect improvements within an infrastructure improvement
26 district and allocate a portion of the costs related to new residential and
27 commercial development to such new development.

28 (6) Infrastructure. – The public facilities and services needed to support
29 residential or commercial development, including highways, bridges,
30 schools, public utilities such as sewer and water systems, electric
31 systems, recreational facilities, pedestrian facilities, sidewalks, storm
32 drains, or water course facilities or improvements, transit systems,
33 docks and wharves, educational facilities, libraries, public meeting
34 facilities or any other buildings or facilities for public use, parks,
35 streetscaping and such other facilities as are permitted to be owned or
36 operated by a unit of local government.

37 (7) Infrastructure improvement district. – An area designated by the
38 governing body pursuant to the provisions of this Chapter and within
39 which an improvement plan is to be accomplished.

40 (8) Owner. – A person competent to contract under the laws of the State,
41 or the proper legal representative for a person not at such time
42 competent to contract, and a firm or corporation, who or which owns
43 legal title to a present possessory interest in real estate equal to a life
44 estate or greater (expressly excluding leaseholds, easements, equitable

1 interests, inchoate rights, and future interests) and who owns, at the
2 date of the petition or written consent, at least an undivided one-tenth
3 interest in a single tract and whose name appears on the tax records as
4 an owner of real estate, and a duly organized group whose tax interest
5 is at least equal to a one-tenth interest in a single tract. If a firm or
6 person has a leasehold interest requiring it or him to pay all ad valorem
7 taxes with respect to property, the agreement is not applicable to
8 charges of the assessment of the infrastructure improvement district as
9 only the owner has the right to petition or consent to the assessment
10 charge for the infrastructure improvement district.

11 (9) Unit of local government. – A city as defined in Chapter 160A or a
12 county as defined in Chapter 153A.

13 **§ 158-53. Powers of governing body with respect to improvements; means of**
14 **financing.**

15 A unit of local government is authorized to acquire, own, construct, establish,
16 enlarge, improve, expand, operate, maintain and repair, and sell, lease, and otherwise
17 dispose of an improvement and to finance the acquisition, construction, establishment,
18 enlargement, improvement, expansion, operation, maintenance and repair, in whole or
19 in part, by the imposition of assessments in accordance with this Chapter and through
20 the issuance of assessment district debt obligations as provided in the Infrastructure
21 Financing District, Article 5 of Chapter 158 of the General Statutes general obligation
22 bonds, or revenue bonds of such unit of local government, from general revenues from
23 any source not restricted from that use by law, or by a combination of the funding
24 sources. An improvement may be located outside the infrastructure improvement
25 district if the governing body finds that such improvement benefits property in the
26 infrastructure improvement district; provided, however, that in the case of such an
27 improvement that provides benefits within and without the infrastructure improvement
28 district, only that portion of the cost of such improvement attributable to the
29 infrastructure improvement district may be the subject of assessments as provided in
30 this Chapter. No part of an infrastructure improvement district may include any property
31 located outside the boundaries of the unit of local government; provided, however, that
32 this provision shall not prohibit two or more units of local government from creating a
33 district in connection with an interlocal agreement. A unit of local government that
34 issues project development financing debt instruments under Article 6 of Chapter 159 of
35 the General Statutes may pledge any assessments imposed hereunder as additional
36 collateral to such project development financing debt instruments.

37 **§ 158-54. Requisites for establishment of infrastructure improvement district;**
38 **power to implement and finance improvement plan.**

39 (a) If the governing body finds that (i) improvements may be beneficial within a
40 designated infrastructure improvement district, (ii) the improvements may improve or
41 preserve property values within the infrastructure improvement district, (iii) it would be
42 fair and equitable to finance all or part of the cost of the improvements by an assessment
43 upon the real property located within the infrastructure improvement district, and (iv)
44 written consent for the creation of the infrastructure improvement district from a

1 majority of the owners of real property within the infrastructure improvement district
2 and having an aggregate assessed value in excess of sixty six-percent (66%) of the
3 assessed value of all real property within the proposed infrastructure improvement
4 district has been obtained, the governing body may establish the area as an
5 infrastructure improvement district and implement and finance, in whole or in part, an
6 improvement plan in the infrastructure improvement district in accordance with the
7 provisions of this chapter.

8 (b) Instead of item (a)(ii) of this section, the governing body may find that the
9 improvements are likely to improve significantly property values within the
10 infrastructure improvement district by promoting the development of the property.

