

**SENATE RESOLUTION 153<sup>1</sup>: EDUCATION IMPROVEMENT  
DISTRICTS; PROVIDE CREATION AND COMPREHENSIVE  
REGULATION**

*Amending Article VII of the Georgia Constitution*

**First Signature:** Senator Dan Weber (40th)

**Co-Sponsors:** Senator David Adelman (42nd), Senator Tommie Williams (19th), and Senator Curt Thompson (5th)

**Summary:** Senate Resolution 153 seeks to amend the Georgia Constitution, “. . . so as to authorize the General Assembly to provide by local law for the creation and comprehensive regulation of education improvement districts for the provision of facilities for one or more public or special schools; to provide for the submission of this amendment for ratification or rejection; and for other purposes.”<sup>2</sup>

**Status:** Tabled in House on April 1, 2009<sup>3</sup>

**TEXT OF SENATE RESOLUTION 153**

§ 1.

Article VIII of the Constitution is amended by adding a new section to read as follows:

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1. S. Res. 153, 150th Gen. Assem., 1st Reg. Sess. (Ga. 2009), *available at* [http://www.legis.ga.gov/legis/2009\\_10/pdf/sr153.pdf](http://www.legis.ga.gov/legis/2009_10/pdf/sr153.pdf) (last visited Mar. 22, 2010).

2. *Id.*

3. Ga. Gen. Assem., S.Res. 153 (Mar. 20, 2010), [http://www.legis.ga.gov/legis/2009\\_10/sum/sr153.htm](http://www.legis.ga.gov/legis/2009_10/sum/sr153.htm) [hereinafter S. Res. 153 Status Sheet].

“SECTION VIII.

EDUCATION IMPROVEMENT DISTRICTS

Paragraph I. **Creation.** The General Assembly may by local law create one or more education improvement districts to provide for facilities or land for one or more schools as provided in this section, which education improvement districts shall be considered public entities.

Paragraph II. **Purposes.** The purpose of an education improvement district shall be the provision of facilities or purchase of land for one or more public schools established by a board of education under Article VIII, Section V, Paragraph I of this Constitution, one or more special schools established under Article VIII, Section V, Paragraph VII of this Constitution, or a combination of such public schools and special schools. Facilities may include construction of new school facilities, capital improvements to existing school facilities, leasing of school facilities, or a combination thereof. Facilities may also include pre-kindergarten programs within a public school or special school.

Paragraph III. **Boundaries.** Any education improvement district shall be composed of a single, contiguous geographical area containing at least 500 acres and containing a population of at least 2,000 persons and may include portions of one or more school systems.

Paragraph IV. **Local law.** (a) The local law creating an education improvement district shall include the following:

(1) A description of the facility or facilities for which the district is created, the land to be purchased for the public or special school or schools, or both;

(2) A description of the geographical area which comprises the district;

(3) The establishment of the administrative body for the education improvement district and the number of members of the administrative body. The membership shall include representation from each local board of education included within the education improvement district, if one or more public schools are to be benefitted, and representation from the governing board of each special school if such special school is to be benefitted, and the method of selection of all members shall be specified in the local law;

(4) The duties and powers of the administrative body, which may include:

(A) The power to contract;

(B) The power to enter into cooperative agreements with local governments in accordance with Paragraph VI of this section and to act on such agreements;

(C) The acceptance of bequests, donations, assistance with or guarantees of any loans or other instruments of indebtedness, and grants and transfers of land, buildings, and other property from individuals, private entities, counties, municipalities, local boards of education, the State Board of Education, the Board of Regents, or other entities of the State of Georgia;

(D) The incurrence of debt, without regard to the requirements of Article IX, Section V of this Constitution, which debt shall be backed by the full faith, credit, and taxing power of the education improvement district and which debt may be backed by the full faith, credit, and taxing power of the applicable local board of education, in the case of a public school or schools, or the state, in the case of a special school or schools as specified in the local law;

(E) The retention of an administrative fee, which shall not exceed any maximum amount set out in the local law, to cover actual costs, which may include per diem amounts for administrative body members and necessary expenses; and

(F) The authority to levy ad valorem taxes within the education improvement district in accordance with Paragraph V of this section and the maximum tax rate which may be levied.

