

AN ACT

RELATING TO SPECIAL DISTRICTS; ENACTING THE INFRASTRUCTURE DEVELOPMENT ZONE ACT; PROVIDING FOR THE CREATION OF INFRASTRUCTURE DEVELOPMENT ZONES AND ELECTED BOARDS; PROVIDING POWERS AND DUTIES; AUTHORIZING INFRASTRUCTURE DEVELOPMENT ZONES TO PROVIDE SERVICES PURSUANT TO AN APPROVED SERVICE PLAN; AUTHORIZING BOARDS TO ISSUE BONDS AND TO ENTER INTO OTHER DEBT OBLIGATIONS; AUTHORIZING BOARDS TO LEVY PROPERTY TAXES AND ASSESSMENTS, FEES, TOLLS AND OTHER CHARGES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the "Infrastructure Development Zone Act".

Section 2. DEFINITIONS.--As used in the Infrastructure Development Zone Act:

A. "approving authority" means the governing body required by Section 9 or 13 of the Infrastructure Development Zone Act to designate an election official to conduct the organization election and exercise other duties pursuant to that act;

B. "board" means the board of directors of an infrastructure development zone;

C. "director" means a member of a board;

D. "eligible elector" means a person who is registered to vote in New Mexico and who:

(1) has been a resident of the infrastructure development zone or the area to be included in the infrastructure development zone for not less than thirty days; or

(2) is a taxpaying elector;

E. "governing body" means the governing body of a municipality or the board of county commissioners of a county;

F. "infrastructure development zone" means a political subdivision organized or acting pursuant to the provisions of the Infrastructure Development Zone Act;

G. "publication" means printing one time, in one newspaper of general circulation in the infrastructure development zone or proposed infrastructure development zone if there is such a newspaper, and, if not, then in a newspaper in the county in which the infrastructure development zone or proposed infrastructure development zone is located. If an infrastructure development zone has territory within more than one county and if publication cannot be made in one newspaper of general circulation in the infrastructure development zone, then one publication is required in a newspaper in each county in which the infrastructure development zone is located and in which the infrastructure development zone also has fifty or more eligible electors;

H. "regular election" means the election on the Tuesday succeeding the first Monday of May in every even-

numbered year, held for the purpose of electing members to the board and for submission of other questions, if any;

I. "secretary" means the secretary of a board;

J. "services" means any improvements and facilities listed in this subsection and provided for in the service plan of an infrastructure development zone as approved by the governing body, including both on-site improvements and off-site improvements that directly or indirectly benefit the infrastructure development zone and necessary or incidental work, whether newly constructed, renovated or existing, and all necessary or desirable appurtenances. "Services" include:

(1) sanitary sewage systems, including collection, transport, storage, treatment, dispersal, effluent use and discharge;

(2) drainage and flood control systems, including collection, transport, diversion, storage, detention, retention, dispersal, use and discharge;

(3) water systems for domestic, commercial, office, industrial, irrigation, municipal, fire protection or other purposes, including production, collection, storage, treatment, transport, delivery, connection and dispersal;

(4) highways, streets, roadways, bridges, crossing structures and parking facilities, including all areas for vehicular use for travel, ingress, egress and parking;

(5) trails and areas for pedestrian, equestrian, bicycle or other nonmotor vehicle use for travel, ingress, egress and parking;

(6) pedestrian malls, parks, recreational facilities and open space areas for the use of members of the public for entertainment, assembly and recreation, including programming events for the community and public;

(7) landscaping, including earthworks, structures, lakes and other water features, plants, trees and related water delivery systems;

(8) public buildings, public safety facilities and fire protection and police facilities, subject to the consent of the approving authority;

(9) electrical and energy generation, transmission and distribution facilities, including solar, wind and geothermal;

(10) natural gas distribution facilities;

(11) lighting systems;

(12) cable or other telecommunications lines and related equipment, including fiber optic transmission facilities designed to carry communication signals such as voice, data and video;

(13) traffic control systems and devices, including signals, controls, markings and signage;

(14) public educational or cultural

facilities;

(15) equipment, vehicles, furnishings and other personalty related to the items listed in this subsection;

(16) inspection, construction management and program management costs; and

(17) solid waste and garbage collection and disposal; and

K. "taxpaying elector" means a person:

(1) who, or whose spouse, owns taxable real or personal property within the infrastructure development zone or the area to be included in or excluded from the infrastructure development zone, whether the person resides within the infrastructure development zone or not; or

(2) who is obligated to pay taxes under a contract to purchase taxable property within the infrastructure development zone or the area to be included in or excluded from the infrastructure development zone, whether the person resides within the infrastructure development zone or not.

Section 3. ORGANIZATION OF INFRASTRUCTURE DEVELOPMENT ZONE--SUBMISSION OF SERVICE PLAN.--

A. An infrastructure development zone may be entirely within or entirely without, or partly within and partly without, one or more municipalities or counties, and an

infrastructure development zone may consist of noncontiguous tracts or parcels of property within three miles of each other.

B. Persons proposing the organization of an infrastructure development zone shall submit a petition, a service plan and any required processing fee sufficient to defray the costs of the applicable county or municipality to:

(1) the governing body of each municipality within which lies any area within the proposed infrastructure development zone; and

(2) the governing body of each county in which lies any area within the proposed infrastructure development zone that is not within a municipality.

C. The petition shall be signed by not less than thirty percent or four hundred of the taxpaying electors of the proposed infrastructure development zone, whichever number is smaller. The petition shall set forth:

(1) the name of the proposed infrastructure development zone;

(2) a statement as to whether the proposed infrastructure development zone lies wholly or partly within another county, municipality or other infrastructure development zone;

(3) a description of the boundaries of the proposed infrastructure development zone or the territory to

be included therein, with such certainty as to enable a property owner to determine whether or not the property owner's property is within the proposed infrastructure development zone;

(4) a request for the organization of the infrastructure development zone; and

(5) a request for the submission to the eligible electors of the proposed infrastructure development zone at the organization election of any questions permitted to be submitted at the organization election pursuant to Section 10 of the Infrastructure Development Zone Act.

D. The service plan shall contain the following:

(1) a description of the proposed services;

(2) a financial plan showing how the proposed services are to be financed, including the proposed operating revenue derived from property taxes for the first budget year of the proposed infrastructure development zone;

(3) a schedule of the proposed indebtedness for the proposed infrastructure development zone indicating the year or years in which the debt is scheduled to be issued;

(4) a preliminary engineering or architectural survey showing how the proposed services are to be provided;

(5) a map of the proposed infrastructure development zone boundaries and an estimate of the population

and valuation for assessment of the proposed infrastructure development zone;

(6) a general description of the facilities to be constructed and the standards of the construction, including a statement of how the facility and service standards of the proposed infrastructure development zone are compatible with the facility and service standards of any county or municipality within the zoning jurisdiction of which all or any portion of the proposed infrastructure development zone is to be located;

(7) a general description of the estimated cost of acquiring land, engineering services, legal services, administrative services, initial proposed indebtedness and estimated proposed maximum interest rates and discounts, and other major expenses related to the organization and initial operation of the proposed infrastructure development zone;

(8) a description of any arrangement or proposed agreement with any political subdivision for the performance of any services between the proposed infrastructure development zone and the other political subdivision, including, if the form contract to be used is available, a copy of the contract;

(9) a proposed maximum mill levy that will be assessed by the infrastructure development zone and that, upon approval by the governing body, shall be the limitation

on the mill levy that may be assessed for all purposes, including operating expenses and debt service on bonds issued pursuant to Section 28 of the Infrastructure Development Zone Act; and

(10) such additional information as the governing body may require by resolution on which to base its findings pursuant to Section 7 of the Infrastructure Development Zone Act.