11 (c) The governing body may initiate the creation of an infrastructure
12 improvement district on its own or upon receipt of a petition from the owners of ten
13 percent (10%) of the property in the proposed infrastructure improvement district. Upon
14 receipt of a petition from a majority of the owners of real property within the
15 infrastructure improvement district and having an aggregate assessed value in excess of
16 sixty-six percent (66%) of the assessed value of all real property within the
17 infrastructure improvement district, the governing body must initiate proceedings to
18 create an infrastructure improvement district within 45 days. If a petition is presented by
19 the owners of ten percent (10%) of the property in the proposed infrastructure
20 improvement district or if the governing body decides to initiate the creation of such a
21 district without a petition, the governing body shall only proceed if it obtains written
22 consent from a majority of the owners of real property within the infrastructure
23 improvement district having an aggregate assessed value in excess of sixty-six percent
24 (66%) of the assessed value of all real property within the infrastructure improvement
25 district.

26 **"§ 158-55. Resolution describing infrastructure improvement district and plan,**
27 **including costs, assessments, etc., establishing time and place of hearing.**

28 The governing body, by resolution, shall describe the infrastructure improvement
29 district and the improvement plan to be effected for the benefit of such district,
30 including property to be acquired and improved, the projected time schedule for the
31 accomplishment of the improvement plan, the estimated cost and the amount of the cost
32 to be derived from assessments, bonds, or other general funds, together with the
33 proposed basis and rates of assessments to be imposed within the infrastructure
34 improvement district. The resolution also must establish the time and place of a public
35 hearing to be held, but the public hearing may not take place sooner than 30 days nor
36 more than 45 days following the adoption of the resolution.

37 **"§ 158-56. Publication of resolution providing for infrastructure improvement**
38 **district; public hearing, notice to affected unit of local government.**

39 A resolution providing for an infrastructure improvement district, when adopted,
40 must be published once a week for two successive weeks in a newspaper of general
41 circulation within the unit of local government, and the final publication must be at least
42 (10) days before the date of the scheduled public hearing. At the public hearing and at
43 any adjournment of it, all interested persons may be heard either in person or by their
44 designees.

1 **"§ 158-57. Improvements financed through assessments, bonds, general revenues,**
2 **or combination of sources.**

3 The governing body may provide by the resolution for the payment of the cost of the
4 improvements and facilities to be constructed for the benefit of property within the
5 infrastructure improvement district by assessments, by the issuance of assessment
6 district debt instruments as provided in the Infrastructure Assessment District Financing
7 Act, Article 15 of Chapter 159 of the General Statutes, revenue bonds, or general
8 obligation bonds of the unit of local government, from general revenues from a source
9 not restricted from that use by law, or from a combination of the financing sources as
10 may be provided in the improvement plan. The governing body may use the provisions
11 of the Revenue Bond Act, Article 5 of Chapter 159 of the General Statutes, to issue
12 revenue bonds, and any projects authorized to be funded by assessments authorized by
13 this Chapter shall be treated as a revenue bond project for that purpose.

14 Any assessment may be paid in full upon imposition or in annual installments for a
15 period not to exceed 30 years. Assessments payable in installments shall be added to the
16 annual ad valorem tax bills respecting the assessed property and shall be due and owing
17 and collected in the same manner as ad valorem taxes.

18 **"§ 158-58. Financing discretionary with governing body; assessment rates may**
19 **vary.**

20 The financing of improvements by assessments, bonds, or other revenues, and the
21 proportions of them, must be in the discretion of the governing body, and the rates of
22 assessments upon property owners within the infrastructure improvement district need
23 not be uniform but may vary in proportion to improvements made immediately adjacent
24 to or abutting upon the property of each owner in the infrastructure improvement district
25 as well as other bases as provided in G.S. 158-52.

26 **"§ 158-59. Preparation of assessment roll.**

27 If all or a part of the improvements for the benefit of the infrastructure improvement
28 district are to be financed by assessments on property in such district, the governing
29 body shall prepare an assessment roll in which there must be entered the names of the
30 persons whose properties are to be assessed and the maximum amount to be assessed
31 against their respective properties with a brief description of the lots or parcels of land
32 assessed.