(5) The duration of the education improvement district, which shall be the later of:

(A)(i) For construction or capital improvements of the facility or facilities for which the education improvement district is established, the completion of such construction or capital improvements;

(ii) For the purchase of land, the completion of such purchase; or

(iii) For the lease of a facility, the end of the initial lease, which duration may be specifically limited in the local law; or

(B) Upon the completion of payment of all debt incurred for the construction or capital improvements, purchase of land, or lease of the facility or facilities for which the education improvement district is established;

(6) The estimated maximum costs relating to the construction, capital improvements, or lease of the facility or facilities, the purchase of land, or both;

(7) Provision for lowering the tax, ceasing to collect the tax at an earlier date, refunds to taxpayers, or any other appropriate mechanism, in the event that actual costs for the facility or facilities, the purchase of land, or both is less than the estimated maximum costs presented in the referendum; and

(8) The right, title, interest, and ownership of any new facility or facilities or land purchased, which may be vested in the administrative body of the education improvement district, the applicable local board of education in the case of public schools, or in the state, in the case of special schools as specified in the local law; provided, however, that if ownership is vested in an education improvement district, the local law shall provide for the transfer of ownership to the applicable local board or boards of education or the state, as appropriate, upon dissolution of the education improvement district. The design and construction of a new facility or of capital improvements to an existing facility may be conducted by the local board of education, the governing body of a special school, the education improvement district, or some other entity, as designated in the local law. The local law may address occurrences such as closure and sale of a facility provided for under the district.

(b) Any local law creating an education improvement district shall be signed by every member of the House of Representatives and the Senate whose districts are wholly or partially located within the education improvement district and shall be conditioned upon:

(1) The adoption of a resolution consenting to the creation of the education improvement district by:

(A) Each local board of education which is included within the education improvement district if such district is to be established for the benefit of one or more public schools of the local board of education; and

(B) The governing board of each special school which is included within the education improvement district if such district is to be established for the benefit of any such special school; and

(2) Approval by a majority of the qualified electors residing within the limits of the education improvement district voting in a referendum thereon. Such referendum shall identify the tax rate to be levied, the specific facility or facilities or land for which the ad valorem taxes collected under Paragraph V of this section will be used, and the estimated maximum costs relating to the facility or facilities. Any referendum held pursuant to this subparagraph shall be conducted only on the Tuesday after the first Monday in November in odd-numbered years or on the date of the presidential preference primary, general primary, or general election in even-numbered years.

Paragraph V. **Levy.** The administrative body of each education improvement district may be authorized to levy ad valorem taxes within the education improvement district only on real property and specifically excluding tangible personal property and intangible property. The tax rate charged by the education improvement district may not exceed the rate specified in the referendum. Any such ad valorem tax shall not apply to the homestead property of any person residing within the education improvement district who is 62 years of age or older. Any such tax shall be collected by the county or counties in which the education improvement district is located in the same manner as ad valorem taxes levied by such county or counties. The proceeds of such taxes so levied, less such fee to cover the costs of collection as may be specified by law, shall be transmitted by the collecting county or counties to the administrative body of the education improvement district and shall be expended by such administrative body for the purpose authorized by this section. The administrative body of the education improvement district may not use such ad valorem taxes to fund any facility or land purchase other than the specific facility or facilities or land purchase specified in the referendum.

Paragraph VI. **Cooperation with local governments.** The facilities and land purchases provided pursuant to this section shall be provided for in a cooperative agreement executed jointly by the administrative body and one or more applicable local boards of education or, in the case of a special school or special schools, the governing body or bodies thereof. The provisions of this section shall in no way limit the authority of any local board of education or governing body of a special school to provide facilities or land

within any education improvement district. An education improvement district shall have no control or management over a local school system.

Paragraph VII. *Regulation by general law.* The General Assembly by general law may regulate, restrict, and limit the creation of education improvement districts and the exercise of the powers of administrative bodies of education improvement districts.”

§ 2.

The above proposed amendment to the Constitution shall be published and submitted as provided in Article X, Section I, Paragraph II of the Constitution. The ballot submitting the above proposed amendment shall have written or printed thereon the following:

“[ ] YES	Shall the Constitution of Georgia be amended so as to authorize the General Assembly to provide by local law for the creation and comprehensive regulation of education improvement districts for the provision of facilities or land for one or more public or special schools?”
[ ] NO	

All persons desiring to vote in favor of ratifying the proposed amendment shall vote “Yes.” All persons desiring to vote against ratifying the proposed amendment shall vote “No.” If such amendment shall be ratified as provided in said Paragraph of the Constitution, it shall become a part of the Constitution of this state.

