

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 2156

Short Title: Infrastructure Assessments Act.

(Local)

Sponsors: Senator Hartsell.

Referred to: Finance.

May 29, 2008

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
determines that any parcel of property will not benefit from some or all
of the improvements, then the governing body may exempt such

1 property from the portion of the assessment attributable to such
2 improvements. Assessments may be based upon assessed value, front
3 footage, area, per parcel basis, the value of improvements to be
4 constructed within the infrastructure improvement district, or a
5 combination of them, or any other method selected by the governing
6 body so long as the governing body determines that the final basis is a
7 reasonable method designed to allocate costs in accordance with
8 benefits conferred. An assessment imposed upon real property under
9 the provisions of this article remains valid and enforceable in
10 accordance with the provisions hereof even if there is a later
11 subdivision and transfer of the property or a part of it. An
12 improvement plan may provide for a change in the basis of assessment
13 upon the subdivision and transfer of real property or upon a change in
14 use.

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

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

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

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

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

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

38 (8) Owner. – A person competent to contract under the laws of the State,
39 or the proper legal representative for a person not at such time
40 competent to contract, and a firm or corporation, who or which owns
41 legal title to a present possessory interest in real estate equal to a life
42 estate or greater (expressly excluding leaseholds, easements, equitable
43 interests, inchoate rights, and future interests) and who owns, at the
44 date of the petition or written consent, at least an undivided one-tenth

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

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

11 **"§ 158-53. Powers of governing body with respect to improvements; means of**
12 **financing.**

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

35 **"§ 158-54. Requisites for establishment of infrastructure improvement district;**
36 **power to implement and finance improvement plan.**

37 (a) If the governing body finds that (i) improvements may be beneficial within a
38 designated infrastructure improvement district, (ii) the improvements may improve or
39 preserve property values within the infrastructure improvement district, (iii) it would be
40 fair and equitable to finance all or part of the cost of the improvements by an assessment
41 upon the real property located within the infrastructure improvement district, and (iv)
42 written consent for the creation of the infrastructure improvement district from a
43 majority of the owners of real property within the infrastructure improvement district
44 and having an aggregate assessed value in excess of sixty six-percent (66%) of the

1 assessed value of all real property within the proposed infrastructure improvement
2 district has been obtained, the governing body may establish the area as an
3 infrastructure improvement district and implement and finance, in whole or in part, an
4 improvement plan in the infrastructure improvement district in accordance with the
5 provisions of this chapter.

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

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

24 **"§ 158-55. Resolution describing infrastructure improvement district and plan,**
25 **including costs, assessments, etc., establishing time and place of hearing.**

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

35 **"§ 158-56. Publication of resolution providing for infrastructure improvement**
36 **district; public hearing, notice to affected unit of local government.**

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

43 **"§ 158-57. Improvements financed through assessments, bonds, general revenues,**
44 **or combination of sources.**

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

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

16 **"§ 158-58. Financing discretionary with governing body; assessment rates may**
17 **vary.**

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

24 **"§ 158-59. Preparation of assessment roll.**

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

31 **"§ 158-60. Notice of improvement and assessment; statement of lien; time and**
32 **place for hearing; opportunity to file written objection; failure to file**
33 **objection constitutes consent.**

34 As soon as practicable after the completion of the assessment roll provided in G.S.
35 158-59, the governing body shall mail by registered or certified mail, return receipt
36 requested, to the owner or owners of each lot or parcel of land against which an
37 assessment is to be levied, at the address appearing on the records of the tax collector
38 for the unit of local government, a notice stating the nature of the improvements, the
39 total proposed cost of the improvements, the amount to be assessed against the
40 particular property, and the basis upon which the assessment is made, together with the
41 terms and conditions upon which the assessment may be paid. The notice must contain a
42 brief description of the particular property involved, together with a statement that the
43 amount assessed constitutes a lien against the property superior to all other liens except
44 property taxes. The notice also must state the time and place fixed for the hearing of

1 objections in respect to the assessment. A property owner who fails to file with the
2 governing body a written objection to the assessment against his property within the
3 time provided for hearing the objections is considered to have consented to the
4 assessment, and the published and written notices prescribed in this Chapter shall so
5 state.