33 **"§ 158-60. Notice of improvement and assessment; statement of lien; time and**
34 **place for hearing; opportunity to file written objection; failure to file**
35 **objection constitutes consent.**

36 As soon as practicable after the completion of the assessment roll provided in G.S.
37 158-59, the governing body shall mail by registered or certified mail, return receipt
38 requested, to the owner or owners of each lot or parcel of land against which an
39 assessment is to be levied, at the address appearing on the records of the tax collector
40 for the unit of local government, a notice stating the nature of the improvements, the
41 total proposed cost of the improvements, the amount to be assessed against the
42 particular property, and the basis upon which the assessment is made, together with the
43 terms and conditions upon which the assessment may be paid. The notice must contain a
44 brief description of the particular property involved, together with a statement that the

1 amount assessed constitutes a lien against the property superior to all other liens except
2 property taxes. The notice also must state the time and place fixed for the hearing of
3 objections in respect to the assessment. A property owner who fails to file with the
4 governing body a written objection to the assessment against his property within the
5 time provided for hearing the objections is considered to have consented to the
6 assessment, and the published and written notices prescribed in this Chapter shall so
7 state.

8 **"§ 158-61. Hearing of objections and supporting proof; corrections to assessment;
9 confirmation of roll; filing of copy; lien created; assessment and
10 collection together with property taxes.**

11 The governing body shall hear the objection as provided in this Chapter of all
12 persons who file written notice of objection within the time prescribed and who may
13 appear and make proof in relation to the objection, either in person or by their attorney.
14 The governing body, at the sessions held to make final decisions on objections, may
15 make corrections in the assessment roll as it considers proper and confirm them, or set it
16 aside and provide for a new assessment. Whenever the governing body confirms an
17 assessment, either as originally prepared or as corrected later, a copy of it must be filed
18 in the office of the register of deeds for the county where the infrastructure assessment
19 district is located, and from the time of filing the assessment impressed in the
20 assessment roll constitutes and is a lien on the real property against which it is assessed
21 superior to all other liens and encumbrances, except the lien for property taxes, and
22 must be annually assessed and collected with the property taxes on it.

23 **"§ 158.62. Mailing of notice of confirmation to persons who filed objections;
24 appeal to court; hearing; effect.**

25 Upon the confirmation of an assessment, if any, the governing body shall mail a
26 written notice to all persons who have filed written objections as provided in this
27 Chapter of the amount of the assessment finally confirmed. If the owner of, or any
28 person interested in, any lot or parcel of land against which an assessment is made is
29 dissatisfied with the amount of the assessment, he may, within 10 days after the
30 confirmation of the assessment roll, file a notice of appeal to the appropriate division of
31 the General Court of Justice. He shall then have 20 days after the confirmation of the
32 assessment roll to serve on the governing body or the clerk a statement of facts upon
33 which the appeal is based. The appeal shall be tried like other actions at law. No such
34 appeal shall delay or stay the construction of improvements or affect the validity of the
35 assessments confirmed and not appealed.

36 **"§ 158-63. Creation of infrastructure improvement district by resolution; filing.**

37 Not sooner than 10 days nor more than 120 days following the conclusion of the
38 public hearing provided in G.S. 4-35-60, the governing body, by resolution, may
39 provide for the creation of the infrastructure improvement district as originally proposed
40 or with changes and modifications the governing body may determine and provide for
41 the financing by assessments, assessment district debt instruments, general obligation
42 bonds, revenue bonds, or other revenues as provided in this Chapter. The resolution may
43 incorporate by reference plats and engineering reports and other data on file in the office
44 of the register of deeds for the county wherein the infrastructure improvement district is

1 located. The place of filing and reasonable hours for inspection must be made available
2 to all interested persons.

3 **"§ 158-64. Publication of notice of confirmation of assessment roll.**

4 After the expiration of 20 days from the confirmation of the assessment roll, the tax
5 collector for the unit of local government shall publish once a notice that the assessment
6 roll has been confirmed. No right of action or defense asserting the invalidity of any
7 assessment imposed hereunder on grounds that the unit of local government did not
8 comply with the provisions of this Chapter shall be asserted except in an action or
9 proceeding begun within 30 days after publication of such notice.