Section 4. PUBLIC HEARING REQUIRED.--

A. After receiving a petition and a service plan, the governing body shall set a date within ninety days for a public hearing on the petition and service plan of the proposed infrastructure development zone. The governing body, at the petitioners' expense, shall provide written notice of the date, time and location of the hearing to the petitioners, each resident or property owner of record within the boundaries of the proposed infrastructure development zone and the governing body of any existing county, municipality, school district or other political subdivision that has levied an ad valorem tax within the next preceding tax year and that has boundaries within a radius of three miles of the proposed infrastructure development zone boundaries, which governmental units shall be interested parties for the purposes of Subsection C of this section. Notice shall also be given to any person who has requested that notice be given for any

petition filed pursuant to the Infrastructure Development Zone Act. The governing body shall make publication of the date, time, location and purpose of the hearing, the first of which shall be at least twenty days prior to the hearing date. The notice shall also include:

(1) a general description of the land contained within the boundaries of the proposed infrastructure development zone;

(2) information outlining methods and procedures for excluding territory from the proposed infrastructure development zone; and

(3) places, including web sites, where interested persons may obtain a copy of the petition and the service plan.

B. Not more than thirty days nor less than twenty days prior to the hearing held pursuant to this section, the petitioners for the organization of the proposed infrastructure development zone shall send notification by certified mail of the hearing to the property owners within the proposed infrastructure development zone as listed on the records of the county clerk on the date requested unless the petitioners represent one hundred percent of the property owners. The notification shall indicate that it is a notice of a hearing for the organization of an infrastructure development zone and shall indicate the date, time, location

and purpose of the hearing, a general description of the type of services that are included in the service plan, the maximum mill levy, if any, or stating that there is no maximum that may be imposed by the proposed infrastructure development zone, and procedures for the filing of a request for exclusion pursuant to Section 6 of the Infrastructure Development Zone Act. The mailing of the notification by certified mail to all addresses within the proposed infrastructure development zone shall constitute a good-faith effort to comply with this subsection, and failure to notify all property owners by certified mail shall not provide grounds for a challenge to the hearing being held.

C. The hearing held by the governing body shall be open to the public, and a record of the proceedings shall be made at the expense of the petitioners. All interested parties shall be afforded an opportunity to be heard under such rules of procedure as may be established by the governing body. Any testimony or evidence that in the discretion of the governing body is relevant to the organization of the proposed infrastructure development zone shall be considered.

Section 5. OBJECTING PETITION--PLAN TO BE DISAPPROVED.--No service plan shall be approved if a petition objects to the service plan and is signed by the owners of taxable real and personal property, consisting of more than fifty percent of the total assessed value of all taxable real

and personal property to be included in the proposed infrastructure development zone, is filed with the governing body no later than ten days prior to the hearing pursuant to Section 4 of the Infrastructure Development Zone Act, unless the property has been excluded by the governing body under Section 6 of that act.

Section 6. REQUEST FOR EXCLUSION.--

A. The governing body may exclude territory from a proposed infrastructure development zone prior to approval of the service plan. Any person owning property in the proposed infrastructure development zone who requests that the person's property be excluded from the infrastructure development zone prior to approval of the service plan shall submit the request to the governing body no later than ten days prior to the hearing held pursuant to Section 4 of the Infrastructure Development Zone Act. The petitioners who submitted the service plan shall have the burden of proving that the exclusion of the property is not in the best interests of the proposed infrastructure development zone. Any request for exclusion shall be acted upon before final action of the governing body pursuant to Section 7 of the Infrastructure Development Zone Act.

B. The governing board shall exclude property located within any home rule municipality in respect to which a request for exclusion has been filed by the municipality.

Section 7. ACTION ON PETITION AND SERVICE PLAN--
CRITERIA.--

A. Within sixty days of a hearing held pursuant to Section 4 of the Infrastructure Development Zone Act, the governing body shall disapprove the service plan, approve the service plan as submitted or conditionally approve the service plan subject to the submission of additional information relating to or modifying the proposed service plan.

B. The governing body shall disapprove the service plan unless evidence, satisfactory to the governing body, is presented that:

(1) the required number of taxpaying electors of the proposed infrastructure development zone have signed the petition;

(2) there is sufficient existing or projected need for organized service in the area to be serviced by the proposed infrastructure development zone;

(3) the existing service in the area to be served by the proposed infrastructure development zone is inadequate for present or projected needs;

(4) the proposed infrastructure development zone will be capable of providing economical and sufficient service to the area within its proposed boundaries;

(5) the area to be included in the proposed infrastructure development zone has, or will have, the

financial ability to discharge the proposed indebtedness on a reasonable basis; and

(6) the proposed infrastructure development within the infrastructure development zone is in compliance with any applicable comprehensive master plan adopted pursuant to Section 3-19-9 NMSA 1978.

C. The governing body may disapprove the service plan if evidence, satisfactory to the governing body, and at the discretion of the governing body, is not presented that:

(1) adequate service is not, or will not be, available to the area through the municipality, county or other existing political subdivisions, including existing infrastructure development zones, within a reasonable time and on a comparable basis;

(2) the facility and service standards of the proposed infrastructure development zone are compatible with the facility and service standards of each county or municipality within which the proposed infrastructure development zone is to be located;

(3) the proposal is in compliance with any existing municipal, county, regional or state long-range water quality management plan for the area; or

(4) the creation of the proposed infrastructure development zone will be in the best interests of the area proposed to be served.

D. The governing body may conditionally approve the service plan of a proposed infrastructure development zone upon satisfactory evidence that it does not comply with one or more of the criteria enumerated in Subsection C of this section. Final approval shall be contingent upon modification of the service plan to include such changes or additional information as shall be specifically stated in the findings of the governing body.

E. The findings of the governing body shall be based solely upon the service plan and evidence presented at the hearing by the petitioners and any interested party.

Section 8. APPROVAL OF SERVICE PLAN--PETITION GRANTED--
ELECTION SCHEDULED.--

A. If the service plan is approved as submitted, the governing body shall issue a resolution of approval to the petitioners. If the service plan is disapproved, the specific detailed reasons for the disapproval shall be set forth in writing. If the service plan is conditionally approved, the changes or modifications to be made in, or additional information relating to, the service plan, together with the reasons for the changes, modifications or additional information, shall also be set forth in writing, and the proceeding shall be continued until the changes, modifications or additional information are incorporated in the service plan. Upon the incorporation of the changes, modifications or

additional information in the service plan of the proposed infrastructure development zone, the governing body shall issue a resolution of approval to the petitioners.

B. Upon the approval of the service plan by each governing body to which the service plan and petition were submitted, the petition shall be granted and the approving authority shall designate an election official to take the oath required of precinct board members and conduct an organization election pursuant to Sections 10 and 20 of the Infrastructure Development Zone Act, provided that no organization election shall be held if all of the eligible electors were petitioners and if there are no competing candidates for director positions.