6 **"§ 158-61. Hearing of objections and supporting proof; corrections to assessment;**
7 **confirmation of roll; filing of copy; lien created; assessment and**
8 **collection together with property taxes.**

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

21 **"§ 158.62. Mailing of notice of confirmation to persons who filed objections;**
22 **appeal to court; hearing; effect.**

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

34 **"§ 158-63. Creation of infrastructure improvement district by resolution; filing.**

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

1 **"§ 158-64. Publication of notice of confirmation of assessment roll.**

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

8 **"§ 158-65. Payment of assessments; installment payments.**

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

21 **"§ 158-66. Enforcement of assessments.**

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

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

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

40 (d) No unit of local government may maintain an action or proceeding to enforce
41 any remedy for the foreclosure of special assessment liens unless the action or
42 proceeding is begun within 10 years from the date that the assessment or the earliest
43 installment thereof included in the action or proceeding became due. Acceleration of
44 installments under subsection (b) of this section shall not have the effect of shortening

1 the time within which foreclosure may begin, but in that event the statute of limitations
2 shall continue to run as to each installment as if acceleration had not occurred.

3 **"§ 158-67. Improvement ownership, removal, additions, and alterations; special**
4 **assessments.**

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

15 **"§ 158-68. Modification of assessments.**

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

26 **"§ 158-69. Reimbursement agreements.**

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

41 **"§ 158-70. Abolition of infrastructure improvement district; notice and hearing.**

42 The governing body may by resolution abolish the infrastructure improvement
43 district if there is no outstanding public debt for which assessments have been imposed
44 on property within the infrastructure improvement district for the payment of the debt.

1 The governing body must first conduct a public hearing. Notice of the hearing must
2 appear in a newspaper of general circulation in the infrastructure improvement district
3 two weeks before the hearing is held."

4 **SECTION 2.** Chapter 159 of the General Statutes is amended by adding a
5 new Article to read:

6 "Article 15.

7 "Infrastructure Assessment District Financing Act.

8 **"§ 159-220. Short title.**

9 This Article may be cited as the "Infrastructure Assessment District Financing Act."

10 **"§ 159-221. Unit of local government defined.**

11 For the purposes of this Article, the term "unit of local government" means a means
12 a city as defined in Chapter 160A or a county as defined in Chapter 153A.

13 **"§ 159-223. Authorization of debt secured by certain assessments; purposes.**

14 (a) Each unit of local government may issue assessment district debt instruments
15 pursuant to this Article and use the proceeds for one or more of the purposes for which
16 assessments may be imposed by the unit of local government.

17 For the purpose of this Article, the term "capital costs" as defined in G.S. 159 48(h)
18 also includes (i) interest on the assessment district debt instruments being issued or on
19 notes issued in anticipation of the instruments during construction and for a period not
20 exceeding seven years after the estimated date of completion of construction and (ii) the
21 establishment of debt service reserves and any other reserves reasonably required by the
22 financing documents. The proceeds of the assessment district debt instruments may be
23 used to provide construction and permanent financing payable from assessments
24 imposed under (i) Article 5 of Chapter 158 of the General Statutes of the General
25 Statutes (the Local Development Infrastructure Assessments Act), (ii) Article 9 of
26 Chapter 153 of the General Statutes (the County Infrastructure Assessments Act"), or
27 (iii) Article 10 of Chapter 150A of the General Statutes (the City Infrastructure
28 Assessments Act) (collectively the "infrastructure assessment district acts").

29 (b) Subject to agreement with the holders of its assessment district debt
30 instruments and the limitation on the term of any assessments securing such assessment
31 district debt instruments, each unit of local government may issue additional assessment
32 district debt instruments and may issue assessment district debt instruments to refund
33 any outstanding assessment district debt instruments at any time before the final
34 maturity of the assessment district debt instruments to be refunded. General obligation
35 bonds issued to refund outstanding assessment district financing debt instruments shall
36 be issued under the Local Government Bond Act, Article 4 of this Chapter. Revenue
37 bonds issued to refund outstanding assessment district debt instruments issued under
38 this Article shall be issued under the State and Local Government Revenue Bond Act,
39 Article 5 of this Chapter.

40 Assessment district debt instruments may be issued partly for the purpose of
41 refunding outstanding assessment district debt instruments and partly for any other
42 purpose under this Article. Assessment district debt instruments issued to refund
43 outstanding debt instruments shall be issued under this Article and not under Article 4
44 of this Chapter.

1 **§ 159-224. Application to Commission for approval of assessment district debt**
2 **instrument issue; preliminary conference; acceptance of application.**

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

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

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

33 **§ 159 225. Approval of application by Commission.**

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

- 38 (1) The unit of local government's debt management procedures and
39 policies.
- 40 (2) Whether the unit is in default in any of its debt service obligations.
- 41 (3) The feasibility of the plan of finance, including the reasonableness of
42 the estimates of the costs to be incurred by the unit of local
43 government.