### FIRST SIGNATURE’S RATIONALE

Senator Weber, of the 40th district, introduced Senate Resolution 153 in hopes that newly created education improvement districts would serve the purpose of creating or improving facilities that are used for educational purposes.<sup>4</sup> The Resolution proposes that newly created districts be governed by an administrative body from one or more of the local boards of education whose public school or schools would

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4. James R. Touchton, S. Res. 153 Research Summary (Mar. 9, 2009) (unpublished legislative research summary on file with the Office of Senator Weber) [hereinafter S. Res. 153 Research Summary].

benefit, including any special schools.<sup>5</sup> For the proposed districts to be created, the local law creating such districts must be approved at three levels.<sup>6</sup> It must pass by unanimous consent of every member of the House of Representatives and Senate whose district includes a school in the concerned education district.<sup>7</sup> Additionally, the creation of the district would be conditioned upon approval from each local board of education and governing board of each special school located within the district.<sup>8</sup> Finally, it must be approved by voter referendum.<sup>9</sup>

Senate Resolution 153 proposes that the administrative body that would govern the newly created districts would be able to levy the ad valorem taxes within the district on real property only in an amount not to exceed the rate approved by the referendum.<sup>10</sup> In addition, the tax will exclude the homestead property of those persons 62 years of age or older.<sup>11</sup> The tax will be collected by the county or counties included in the district and transferred to the administrative body.<sup>12</sup> Senate Resolution 153 contemplates the potential over-taxation or misappropriation of taxes collected.<sup>13</sup> The Resolution protects against over-taxation by specifying that the taxes collected may only be used for the facilities specified in the referendum, and if the cost to build the facilities is lower than the taxes collected, local law may provide for a method to lower the tax, end the tax, or return it to the taxpayers.<sup>14</sup> Senate Resolution 153 provides that the administrative body can accept contributions and incur debt.<sup>15</sup> However, the debt will not be an obligation of

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5. *Id.*

6. *Id.*

7. *Id.*

8. *Id.*

9. *Id.* (explaining how voter referendum would also identify the tax rate to be levied and the facility or facilities to be constructed with the ad valorem tax).

10. S. Res. 153 Research Summary, *supra* note 4.

11. *Id.*

12. *Id.*

13. *Id.*

14. *Id.*

15. *Id.*

the State of Georgia or any unit of government, other than the school district, and will be regulated by the General Assembly.<sup>16</sup>

### LEGISLATIVE GENEALOGY

Senate Resolution 153 was first read and referred to the Committee on Education and Youth on February 5, 2009.<sup>17</sup> The Committee favorably reported on the Resolution and recommended passing by Substitute.<sup>18</sup> Senate Resolution 153 was read for the second time before the Georgia Senate on March 3, 2009.<sup>19</sup> On March 9, 2009, Senate Resolution 153 was read for the third time.<sup>20</sup> Following the third reading, the Committee on Education and Youth offered and read their proposed Substitute to Senate Resolution 153.<sup>21</sup> The Senate Substitute expanded the purpose of the Resolution to allow for the provision of facilities that may also include pre-kindergarten programs within a public school or special school.<sup>22</sup> There were no objections to the expansion, and the Senate adopted the Committee Substitute.<sup>23</sup>

On March 10, 2009, Senate Resolution 153 was read for the first time in the House of Representatives and was referred to

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16. S. Res. 153 Research Summary, *supra* note 4.

17. S. Res. 153 Status Sheet, *supra* note 3.

18. *Id.*; see also S. Res. 153, 150th Gen. Assem., 1st Reg. Sess. (Ga. 2009) (S. Comm. Substitute), available at [http://www.legis.ga.gov/legis/2009\\_10/versions/sr153\\_Committee\\_sub\\_LC\\_33\\_3046S\\_4.htm](http://www.legis.ga.gov/legis/2009_10/versions/sr153_Committee_sub_LC_33_3046S_4.htm) (last visited Mar. 22, 2010).

19. S. Res. 153 Status Sheet, *supra* note 3.

20. *Id.*

21. *Id.*; see also Ga. S. Res. 153 (S. Comm. Substitute).

22. *Id.*; see also Ga. S. Res. 153 (S. Comm. Substitute); see O.C.G.A.

§ 20-2-152 (“Special education shall include children who are classified as intellectually gifted, mentally disabled, behavior disordered, specific learning disabled, orthopedically disabled, other health impaired, hearing impaired, speech-language disordered, visually impaired, severely emotionally disturbed, and deaf-blind and who have other areas of special needs which may be identified . . .”).