10 **"§ 158-65. Payment of assessments; installment payments.**

11 The owners of assessed property shall have the option, within 30 days after the
12 publication of the notice that the assessment roll has been confirmed, of paying the
13 assessment either in cash or in not more than 30 annual installments, as may have been
14 determined by the governing body in the resolution creating the infrastructure
15 improvement district. If assessments are payable in installments, the governing body
16 may provide for the payment of such assessments to include the interest on any
17 assessment district debt instruments or other financing at a rate to be determined by the
18 governing body but not greater than the rate of nine percent per annum or in such higher
19 amount as is required by any financing. In the event of payment by installment, the first
20 installment with interest shall become due and payable on the date when property taxes
21 are due and payable, and one subsequent installment and interest shall be due and
22 payable on the same date in each successive year until the assessment is paid in full.

23 **"§ 158-66. Enforcement of assessments.**

24 (a) Any portion of an assessment that is not paid within 30 days after publication
25 of the notice that the assessment roll has been confirmed shall bear interest until paid at
26 a rate to be fixed in the assessment resolution.

27 (b) If any installment of an assessment or interest is not paid on or before the due
28 date, all of the installments remaining unpaid shall immediately become due and
29 payable, unless the governing body waives acceleration. The governing body may
30 waive acceleration and permit the property owner to pay all installments in arrears
31 together with interest due thereon and the cost to the unit of local government of
32 attempting to obtain payment. If this is done, the remaining installments shall be
33 reinstated so that they fall due as if there had been no default. Waiver of acceleration
34 and reinstatement of future installments may be done at any time before foreclosure
35 proceedings have been instituted.

36 (c) Assessment liens may be foreclosed under any procedure prescribed by law
37 for the foreclosure of property tax liens, except that lien sales and lien sale certificates
38 shall not be required, and foreclosure may begin at any time after 30 days after the due
39 date. The governing body shall not be entitled to a deficiency judgment in an action to
40 foreclose an assessment lien. The lien of special assessments shall be superior to all
41 liens except liens for State, local, and federal taxes.

42 (d) No unit of local government may maintain an action or proceeding to enforce
43 any remedy for the foreclosure of special assessment liens unless the action or
44 proceeding is begun within 10 years from the date that the assessment or the earliest

1 installment thereof included in the action or proceeding became due. Acceleration of
2 installments under subsection (b) of this section shall not have the effect of shortening
3 the time within which foreclosure may begin, but in that event the statute of limitations
4 shall continue to run as to each installment as if acceleration had not occurred.

5 **"§ 158-67. Improvement ownership, removal, additions, and alterations; special**
6 **assessments.**

7 The improvements must be owned by the unit of local government creating the
8 infrastructure improvement district, the State, or another public entity for the benefit of
9 the citizens and residents of the infrastructure improvement district or the entity owning
10 the improvement, and at any time may be removed, altered, changed, or added to, as the
11 governing body of the owner may determine except that during the continuance or
12 maintenance of the improvements, additional special assessments on property may be
13 utilized for the preservation, operation, and maintenance of the improvements and
14 facilities provided in the improvement plan, for the management and operation of the
15 infrastructure improvement district as provided in the improvement plan, and for
16 payment of indebtedness incurred.

17 **"§ 158-68. Modification of assessments.**

18 If the total cost of the improvements is less than the cost estimated to establish the
19 maximum assessments on property within the infrastructure improvement district or if
20 costs are reduced by the elimination or modification of any improvements, the
21 governing body must reduce the assessments to reflect the actual costs incurred in the
22 improvement plan and apply such reductions to property on the same basis as the costs
23 were originally allocated. In the event the total cost would exceed the maximum
24 assessments on property in the infrastructure improvement district, the governing body
25 may amend the improvement plan and increase the assessments, but only by following
26 the same procedures required to create the infrastructure improvement district and
27 impose assessments therein as provided in this Chapter.

28 **"§ 158-69. Reimbursement agreements.**

29 A unit of local government may enter into reimbursement agreements with private
30 developers and property owners for the design and construction of infrastructure that
31 serves the developer or property owner of property within an infrastructure
32 improvement district. The amount of such reimbursements may be paid from
33 assessments, the proceeds of any assessment district debt instruments, or any other
34 lawful source specified by the unit of local government. Reimbursement agreements
35 authorized by this section shall not be subject to Article 8 of Chapter 143 of the General
36 Statutes. A developer or property owner who is party to a reimbursement agreement
37 authorized under this section shall be subject to the provisions of Article 8 of Chapter
38 143 of the General Statutes in the design and construction of infrastructure only to the
39 extent specified in the reimbursement agreement; provided, however, that in entering
40 into a reimbursement agreement, a unit of local government shall provide that the terms
41 and conditions of all contracts entered into pursuant thereto shall be provided to the unit
42 of local government and shall be public documents.