- 1 (4) Whether the assessments to be imposed are reasonable in light of the
2 improvements to be made.
3 (5) The relationship between the value of the property against which
4 assessments are to be imposed and the total amount of the assessments.
5 (6) The ability of the Commission to market the proposed project
6 development financing assessment district debt instruments at
7 reasonable rates of interest.

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

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

19 **"§ 159-226. Order approving or denying the application.**

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

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

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

33 **"§ 159-227. Special covenants.**

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

- 38 (1) The pledge of all or any part of the assessments received or to be
39 received under the infrastructure financing district act.
40 (2) The maintenance of the assessments and the pursuit of the collection
41 thereof and the use and disposal of revenues, gifts, grants, and funds
42 received or to be received.
43 (3) The setting aside of debt service reserves and the regulation and
44 disposition of these reserves.

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

18 **"§ 159-228. Security of assessment district debt instruments.**

19 Assessment district debt instruments issued under the provisions of this Article are
20 special obligations of the issuing unit. Assessments imposed under the relevant
21 infrastructure assessment district act are pledged to the payment of the assessment
22 district debt instruments.

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

36 **"§ 159-229. Additional security for assessment district debt instruments.**

37 (a) In order to provide additional security for assessment district debt instruments
38 issued pursuant to this Article, the issuing unit of local government may pledge its faith
39 and credit for the payment of the principal of and interest on the assessment district debt
40 instruments. Before such a pledge may be given, the unit shall follow the procedures
41 and meet the requirements for approval of general obligation bonds under Article 4 of
42 this Chapter. The unit shall also follow the procedures and meet the requirements of this
43 Article. If assessment district debt instruments are issued pursuant to this Article and are
44 also secured by a pledge of the faith and credit of the unit of local government, the

1 assessment district debt instruments are subject to G.S. 159-230 rather than G.S. 159-
2 65.

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

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

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

25 **"§ 159-230. Limitations on details of assessment district debt instruments.**

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

- 28 (1) The maturity date shall not be later than one year after the date when
29 the last assessment securing the assessment district debt instruments is
30 due to be paid.
- 31 (2) The first payment of principal shall be payable not more than seven
32 years after the date of the assessment district debt instruments.
- 33 (3) Any assessment district debt instrument may be made payable on
34 demand or tender for purchase as provided in G.S. 159-79, and any
35 assessment district debt instrument may be made subject to redemption
36 prior to maturity, with or without premium, on such notice, at such
37 times, and with such redemption provisions as may be stated. Interest
38 on the assessment district debt instruments shall cease when the
39 instruments have been validly called for redemption and provision has
40 been made for the payment of the principal of the instruments, any
41 redemption, any premium, and the interest on the instruments accrued
42 to the date of redemption.
- 43 (4) The assessment district debt instruments may bear interest at such rates
44 payable semiannually or otherwise, may be in such denominations, and

1 may be payable in such kind of money and in such place or places
2 within or without this State as the governing body of the unit of local
3 government issuing such assessment district debt instruments may
4 determine.

5 "**§§ 159 231 through 159 239: Reserved for future codification purposes.**"

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

7 "**§ 153A-199. Payment of assessments in full or by installments.**

8 Within 30 days after the day that notice of confirmation of the assessment roll is
9 published, each owner of assessed property shall pay his assessment in full, unless the
10 board of commissioners has provided that assessments may be paid in annual
11 installments. If payment by installments is permitted, any portion of an assessment not
12 paid within the 30-day period shall be paid in annual installments. The board shall in the
13 assessment resolution determine whether payment may be made by annual installments
14 and set the number of installments, which may not be more than ~~40~~30. In the event of

15 ~~With respect to payment by installment, the board may provide~~

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

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

24 "**§ 160A-232. Payment of assessments in cash or by installments.**

25 The owners of assessed property shall have the option, within 30 days after the
26 publication of the notice that the assessment roll has been confirmed, of paying the
27 assessment either in cash or in not more than ~~40~~30 annual installments, as may have
28 been determined by the council in the resolution directing the project giving rise to the
29 assessment to be undertaken. ~~With respect to~~ In the event of payment by installment, the
30 council may provide

- 31 (1) ~~That the first installment with interest shall become due and payable~~
32 ~~on the date when property taxes are due and payable, and one~~
33 ~~subsequent installment and interest shall be due and payable on the~~
34 ~~same date in each successive year until the assessment is paid in full,~~
35 ~~or~~
36 (2) ~~That the first installment with interest shall become due and payable~~
37 ~~60 days after the date that the assessment roll is confirmed, and one~~
38 ~~subsequent installment and interest shall be due and payable on the~~
39 ~~same day of the month in each successive year until the assessment is~~
40 ~~paid in full."~~

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

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