C. Any interested party aggrieved by the decision of the governing body may appeal to the district court pursuant to Section 39-3-1.1 NMSA 1978.

Section 9. DESIGNATION OF APPROVING AUTHORITY.--

A. The approving authority shall be:

(1) for an infrastructure development zone located entirely within one county and outside a municipality, the governing body of that county;

(2) for an infrastructure development zone located entirely within a municipality, the governing body of that municipality;

(3) except as provided in Subsection B of

this section, for an infrastructure development zone that is not described in Paragraph (1) or (2) of this subsection and of which the majority of its acreage lies outside a municipality, the governing body of the county containing the most acreage outside of a municipality; or

(4) except as provided in Subsection B of this section, for an infrastructure development zone that is not described in Paragraph (1) or (2) of this subsection and of which the majority of its acreage lies within a municipality, the governing body of that municipality.

B. For an infrastructure development zone that is not described in Paragraph (1) or (2) of Subsection A of this section, in lieu of the approving authority designated pursuant to Paragraph (3) or (4) of that subsection, all of the governing bodies that approved the petition and service plan of the infrastructure development zone may jointly designate a governing body, in the zoning jurisdiction of which lies any portion of the infrastructure development zone, as the approving authority.

Section 10. ORGANIZATION ELECTION.--

A. The election official designated by the approving authority shall conduct the organization election pursuant to this section and Section 20 of the Infrastructure Development Zone Act.

B. At the election, the eligible electors shall

vote for or against the organization of the proposed infrastructure development zone, shall vote for five eligible electors of the infrastructure development zone who shall be the initial directors of the board of the infrastructure development zone, if organized and shall vote for or against general obligation bonds or other general obligations if the petition filed pursuant to Section 3 of the Infrastructure Development Zone Act requests that the questions be submitted at the organization election.

C. If the majority of the votes cast at the election are in favor of the organization, the approving authority shall, by resolution, declare the infrastructure development zone organized and give the infrastructure development zone the corporate name designated in the petition, by which it shall thereafter be known in all proceedings, and designate the first board elected. Thereupon the infrastructure development zone shall be a quasi-municipal corporation and a political subdivision of the state with all the powers thereof.

D. The resolution declaring the infrastructure development zone organized shall be deemed final and shall finally and conclusively establish the regular organization of the infrastructure development zone against all persons. No appeal or other remedy shall challenge the resolution except in an action by the attorney general within thirty days after

the resolution is passed, and the organization of the infrastructure development zone shall not be directly or collaterally questioned in any suit, action or proceeding except as expressly authorized in this subsection.

Section 11. FILING RESOLUTION AND SERVICE PLAN.--Within thirty days after the effective date of the resolution declaring that an infrastructure development zone has been organized, the original petitioners shall file the resolution, the approved service plan and a map of the infrastructure development zone with the county clerk in each of the counties in which the infrastructure development zone is located and with the local government division of the department of finance and administration. Thereafter, the infrastructure development zone shall maintain a current, accurate map of its boundaries and shall file the map with each county clerk on or before January 1 of each year.

Section 12. SERVICE AREA OF INFRASTRUCTURE DEVELOPMENT ZONES--OVERLAPPING DISTRICTS.--

A. Except as provided in Subsection B of this section, no infrastructure development zone may be organized wholly or partly within an existing special district or infrastructure development zone that provides the same service; provided that nothing in this subsection shall prevent an infrastructure development zone that provides different services from organizing wholly or partly within an

existing special district or infrastructure development zone.

B. An overlapping district may be authorized to provide the same service as the existing special district or infrastructure development zone that the overlapping district overlaps or will overlap if:

(1) where the service plan of the overlapping district is subject to approval by a governing body, the governing body having jurisdiction over the overlapping territory approves by resolution the inclusion of the service as part of the service plan of the overlapping district;

(2) the improvements or facilities to be financed, established or operated by the overlapping district for the provision of the same service as the existing special district or infrastructure development zone do not duplicate or interfere with any other improvements or facilities already constructed or planned to be constructed within the portion of the existing special district or infrastructure development zone that the overlapping district overlaps or will overlap; and

(3) the board of directors of any special district or infrastructure development zone authorized to provide a service within the boundaries of the overlapping area consents to the overlapping district providing the same service.

C. As used in this section:

(1) "overlapping district" means a new or existing special district or infrastructure development zone located wholly or partly within an existing special district or infrastructure development zone; and

(2) "special district" means any single or multipurpose district organized or that may be organized as a local public body of this state for the purpose of constructing and furnishing any urban-oriented service that another political subdivision of the state is authorized to perform.

Section 13. APPROVAL BY AN ANNEXING MUNICIPALITY.--

A. If an infrastructure development zone that was not originally approved by the governing body of a municipality becomes wholly contained within the boundaries of a municipality by annexation, the board may petition the governing body of the municipality to accept a designation as the approving authority for the infrastructure development zone. The municipality may accept the designation through the adoption of a resolution of approval by the governing body of the municipality.

B. Upon the adoption of the resolution by the governing body of a municipality pursuant to Subsection A of this section, all powers and authorities vested in the approving authority pursuant to the Infrastructure Development

Zone Act shall be transferred to the governing body of the municipality, which shall constitute the approving authority for the infrastructure development zone for all purposes under that act.

Section 14. SERVICE PLAN--COMPLIANCE--MODIFICATION--ENFORCEMENT.--

A. Upon the organization of an infrastructure development zone, the facilities, services and financial arrangements of the infrastructure development zone shall conform so far as practicable to the approved service plan.

B. After the organization of an infrastructure development zone, material modifications of the service plan as originally approved may be made by the board only by petition to and approval by each governing body that approved the original service plan or that became an approving authority under Section 13 of the Infrastructure Development Zone Act in substantially the same manner as is provided for the approval of an original service plan; but the processing fee for the modification procedure shall not exceed the reasonable and actual cost incurred by the governing body. The approval of modifications shall be required only with regard to changes of a basic or essential nature, including:

(1) an addition to the types of services provided by the infrastructure development zone;

(2) a decrease in the level of services;

(3) a decrease in the financial ability of the infrastructure development zone to discharge the existing or proposed indebtedness; or

(4) a decrease in the existing or projected need for organized service in the area.

C. Approval for a modification is not required for changes necessary only for the execution of the original service plan or for changes in the boundary of the infrastructure development zone; except that the inclusion of property that is located in a county or a municipality with no other territory within the infrastructure development zone may constitute a material modification of the service plan or the statement of purposes of the infrastructure development zone. In the event that an infrastructure development zone changes its boundaries to include territory located in a county or a municipality with no other territory within the infrastructure development zone, the board shall notify the governing body of the county or municipality of the inclusion. The governing body may review the inclusion and, if it determines that the inclusion constitutes a material modification, may require the board to file a modification of its service plan in accordance with the provisions of this section.

D. No action may be brought to enjoin the construction of any facility, the issuance of bonds or other financial obligations, the levy of taxes, the imposition of

rates, fees, tolls and charges or any other proposed activity of the infrastructure development zone unless the action is commenced within forty-five days after the board has published notice of its intention to undertake the activity. The notice shall describe the activity proposed to be undertaken by the infrastructure development zone and shall provide that any action to enjoin the activity as a material departure from the service plan shall be brought within forty-five days from publication of the notice. The notice shall be published one time in a newspaper of general circulation in the infrastructure development zone. On or before the date of publication of the notice, the board shall also mail the notice to each approving authority.