43 **"§ 158-70. Abolition of infrastructure improvement district; notice and hearing.**

1 purpose under this Article. Assessment district debt instruments issued to refund
2 outstanding debt instruments shall be issued under this Article and not under Article 4
3 of this Chapter.

4 **§ 159-224. Application to Commission for approval of assessment district debt**
5 **instrument issue; preliminary conference; acceptance of application.**

6 A unit of local government may not issue assessment district debt instruments under
7 this Article unless the issue is approved by the Local Government Commission. The
8 governing body of the issuing unit shall file with the secretary of the Commission an
9 application for Commission approval of the issue. At the time of application, the
10 governing body shall publish a public notice of the application in a newspaper of
11 general circulation in the unit of local government; however, the failure to publish such
12 notice shall not affect the validity of any action taken by the Commission. The
13 application shall include any statements of facts and documents concerning the
14 proposed assessment district debt instruments, the assessments, and any development
15 plan associated therewith, and the financial condition of the unit, required by the
16 secretary. The Commission may prescribe the form of the application.

17 Before accepting the application, the secretary may require the governing body or its
18 representatives to attend a preliminary conference in order to discuss informally the
19 proposed issue, district, and plan and the timing of the steps to be taken in issuing the
20 assessment district debt instruments. In the case of a financing for assessments under the
21 Local Government Infrastructure Assessments Act, the district provided for therein need
22 not have been established by the governing body at the time it files the application with
23 the secretary; however, before the Commission may enter its order approving the
24 assessment district debt instruments, the governing body must have created the district.
25 In the case of a financing for assessments under either the County Infrastructure
26 Assessments Act or the City Infrastructure Assessments Act, the unit of local
27 government need not have adopted the preliminary resolution called for therein at the
28 time it files the application with the secretary; however, before the Commission may
29 enter its order approving the assessment district debt instruments, the governing body
30 must have adopted such preliminary resolution.

31 After an application in proper form and order has been filed and after a preliminary
32 conference, if one is required, the secretary shall notify the unit in writing that the
33 application has been filed and accepted for submission to the Commission. The
34 secretary's statement is conclusive evidence that the unit of local government has
35 complied with this section.

36 **§ 159 225. Approval of application by Commission.**

37 (a) In determining whether to approve a proposed assessment district debt
38 instrument issue, the Commission may inquire into and consider any matters that it
39 considers relevant to whether the assessment district debt instruments should be
40 approved, including:

- 41 (1) The unit of local government's debt management procedures and
42 policies.
- 43 (2) Whether the unit is in default in any of its debt service obligations.

- 1 (3) The feasibility of the plan of finance, including the reasonableness of
2 the estimates of the costs to be incurred by the unit of local
3 government.
- 4 (4) Whether the assessments to be imposed are reasonable in light of the
5 improvements to be made.
- 6 (5) The relationship between the value of the property against which
7 assessments are to be imposed and the total amount of the assessments.
- 8 (6) The ability of the Commission to market the proposed project
9 development financing assessment district debt instruments at
10 reasonable rates of interest.

11 (b) The Commission shall approve the application if, upon the information and
12 evidence it receives, it finds all of the following:

- 13 (1) The amount of the proposed project development financing debt is
14 adequate and not excessive for the proposed purpose of the issue based
15 on the estimated cost of the improvements to be funded.
- 16 (2) The unit of local government's debt management procedures and
17 policies are good or that reasonable assurances have been given that its
18 debt will henceforth be managed in strict compliance with law.
- 19 (3) The proposed project development financing assessment district debt
20 instruments can be marketed at reasonable interest cost to the issuing
21 unit.

22 **"§ 159-226. Order approving or denying the application.**

23 (a) After considering an application, the Commission shall enter its order either
24 approving or denying the application. An order approving an issue is not an approval of
25 the legality of the assessment district debt instruments in any respect and, further, shall
26 not be a representation by the Commission on the creditworthiness of the proposed
27 assessment district financing debt instruments, and such fact shall be plainly stated on
28 such debt instruments.

29 (b) Any order may impose conditions on the issuance of the assessment district
30 debt instruments, including that no assessment district debt instruments may be issued
31 until the assessments have been finally established and are legally enforceable.
32 Determination of compliance with such conditions may be left to staff of the
33 Commission or may be subject to further review by the Commission itself.