23. S. Res. 153 Status Sheet, *supra* note 3; see also S. Res. 153, 150th Gen. Assem., 1st Reg. Sess. (Ga. 2009) (as passed by Senate), available at [http://www.legis.ga.gov/legis/2009\\_10/versions/sr153\\_Adopted\\_Senate\\_5.htm](http://www.legis.ga.gov/legis/2009_10/versions/sr153_Adopted_Senate_5.htm) (last visited (Mar. 22, 2010).

the House Committee on Education.<sup>24</sup> On March 12, 2009, the House heard the second reading of the Resolution.<sup>25</sup> On March 26, 2009, Representative Brooks Coleman of the 97th district, Chairman of the House Committee on Education, submitted a favorable report on Senate Resolution 153 and recommended that the House pass the Resolution by Substitute.<sup>26</sup> On April 1, 2009, the Clerk of the House read Senate Resolution 153 for the third time before the House.<sup>27</sup>

Following the third reading, Representative Ed Setzler was recognized to read and present the House Committee Substitute to the House.<sup>28</sup> Representative Setzler explained that Senate Resolution 153 is a common sense measure that passed unanimously in both the House Education Subcommittee and Full Committee.<sup>29</sup> Representative Setzler went on to explain that the House Substitute is a proposition that mirrors Georgia's current constitutional framework for Community Improvement Districts ("C.I.D.").<sup>30</sup> He stated that C.I.D.'s are special districts approved by local law and permitted, upon the vote of the residents within those special districts, to tax themselves at a slightly higher level to fund the improvement of the infrastructure within that special district.<sup>31</sup> According to Representative Setzler, the House Substitute to Senate Resolution 153 proposes to provide a constitutional framework for Educational Improvement Districts ("E.I.D."), which would grant local school districts, in conjunction with their governing authorities, the same power to elevate taxes as C.I.D.'s and fund the improvement or building of schools.<sup>32</sup>

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24. S. Res. 153 Status Sheet, *supra* note 3.

25. *Id.*

26. *Id.*; *see also* S. Res. 153, 150th Gen. Assem., 1st Reg. Sess. (Ga. 2009) (H. Comm. Substitute), *available at* [http://www.legis.ga.gov/legis/2009\\_10/versions/sr153\\_LC\\_33\\_3229S\\_hss\\_7.htm](http://www.legis.ga.gov/legis/2009_10/versions/sr153_LC_33_3229S_hss_7.htm) (last visited Mar. 22, 2010).

27. *Id.*

28. *Lawmakers: Session Day 39* (Ga. Public Broadcasting television broadcast April 1, 2009), *available at* <http://www.gpb.org/lawmakers-tv/2009/04/01> (statement of Rep. Ed Setzler, H. Dist. 35); *see* Ga. S. Res. 153 (H. Comm. Substitute).

29. *Lawmakers: Session Day 39, supra* note 28.

30. *Id.*; *see* Ga. S. Res. 153 (H. Comm. Substitute).

31. *Lawmakers: Session Day 39, supra* note 28.

32. *Id.*; *see* Ga. S. Res. 153 (H. Comm. Substitute).

In essence, Representative Setzler explained, this Resolution would allow for citizens in any particular area of a county, which may be growing at a faster rate than other areas of the same county, to tax themselves on a higher level without affecting the remaining county citizens.<sup>33</sup> If a local district were to create an E.I.D. under the guidelines of Senate Resolution 153 framework, the local law would be presented before the House and Senate for a unanimous vote by those who represent the concerned districts.<sup>34</sup> Representative Setzler explained that the creation of an E.I.D. would not take away any power already granted to the local school board because the local law may only be effectuated by a vote of those specific school districts.<sup>35</sup>

After Representative Setzler's presentation of the House Committee on Education's proposed Substitute of Senate Resolution 153, he yielded the floor for questions from the House.<sup>36</sup> Immediately thereafter, Representative Casas, of the 103rd district, moved that Senate Resolution 153 be recommitted to the House Committee on Rules for further evaluation.<sup>37</sup> Representative Hatfield, of the 177th district, then made a substitute motion that Senate Resolution 153 be tabled.<sup>38</sup> Thereupon, the roll call was ordered and the Motion to Table prevailed.<sup>39</sup> The House has taken no further action on Senate Resolution 153.<sup>40</sup>

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33. *Lawmakers: Session Day 39, supra* note 28.

34. *Id.*

35. *Id.*

36. *Id.*

37. *Id.*

38. *Id.* (noting that the motion to table takes precedent over the motion to recommit).

39. *Lawmakers: Session Day 39, supra* note 28.

40. S. Res. 153 Status Sheet, *supra* note 3.