Section 15. INCLUSION OF TERRITORY--PROCEDURE.--

A. Additional territory may be added to an infrastructure development zone without an election pursuant to the following provisions:

(1) the boundaries of an infrastructure development zone may be altered by the inclusion of additional real property by the fee owners of one hundred percent of any real property capable of being served with facilities of the infrastructure development zone filing with the board a petition in writing requesting that the property be included in the infrastructure development zone. The petition shall include a legal description of the property, shall state that

assent to the inclusion of the property in the infrastructure development zone is given by the fee owners thereof and shall be acknowledged by the fee owners in the same manner as required for conveyance of land;

(2) the board shall hear the petition at a public meeting after publication of notice of the filing of the petition, the place, time and date of the meeting, the names and addresses of the petitioners and notice that all persons interested shall appear at the time and place and show cause in writing why the petition should not be granted. There shall be no withdrawal from a petition after publication of notice by the board without the consent of the board. The failure of any municipality or county that may be able to provide service to the real property described in the petition, or of any person in the existing infrastructure development zone to file a written objection, shall be taken as an assent to the inclusion of the area described in the notice;

(3) the board shall grant or deny the petition, in whole or in part, with or without conditions, and the action of the board shall be final and conclusive, except as provided in Paragraph (4) of this subsection. If a municipality or county has filed a written objection to the inclusion, the board shall not grant the petition as to any of the real property to which adequate service is, or will be,

available from the municipality or county within a reasonable time and on a comparable basis. If a petition is granted as to all or any of the real property, the board shall make an order to that effect and file the order with the county clerk of each county in which any part of the infrastructure development zone is located, and the property shall thereafter be included in the infrastructure development zone; and

(4) a municipality or county that has filed a written objection to the inclusion and that can provide adequate service to the real property described in the petition within a reasonable time and on a comparable basis may bring an action in the district court for the county in which the land proposed to be included is located, commenced within thirty days after entry of the order of the board, to determine whether the action of the board granting the inclusion was arbitrary, capricious or unreasonable.

B. In addition to the procedures specified in Subsection A of this section, additional territory may also be added to an infrastructure development zone pursuant to the following provisions:

(1) either:

(a) not less than twenty percent or two hundred, whichever number is smaller, of the taxpaying electors of an area that contains twenty-five thousand or more square feet of land may file a petition with the board in

writing requesting that the area be included within the infrastructure development zone; except that no single tract of property constituting more than fifty percent of the total area to be included may be included in any infrastructure development zone without the consent of the owner thereof. The petition shall set forth a legal and a general description of the area to be included and shall be acknowledged in the same manner as required for conveyance of land; or

(b) the board may adopt a resolution proposing the inclusion of a specifically described area; but no single tract or parcel of property constituting more than fifty percent of the total area to be included may be included in an infrastructure development zone without the consent of the owner thereof;

(2) nothing in this subsection shall permit the inclusion in an infrastructure development zone of any property if a petition that objects to the inclusion and that is signed by the owners of taxable real and personal property, which property equals more than fifty percent of the total assessed value of all taxable real and personal property to be included, is filed with the board no later than ten days prior to the public meeting held under Paragraph (3) of this subsection;

(3) upon the filing of a petition or the adoption of a resolution pursuant to Paragraph (1) of this

subsection, the board shall hear the petition or resolution at a public meeting after publication of notice of the filing of the petition or adoption of the resolution, the place, time and date of the meeting, the names and addresses of the petitioners, if applicable, the description of the area proposed for inclusion and notice that all persons interested and any municipality or county that may be able to provide service to the real property therein described shall appear at the time and place stated and show cause in writing why the petition should not be granted or the resolution not finally adopted. There shall be no withdrawal from a petition after publication of notice by the board without the consent of the board. The failure of any person in the existing infrastructure development zone to file a written objection shall be taken as an assent on that person's part to the inclusion of the area described in the notice;

(4) after a hearing pursuant to Paragraph (3) of this subsection, the board shall grant or deny the petition or finally adopt the resolution, in whole or in part, with or without conditions, and, subject to an election conducted pursuant to Paragraph (6) of this subsection, the action of the board shall be final and conclusive, except as provided in Paragraph (5) of this subsection. If a municipality or county has filed a written objection to the inclusion, the board shall not grant the petition or finally

adopt the resolution as to any of the real property to which adequate service is, or will be, available from the municipality or county within a reasonable time and on a comparable basis;

(5) a municipality or county that has filed a written objection to the inclusion and that can provide adequate service to the real property described in the petition within a reasonable time and on a comparable basis may bring an action in the district court for the county in which the area proposed to be included is located, commenced within thirty days after entry of the order of the board, to determine whether the action of the board granting the inclusion was arbitrary, capricious or unreasonable;

(6) upon final action by a board pursuant to Paragraph (4) of this subsection or affirmation by a district court pursuant to Paragraph (5) of this subsection, an election shall be held within the area sought to be included. The secretary shall give published notice of the time and place of the election and of the question to be submitted, together with a summary of any conditions attached to the proposed inclusion. The ballot shall be prepared by the board and shall substantially contain the following words:

"Shall the following described area become a part of the infrastructure development zone upon the following conditions, if any?"

(Insert description of area)

(Insert accurate summary of conditions)

For inclusion

Against inclusion"

(7) if the majority of the votes cast at the election are in favor of inclusion, the election official shall enter an order including any conditions so prescribed and making the area a part of the infrastructure development zone. The validity of the inclusion shall not be questioned directly or indirectly in any suit, action or proceeding; and

(8) nothing in this subsection shall permit the inclusion in an infrastructure development zone of any property that could not be included in the infrastructure development zone at the time of its organization without the written consent of the owners thereof, unless the owners of the property consent in writing to the inclusion of the property in the infrastructure development zone in a petition filed pursuant to this section or unless the property is no longer excludable pursuant to the provisions of Paragraph (4) of this subsection.

C. Nothing in this section shall be construed to permit the inclusion in an infrastructure development zone of any real property located in a municipality or a county outside a municipality unless the governing body of the municipality or county has adopted a resolution authorizing

the inclusion or waives its right to require the resolution in its sole discretion. Any resolution of approval so adopted or waiver so given shall be appended to any petition filed pursuant to Paragraph (1) of Subsection A of this section or Subparagraph (a) of Paragraph (1) of Subsection B of this section.

D. Not more than thirty days nor less than twenty days prior to a meeting of the board held pursuant to Paragraph (2) of Subsection A of this section or Paragraph (3) of Subsection B of this section, the secretary shall send notification by certified mail of the meeting to the property owners within the area proposed to be included within the infrastructure development zone as listed on the records of the county clerk on the date requested. The notification shall indicate that it is a notice of a meeting for consideration of the inclusion of real property within an infrastructure development zone and shall indicate the date, time, location and purpose of the meeting, a reference to the services of the infrastructure development zone as described in the service plan, the maximum mill levy, if any, or stating that there is no maximum that may be imposed if the proposed area is included within the infrastructure development zone, and procedures for the filing of a petition for exclusion pursuant to Paragraph (4) of Subsection B of this section. Except as provided in this subsection, the mailing of the

notification by certified mail to all addresses within the area proposed to be included within the infrastructure development zone shall constitute a good-faith effort to comply with this section, and failure to notify all electors by certified mail shall not provide grounds for a challenge to the meeting being held.