34 (c) If the Commission enters an order denying the application, the proceedings
35 under this Article are at an end.

36 **"§ 159-227. Special covenants.**

37 Prior to the issuance of assessment district debt instruments, a unit of local
38 government shall adopt an order specifying the details of such assessment district debt
39 instruments and in such order or a trust agreement securing the assessment district debt
40 instruments may contain covenants regarding:

- 41 (1) The pledge of all or any part of the assessments received or to be
42 received under the infrastructure financing district act.

- 1 (2) The maintenance of the assessments and the pursuit of the collection
2 thereof and the use and disposal of revenues, gifts, grants, and funds
3 received or to be received.
- 4 (3) The setting aside of debt service reserves and the regulation and
5 disposition of these reserves.
- 6 (4) The custody, collection, securing, investment, and payment of any
7 moneys held for the payment of the assessment district debt
8 instruments.
- 9 (5) Limitations or restrictions on the purposes to which the proceeds of
10 sale of the assessment district debt instruments may be applied.
- 11 (6) Limitations or restrictions on the issuance of additional assessment
12 district debt instruments or notes secured by assessments on the same
13 property and the terms upon which additional assessment district debt
14 instruments or notes may be issued or secured by the assessments or
15 the refunding of outstanding assessment district debt instruments or
16 notes.
- 17 (7) The acquisition and disposal of property for which the assessments are
18 being imposed.
- 19 (8) Provision for insurance and for accounting reports and the inspection
20 and audit of accounting reports.
- 21 (9) The continuing operation and maintenance of any improvements
22 financed with the proceeds of the assessment district debt instruments.

23 **§ 159-228. Security of assessment district debt instruments.**

24 Assessment district debt instruments issued under the provisions of this Article are
25 special obligations of the issuing unit. Assessments imposed under the relevant
26 infrastructure assessment district act are pledged to the payment of the assessment
27 district debt instruments.

28 Except as provided in G.S. 159-111, the principal and interest on assessment district
29 debt instruments do not constitute a legal or equitable pledge, charge, lien, or
30 encumbrance upon any of the property of the unit of local government or upon any of its
31 income, receipts, or revenues, except as may be provided pursuant to this section.
32 Except as provided in G.S. 159-107 and G.S. 159-111, neither the credit nor the taxing
33 power of the unit of local government is pledged for the payment of the principal or
34 interest of assessment district debt instruments, and no holder of assessment district debt
35 instruments has the right to compel the exercise of the taxing power by the unit of local
36 government or the forfeiture of any of its property in connection with any default on the
37 instruments. Unless the unit of local government's taxing power has been pledged
38 pursuant to G.S. 159-111, every assessment district debt instrument shall contain
39 recitals sufficient to show the limited nature of the security for the instrument's payment
40 and that it is not secured by the full faith and credit of the unit of local government.

41 **§ 159-229. Additional security for assessment district debt instruments.**

42 (a) In order to provide additional security for assessment district debt instruments
43 issued pursuant to this Article, the issuing unit of local government may pledge its faith
44 and credit for the payment of the principal of and interest on the assessment district debt

1 instruments. Before such a pledge may be given, the unit shall follow the procedures
2 and meet the requirements for approval of general obligation bonds under Article 4 of
3 this Chapter. The unit shall also follow the procedures and meet the requirements of this
4 Article. If assessment district debt instruments are issued pursuant to this Article and are
5 also secured by a pledge of the faith and credit of the unit of local government, the
6 assessment district debt instruments are subject to G.S. 159-230 rather than G.S. 159-
7 65.

8 (b) In order to provide additional security for assessment district debt instruments
9 issued pursuant to this Article, and in lieu of pledging its faith and credit for that
10 purpose pursuant to subsection (a) of this section, a unit of local government may
11 pledge or grant a security interest in any available sources of revenues of the unit, as
12 long as doing so does not constitute a pledge of the taxing power of the unit of local
13 government. In addition, to the extent the generation of the revenues is within the power
14 of the unit of local government, it may enter into covenants to take action in order to
15 generate the revenues, as long as the covenant does not constitute a pledge of the taxing
16 power of the unit of local government.

17 (c) No agreement or covenant may contain a nonsubstitution clause that restricts
18 the right of the issuing unit of local government to replace or provide a substitute for
19 any project financed pursuant to this Article.