Section 16. EFFECT OF INCLUSION ORDER.--The following shall be applicable to any proceeding for inclusion accomplished pursuant to Section 15 of the Infrastructure Development Zone Act:

A. nothing in Section 15 of the Infrastructure Development Zone Act shall affect the validity of any area or property included or excluded from an infrastructure development zone by virtue of prior laws;

B. after the date of its inclusion in an infrastructure development zone, the property shall be subject to all of the taxes and charges imposed by the infrastructure development zone and shall be liable for its proportionate share of existing bonded indebtedness of the infrastructure development zone; but it shall not be liable for any taxes or charges levied or assessed prior to its inclusion in the infrastructure development zone nor shall its entry into the infrastructure development zone be made subject to or contingent upon the payment or assumption of any tax, rate, fee, toll or charge other than the taxes, rates, fees, tolls

and charges that are uniformly made, assessed or levied for the entire infrastructure development zone, without the prior consent of the fee owners or approval of the electors of the area to be included;

C. in the infrastructure development zone, the included property shall be liable for its proportionate share of annual operation and maintenance charges and the cost of services of the infrastructure development zone and taxes, rates, fees, tolls or charges shall be certified and levied or assessed therefor; provided that nothing in this section shall prevent an agreement between a board and the owners of property sought to be included in an infrastructure development zone with respect to the fees, charges, terms and conditions on which the property may be included;

D. the change of boundaries of the infrastructure development zone shall not impair nor affect its organization nor shall it affect, impair or discharge any contract, obligation, lien or charge on which it might be liable or chargeable had the change of boundaries not been made;

E. the order of any inclusion of territory accomplished pursuant to Section 15 of the Infrastructure Development Zone Act shall be filed in accordance with the provisions of Section 11 of that act; and

F. the infrastructure development zone's facility and service standards that are applied within the included

area shall be compatible with the facility and service standards of adjacent municipalities.

Section 17. EXCLUSION OF TERRITORY.--

A. The boundaries of an infrastructure development zone may be altered by the exclusion of real property by the fee owners of one hundred percent of any real property situate in the infrastructure development zone filing with the board a petition requesting that the real property of the fee owners be excluded and taken from the infrastructure development zone. The petition shall set forth a legal description of the property, shall state that assent to the exclusion of the property from the infrastructure development zone is given by the fee owners thereof and shall be acknowledged by the fee owners in the same manner as required for conveyance of land.

B. The board shall hear the petition at a public meeting after publication of notice of the filing of the petition, the place, time and date of the meeting, the names and addresses of the petitioners, a general description of the area proposed for exclusion and notice that all persons interested shall appear at the designated time and place and show cause in writing why the petition should not be granted. There shall be no withdrawal from a petition after publication of notice by the board without the consent of the board. The failure of any person in the existing infrastructure development zone to file a written objection shall be taken as

an assent on that person's part to the exclusion of the area described in the notice.

C. The board shall take into consideration and make a finding regarding all of the following factors when determining whether to grant or deny the petition or any portion thereof:

(1) the best interests of all of the following:

(a) the property to be excluded;

(b) the infrastructure development zone from which the exclusion is proposed; and

(c) the municipalities and counties in which the infrastructure development zone is located;

(2) the relative cost and benefit to the property to be excluded from the provision of the infrastructure development zone's services;

(3) the ability of the infrastructure development zone to provide economical and sufficient services to both the property to be excluded and all of the properties within the infrastructure development zone's boundaries;

(4) the effect of denying the petition on employment and other economic conditions in the infrastructure development zone and surrounding area;

(5) the economic impact on the region and on the infrastructure development zone, surrounding area and

state as a whole if the petition is denied or the resolution is finally adopted;

(6) whether an economically feasible alternative service may be available; and

(7) the additional cost to be levied on other property within the infrastructure development zone if the exclusion is granted.

D. If the board, after considering all of the factors set forth in Subsection C of this section, determines that the property described in the petition or some portion thereof should be excluded from the infrastructure development zone, it shall order that the petition be granted, in whole or in part; provided that:

(1) if the property to be excluded from the infrastructure development zone will be served by a proposed infrastructure development zone that is not yet organized, the board shall not order that the petition be granted until the proposed infrastructure development zone has been organized pursuant to the Infrastructure Development Zone Act, and notwithstanding any other provision of that act to the contrary, the property to be excluded may be included within the boundaries of the proposed infrastructure development zone; and

(2) the order of exclusion shall recite in the findings a description of any bonded indebtedness in

existence immediately preceding the effective date of the order for which the excluded property is liable and the date that the bonded indebtedness is then scheduled to be retired; provided that a failure of the order for exclusion to recite the existence and scheduled retirement date of the indebtedness, when due to error or omission by the infrastructure development zone, shall not constitute grounds for correction of the omission of a levy on the excluded property from the assessment roll.

E. If the board, after considering all of the factors set forth in Subsection C of this section, determines that the property described in the petition should not be excluded from the infrastructure development zone, it shall order that the petition be denied, provided that:

(1) any petition that is denied may be appealed to the approving authority for review of the board's decision. The appeal shall be taken no later than thirty days after the decision;

(2) upon appeal, the approving authority shall consider the factors set forth in Subsection C of this section and shall make a determination as to whether to exclude the properties mentioned in the petition or resolution based on the record developed at the hearing before the board;

(3) the decision of the approving authority may be appealed, within thirty days of the approving

authority's decision, to the district court for the county in which the proposed excluded area is located; and

(4) upon appeal, the court shall review the record developed at the hearing before the board and, after considering all of the factors set forth in Subsection C of this section, shall make a determination whether to exclude the properties mentioned in the petition or resolution.

Section 18. EFFECT OF EXCLUSION ORDER.--

A. Territory excluded from an infrastructure development zone pursuant to the provisions of Section 17 of the Infrastructure Development Zone Act shall not be subject to any property tax levied by the board for the operating costs of the infrastructure development zone. For the purpose of retiring the infrastructure development zone's outstanding indebtedness and the interest thereon existing at the effective date of the exclusion order, the infrastructure development zone shall remain intact, and the excluded territory shall be obligated to the same extent as all other property within the infrastructure development zone but only for that proportion of the outstanding indebtedness and the interest thereon existing immediately prior to the effective date of the exclusion order. The board shall levy annually a property tax on all the excluded and remaining property sufficient, together with other funds and revenues of the infrastructure development zone, to pay the outstanding

indebtedness and the interest thereon. The board may also establish, maintain, enforce and, from time to time, modify the service charges, tap fees and other rates, fees, tolls and charges, upon residents or users in the area of the infrastructure development zone as it existed prior to the exclusion as may in the discretion of the board be necessary to supplement the proceeds of the tax assessments in the payment of the outstanding indebtedness and the interest thereon. In no event shall excluded territory of an infrastructure development zone become obligated for the payment of any bonded indebtedness created after the date of the court's exclusion order.

B. The change of boundaries of the infrastructure development zone shall not impair nor affect its organization, nor shall it affect, impair or discharge any contract, obligation, lien or charge on which it might be liable or chargeable had the change of boundaries not been made.

Section 19. DISSOLUTION.--

A. The infrastructure development zone shall be dissolved by a resolution of the board upon a determination that each of the following conditions exist:

(1) all improvements owned by the infrastructure development zone have been, or provision has been made for all improvements to be, conveyed to the municipality or county in which the infrastructure development

zone, or the applicable part thereof, is located;

(2) either the infrastructure development zone has no outstanding bond obligations or the municipality or county has assumed all of the outstanding bond obligations of the infrastructure development zone; and

(3) all obligations of the infrastructure development zone pursuant to any development agreement with the municipality or county have been satisfied.

B. All property in the infrastructure development zone that is subject to the lien of taxes or special assessments shall remain subject to the lien for the payment of general obligation bonds and special assessment bonds, notwithstanding dissolution of the infrastructure development zone. The infrastructure development zone shall not be dissolved if any revenue bonds of the infrastructure development zone remain outstanding unless an amount of money sufficient, together with investment income thereon, to make all payments due on the revenue bonds either at maturity or prior redemption has been deposited with a trustee or escrow agent and pledged to the payment and redemption of the bonds. The infrastructure development zone may continue to operate after dissolution only as needed to collect money and make payments on any outstanding bonds.

Section 20. ELECTIONS.--

A. Except as provided otherwise in the

Infrastructure Development Zone Act, the provisions of the Election Code shall govern all elections conducted pursuant to the Infrastructure Development Zone Act.

B. At an election for the organization of a new infrastructure development zone, the approving authority shall also order the submission of the proposition of issuing general obligation bonds or creating other general obligation indebtedness if the petition filed pursuant to Section 3 of the Infrastructure Development Zone Act requests that the questions be submitted at the organization election.

C. After an infrastructure development zone is organized and the first board is elected, the board shall govern the conduct of all subsequent regular and special elections of the infrastructure development zone and shall render all interpretations and make all decisions as to controversies or other matters arising in the conduct of the elections.

D. Special elections may be conducted by the board after publication and notice no less than thirty days prior to the date of the election. The notice shall be mailed to all eligible electors and shall state:

(1) the date, time and place of the special election;

(2) a summary of the question or questions to be voted upon; and

(3) how an eligible elector may obtain a copy of the resolution of the board in which the special election was approved.

E. All powers and authority granted to the board by this section for the conduct of regular or special elections may be exercised in the absence of the board by the secretary or by an assistant secretary appointed by the board. The person named by the board who is responsible for the conducting of the election shall be the designated election official.

F. Not less than seventy-five days nor more than ninety days before a regular infrastructure development zone election, the designated election official shall provide notice by publication of a call for nominations for the election. The call shall state the director offices to be voted upon at the election, where a self-nomination and acceptance form may be obtained, the deadline for submitting the self-nomination and acceptance form to the designated election official and information on obtaining an absentee ballot.

G. Not less than sixty-seven days before the date of the regular infrastructure development zone election, any person who desires to be a candidate for the office of a director shall file a self-nomination and acceptance form or letter signed by the candidate and by an eligible elector as a

witness to the signature of the candidate.

H. On the date of signing the self-nomination and acceptance form or letter, a candidate for director shall be an eligible elector of the infrastructure development zone.

I. The self-nomination and acceptance form or letter shall state the name of the infrastructure development zone in which the election will be held, the director office sought by the candidate, the term of office sought if more than one length of a director's term is to be voted upon at the election, the date of the election and the full name of the candidate as it is to appear on the ballot. Unless physically unable, all candidates and witnesses shall sign their own signature and shall print their names, their respective residence addresses, including the street number and name, the city or town, the county, telephone number and the date of signature on the self-nomination and acceptance form or letter.

J. The self-nomination and acceptance form or letter shall be filed with the designated election official or, if none has been designated, the presiding officer or the secretary of the board.

K. No person shall be permitted to vote in any election unless that person is an eligible elector.

Section 21. DIRECTORS--TERMS--ORGANIZATION OF BOARD.--

A. Of the initial board members, two directors

shall serve until they or their successors are elected and qualified at the next regular election occurring in any year following that in which the infrastructure development zone was organized, and three shall serve until they or their successors are elected and qualified at the second regular election after organization. At its first meeting, the directors shall draw lots to determine the initial terms.

B. The basic term of office for directors, after the original terms provided in Subsection A of this section, shall be four years.

C. At its first meeting, the board shall elect one of its members as chair of the board and president of the infrastructure development zone, one of its members as a treasurer of the board and of the infrastructure development zone and a secretary who may be a member of the board. The secretary and the treasurer may be one person, but, if that is the case, the position shall be filled by a member of the board.

D. The secretary shall keep a record of all the board's proceedings, minutes of all meetings, certificates, contracts, bonds given by employees and all corporate acts, which shall be open to inspection of all eligible electors, as well as to all other interested parties.

E. The treasurer shall keep strict and accurate accounts of all money received by and disbursed for and on

behalf of the infrastructure development zone in permanent records. The provisions of the Audit Act shall apply to all financial affairs of the infrastructure development zone.

F. Each director may receive as compensation for the director's service a sum not to exceed one hundred dollars (\$100) per meeting attended or one thousand six hundred dollars (\$1,600) per year.

G. The board shall meet regularly at a time and in a place to be designated by the board. Special meetings may be held as often as the needs of the infrastructure development zone require, upon notice to each director. All official business of the board shall be conducted only during regular or special meetings at which a quorum is present, and all meetings shall be open to the public and comply with the Open Meetings Act.

H. The office of the infrastructure development zone shall be at some fixed place to be determined by the board. All public records of the infrastructure development zone shall be subject to the Inspection of Public Records Act.

I. Any vacancy on the board shall be filled by appointment by the remaining directors, the appointee to serve until the next regular election, at which time the vacancy shall be filled by election for any remaining unexpired portion of the term. If, within sixty days of the occurrence of any vacancy, the board fails, neglects or refuses to

appoint a director from the pool of any duly qualified, willing candidates, the approving authority shall appoint a director to fill the vacancy; provided that, if there are no duly elected directors and if the failure to appoint a new board will result in the interruption of services that are being provided by the infrastructure development zone, then the approving authority shall appoint all directors from the pool of duly qualified, willing candidates.

J. Any director elected to the board of an infrastructure development zone who has actually held office for at least six months may be recalled from office by the eligible electors of the infrastructure development zone. A petition signed by the lesser of three hundred eligible electors or forty percent of the eligible electors demanding the recall of any director named in the petition shall be filed with the board and the election shall be governed by the provisions of Section 20 of the Infrastructure Development Zone Act.