20 (d) The obligation of a unit of local government with respect to the sources of
21 payment shall be specifically identified in the proceedings of the governing body
22 authorizing the unit to issue the assessment district debt instruments. The sources of
23 payment so specifically identified and then held or thereafter received by the unit of
24 local government or any fiduciary of the unit are immediately subject to the lien of the
25 proceedings without any physical delivery of the sources or further act. The lien is valid
26 and binding as against all parties having claims of any kind against a unit without regard
27 to whether the parties have notice of the lien. The proceedings or any other document or
28 action by which the lien on a source of payment is created need not be filed or recorded
29 in any manner other than as provided in this Article.

30 **"§ 159-230. Limitations on details of assessment district debt instruments.**

31 In fixing the details of assessment district debt instruments, the governing body of
32 the issuing unit of local government is subject to these restrictions and directions:

33 (1) The maturity date shall not be later than one year after the date when
34 the last assessment securing the assessment district debt instruments is
35 due to be paid.

36 (2) The first payment of principal shall be payable not more than seven
37 years after the date of the assessment district debt instruments.

38 (3) Any assessment district debt instrument may be made payable on
39 demand or tender for purchase as provided in G.S. 159-79, and any
40 assessment district debt instrument may be made subject to redemption
41 prior to maturity, with or without premium, on such notice, at such
42 times, and with such redemption provisions as may be stated. Interest
43 on the assessment district debt instruments shall cease when the
44 instruments have been validly called for redemption and provision has

1 been made for the payment of the principal of the instruments, any
 2 redemption, any premium, and the interest on the instruments accrued
 3 to the date of redemption.

- 4 (4) The assessment district debt instruments may bear interest at such rates
 5 payable semiannually or otherwise, may be in such denominations, and
 6 may be payable in such kind of money and in such place or places
 7 within or without this State as the governing body of the unit of local
 8 government issuing such assessment district debt instruments may
 9 determine.

10 **"§§ 159 231 through 159 239: Reserved for future codification purposes."**

11 **SECTION 3.** G.S. 153A-199 reads as rewritten:

12 **"§ 153A-199. Payment of assessments in full or by installments.**

13 Within 30 days after the day that notice of confirmation of the assessment roll is
 14 published, each owner of assessed property shall pay his assessment in full, unless the
 15 board of commissioners has provided that assessments may be paid in annual
 16 installments. If payment by installments is permitted, any portion of an assessment not
 17 paid within the 30-day period shall be paid in annual installments. The board shall in the
 18 assessment resolution determine whether payment may be made by annual installments
 19 and set the number of installments, which may not be more than ~~10~~30. In the event of
 20 With respect to payment by installment, the board may provide

- 21 (1) ~~That the first installment with interest is due on the date when property~~
 22 ~~taxes are due, and one installment with interest is due on the same date~~
 23 ~~in each successive year until the assessment is paid in full, or~~
 24 (2) ~~That the first installment with interest is due 60 days after the date that~~
 25 ~~the assessment roll is confirmed, and one installment with interest is~~
 26 ~~due on that same day in each successive year until the assessment is~~
 27 ~~paid in full."~~

28 **SECTION 4.** G.S. 160A-232 reads as rewritten:

29 **"§ 160A-232. Payment of assessments in cash or by installments.**

30 The owners of assessed property shall have the option, within 30 days after the
 31 publication of the notice that the assessment roll has been confirmed, of paying the
 32 assessment either in cash or in not more than ~~10~~30 annual installments, as may have
 33 been determined by the council in the resolution directing the project giving rise to the
 34 assessment to be undertaken. ~~With respect to~~ In the event of payment by installment, the
 35 ~~council may provide~~

- 36 (1) ~~That the first installment with interest shall become due and payable~~
 37 ~~on the date when property taxes are due and payable, and one~~
 38 ~~subsequent installment and interest shall be due and payable on the~~
 39 ~~same date in each successive year until the assessment is paid in full,~~
 40 ~~or~~
 41 (2) ~~That the first installment with interest shall become due and payable~~
 42 ~~60 days after the date that the assessment roll is confirmed, and one~~
 43 ~~subsequent installment and interest shall be due and payable on the~~

1 ~~same day of the month in each successive year until the assessment is~~
2 ~~paid in full."~~

3 **SECTION 5.** This act applies to Cabarrus County only.

4 **SECTION 6.** This act is effective when it becomes law.