Section 22. GENERAL POWERS.--Except as limited by the service plan of the infrastructure development zone, the board has the following powers:

- A. to have perpetual existence;
- B. to have and use a corporate seal;
- C. to sue and be sued and to be a party to suits, actions and proceedings;

D. pursuant to the Procurement Code, to enter into contracts and agreements affecting the affairs of the infrastructure development zone, except as otherwise provided in the Infrastructure Development Zone Act;

E. to borrow money and incur indebtedness and evidence the same by certificates, notes or debentures, and to issue bonds, including revenue bonds, in accordance with the provisions of Sections 28, 29 and 30 of the Infrastructure Development Zone Act, and to invest money of the infrastructure development zone in accordance with law;

F. to acquire, dispose of and encumber real and personal property, including rights and interests in property, leases and easements necessary to the functions or the operation of the infrastructure development zone; provided that the board shall not pay more than fair market value and reasonable settlement costs for any interest in real property and shall not pay for any interest in real property that must otherwise be dedicated for public use or the infrastructure development zone's use in accordance with any governmental ordinance, rule or law;

G. to refund any bonded indebtedness as provided in the Infrastructure Development Zone Act;

H. to have the management, control and supervision of all the business and affairs of the infrastructure development zone and all construction, installation, operation

and maintenance of infrastructure development zone improvements;

I. to appoint, hire and retain agents, employees, engineers, managers, attorneys and consultants;

J. to fix and from time to time to increase or decrease fees, rates, tolls, penalties or charges for services, programs or facilities furnished by the infrastructure development zone. The board may pledge the revenue for the payment of any indebtedness of the infrastructure development zone. Until paid, all the fees, rates, tolls, penalties or charges shall constitute a perpetual lien on and against the property served, and any lien may be foreclosed in the same manner as provided by the laws for the foreclosure of mechanics' liens. Notwithstanding any other provision to the contrary, the board may waive or amortize all or part of the tap fees and connection fees or extend the time period for paying all or part of the fees for property within the infrastructure development zone in order to facilitate the construction, ownership and operation of affordable housing on the property. However, the board shall have the authority to condition the waiver, amortization or extension upon the recordation against the property of a deed restriction, lien or other lawful instrument requiring the payment of the fees in the event that the property's use as affordable housing is discontinued;

K. to furnish services and facilities without the boundaries of the infrastructure development zone and to establish fees, rates, tolls, penalties or charges for the services and facilities;

L. to accept, on behalf of the infrastructure development zone, real or personal property for the use of the infrastructure development zone and to accept gifts and conveyances made to the infrastructure development zone upon the terms or conditions as the board may approve;

M. to adopt, amend and enforce bylaws and rules not in conflict with the constitution and laws of this state for carrying on the business, objects and affairs of the board and of the infrastructure development zone;

N. to have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted to infrastructure development zones by the Infrastructure Development Zone Act. The specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of the Infrastructure Development Zone Act;

O. to authorize the use of electronic records or signatures and adopt rules, standards, policies and procedures for use of electronic records or signatures;

P. to enter into contracts with public utilities, cooperative electric associations and municipalities for the

purpose of furnishing street-lighting service;

Q. to erect and maintain, in providing safety protection services, traffic and safety controls and devices on streets and highways and at railroad crossings, and to enter into agreements with each county in which an infrastructure development zone is located or with adjoining counties, the department of transportation or railroad companies for the erection of the safety controls and devices and for the construction of underpasses or overpasses at railroad crossings;

R. to finance line extension charges for new telephone construction for the purpose of furnishing telephone service exclusively in infrastructure development zones that have no property zoned or valued for assessment as residential;

S. to establish, maintain and operate a system to transport the public by bus, rail or any other means of conveyance, or any combination thereof;

T. to furnish security services for any area within the infrastructure development zone. This power may be exercised only after the infrastructure development zone has provided written notification to, consulted with and obtained the written consent of all local law enforcement agencies having jurisdiction within the area. Any local law enforcement agency having jurisdiction within the area may

subsequently withdraw its consent after consultation with and providing written notice of the withdrawal to the board;

U. to furnish covenant enforcement and design review services within the infrastructure development zone only if the revenues used to furnish the services are derived from the area in which the service is furnished; and

V. to provide activities in support of business recruitment, management and development within the infrastructure development zone.

Section 23. PARK AND RECREATIONAL SERVICES--ADDITIONAL POWERS--LIMITATIONS.--In addition to the powers specified in Section 22 of the Infrastructure Development Zone Act, if within the scope of the service plan, the board has the following powers for and on behalf of the infrastructure development zone:

A. to operate a system of television relay and translator facilities and to use, acquire, equip and maintain land, buildings and other recreational facilities therefor; and

B. to use the power granted in Section 22 of the Infrastructure Development Zone Act for the establishment of recreational facilities, including leases, easements and other interests in land for the preservation or conservation of sites, scenes, open space and vistas of recreational, scientific, historic, aesthetic or other public interest. As

used in this subsection, "interests in land" means any rights and interests in land less than the full fee interest, including future interests, easements, covenants and contractual rights. Every interest in land, held pursuant to this subsection, when recorded shall be deemed to run with the land to which it pertains for the benefit of the park and recreation services of the infrastructure development zone and may be protected and enforced by the infrastructure development zone in any court of general jurisdiction by any proceeding known at law or in equity.

Section 24. SANITATION, WATER AND SANITATION OR WATER SERVICES--ADDITIONAL POWERS.--In addition to the powers specified in Section 22 of the Infrastructure Development Zone Act, the board, if within the scope of the service plan, has the following powers relating to sanitation, water and sanitation and water services for and on behalf of the infrastructure development zone:

A. with the consent of the approving authority, to compel the owner of premises located within the boundaries of the infrastructure development zone, whenever necessary for the protection of public health, to connect the owner's premises, in accordance with the state codes, to the sewer, water and sewer, or water lines, as applicable, of the infrastructure development zone within twenty days after written notice is sent by registered mail, if the sewer or

water line is within four hundred feet of the premises. If the connection is not begun within twenty days, the board may thereafter connect the premises to the sewer, water and sewer, or water system, as applicable, of the infrastructure development zone and shall have a perpetual lien on and against the premises for the cost of making the connection. The lien may be foreclosed in the same manner as provided by the laws of this state for the foreclosure of mechanics' liens; provided that nothing in this subsection shall be construed as authorizing the board of an infrastructure development zone to compel any connection with the sewer, water and sewer, or water lines, as applicable, of the infrastructure development zone, by any owner of premises located outside of the infrastructure development zone who utilizes private or nongovernmental persons, services, systems or facilities;

B. to divide the infrastructure development zone into areas according to the water or sanitation services furnished or to be furnished therein. The board has the power to fix different rates, fees, tolls or charges and different rates of levy for tax purposes against all of the taxable property within the several areas of the infrastructure development zone according to the services and facilities furnished or to be furnished therein within a reasonable time;

C. if the board divides an infrastructure

development zone into areas according to the facilities and services furnished or to be furnished, to determine the amount of money necessary to be raised by taxation within each area, taking into consideration other sources of revenue within the area, and to fix a levy that, when levied upon every dollar of the valuation for assessment of taxable property within the area of the infrastructure development zone, will supply funds for the payments of the costs of acquiring, operating and maintaining the services or facilities furnished in the area and will pay promptly, when due, the principal or interest on bonds or other obligations issued and its pro rata share of the general operating expenses of the infrastructure development zone;

D. to establish, construct, operate and maintain works and facilities across or along any public street or highway, and in, upon or over any vacant public lands and across any stream of water or watercourse. The governing body of a county in which any public streets or highways are situated, which are to be cut into or excavated in the construction or maintenance of any of the facilities, has authority to adopt by resolution the rules as it deems necessary in regard to the excavations and may require the payment of reasonable fees by the infrastructure development zone as may be fixed by the governing body to ensure proper restoration of the streets or highways;

E. to assess reasonable penalties for delinquency in the payment of rates, fees, tolls or charges or for any violations of the rules of the infrastructure development zone together with interest on delinquencies from any date due at not more than one percent per month or fraction thereof; to shut off or discontinue water or sanitation service for the delinquencies and delinquencies in the payment of taxes or for any violation of the rules of the infrastructure development zone; and to provide for the connection with and the disconnection from the facilities of the infrastructure development zone;

F. to acquire water rights and construct and operate lines and facilities within and without the infrastructure development zone;

G. to fix and from time to time to increase or decrease tap fees. The board may pledge the revenue for the payment of any indebtedness of the infrastructure development zone; and

H. to assess availability of service or facilities charges subject to the following provisions:

(1) no fee, rate, toll or charge for connection to or use of services or facilities of the infrastructure development zone shall be considered an availability of service or facilities charge;

(2) any availability of service or

facilities charges shall be made only when a notice, stating that the availability of service or facilities charges are being considered and stating the date, time and place of the meeting at which they are to be considered, has been mailed by first-class United States mail, postage prepaid, to each taxpaying elector of the infrastructure development zone at the taxpaying elector's last-known address, as disclosed by the tax records of the county within which the infrastructure development zone is located;

(3) availability of service or facilities charges shall be assessed solely for the purpose of paying principal of and interest on any outstanding indebtedness or bonds of the infrastructure development zone and shall not be used to pay any operation or maintenance expenses of, nor capital improvements within or for, the infrastructure development zone;

(4) availability of service or facilities charges shall be assessed only where water, sewer or both water and sewer lines are installed and ready for connection within one hundred feet of any property line of the residential lot or residential lot equivalent to be assessed, but to one or both of which line or lines the particular lot or lot equivalent to be assessed is not connected; and

(5) availability of service or facilities charges shall be a percentage, not to exceed fifty percent, of

the fees, rates, tolls or charges for use of services or facilities of the infrastructure development zone, said percentage to be determined by the board. If the fees, rates, tolls or charges for the use of services or facilities vary dependent upon quantities of usage, the availability of service or facilities charges shall be a percentage, determined by the board, not to exceed fifty percent, of the average usage derived by dividing the total usage quantity for the infrastructure development zone for the last preceding fiscal year by the total number of users in the infrastructure development zone. In addition, the aggregate amount of revenue budgeted and expected to be derived from availability of service or facilities charges shall not exceed the total amount of principal of and interest on the outstanding indebtedness or bonds of the infrastructure development zone for the service currently budgeted for and to mature or accrue during the annual period within which the availability of service or facilities charges are payable, less the amount budgeted and expected to be produced during the period by the mill levy allocable to the service then being budgeted for and levied and assessed by the infrastructure development zone.

Section 25. SUBDISTRICTS.--

A. The board may divide the infrastructure development zone into one or more areas consistent with the services to be furnished therein. However, any facility

operated by the infrastructure development zone within the area may be used by any resident of the infrastructure development zone for the same fee charged to persons residing within the area. Whenever the board divides the infrastructure development zone into one or more areas pursuant to this section, the board shall provide notification of the action to each governing body with zoning jurisdiction over territory included in the infrastructure development zone. Each governing body that is entitled to the notification may elect, within thirty days after the notification, to treat the action as a material modification of the infrastructure development zone service plan in accordance with Section 14 of the Infrastructure Development Zone Act.

B. Any area created pursuant to this section shall be a subdistrict of the infrastructure development zone. A subdistrict shall be an independent political subdivision, shall act pursuant to the provisions of the Infrastructure Development Zone Act and shall possess all of the rights, privileges and immunities of the infrastructure development zone. The subdistrict shall be subject to the service plan of the infrastructure development zone.

C. The board of the infrastructure development zone shall constitute ex officio the board of directors of the subdistrict. The presiding officer of the board shall be ex

officio the presiding officer of the subdistrict, the secretary of the board shall be ex officio the secretary of the subdistrict and the treasurer of the board shall be ex officio the treasurer of the subdistrict. The debt of the subdistrict shall be treated separately from the debt of the infrastructure development zone and shall not be treated as debt of the infrastructure development zone; provided that the total debt of the infrastructure development zone and all subdistricts shall not exceed any debt limits specified in the service plan of the infrastructure development zone.

D. The board shall make any determination specified in Subsection A of this section by resolution adopted at a regular or special meeting of the board after publication of notice of the purpose of the public meeting and the place, time and date of the meeting.

E. No resolution dividing the infrastructure development zone into one or more subdistricts shall be adopted by the board if a petition objecting to the division is signed by the owners of taxable real and personal property, consisting of more than fifty percent of the total valuation for assessment of all taxable real and personal property within the proposed subdistrict boundaries, and is filed with the board no later than five days prior to the public meeting; provided, however, that the board may change the geographical boundaries of the subdistrict at the public meeting.

F. If taxes are to be levied or debt is to be created within a subdistrict of the infrastructure development zone, the board shall submit a ballot issue approving the taxes or debt to the eligible electors within the subdistrict at a regular infrastructure development zone election or at a special election.

Section 26. REVENUES.--The projects to be constructed or acquired as shown in the service plan may be financed from the following sources of revenue:

A. proceeds received from the sale of bonds of the infrastructure development zone;

B. money of the municipality or county contributed to the infrastructure development zone;

C. annual property taxes or special assessments;

D. state or federal grants or contributions;

E. private contributions;

F. user, landowner and other fees, tolls and charges;

G. proceeds of loans or advances; and

H. any other money available to the infrastructure development zone by law.

Section 27. STATE CAPITAL OUTLAY PROJECTS PROHIBITED.-- An infrastructure development zone shall not request nor receive state funding for a capital outlay project; provided that this prohibition does not apply to buildings or

facilities that may be located within an infrastructure development zone but that are owned by the state or one of its agencies, institutions or other political subdivisions or that are financed through the Statewide Economic Development Finance Act.

Section 28. GENERAL OBLIGATION BONDS--TAX LEVY--
EXCEPTION.--

A. At any time after the organization of the infrastructure development zone, the board may order and call a general obligation bond election to submit to the eligible electors the question of authorizing the infrastructure development zone to issue general obligation bonds of the infrastructure development zone to provide money for any services consistent with the service plan. If included in the petition filed pursuant to Section 3 of the Infrastructure Development Zone Act, the question of authorizing general obligations bonds may also be held in conjunction with the organization election.

B. If general obligation bonds are approved at an election, the board may issue and sell general obligation bonds of the infrastructure development zone.

C. Bonds may be sold in a public offering or in a negotiated sale.

D. After the bonds are issued, the board shall enter in its minutes a record of the bonds sold and their

numbers and dates and shall annually levy and cause a property tax to be collected, at the same time and in the same manner as other property taxes are levied and collected on all taxable property in the infrastructure development zone, sufficient, together with any money from the sources described in Section 26 of the Infrastructure Development Zone Act to pay debt service on the bonds when due. Money derived from the levy of property taxes that are pledged to pay the debt service on the bonds shall be kept separately from other funds of the infrastructure development zone. Property tax revenues not pledged to pay debt service on bonds may be used to pay other costs of the infrastructure development zone, including costs of organization, administration, operation and maintenance, services or enhanced services. An infrastructure development zone's levy of property taxes shall constitute a lien on all taxable property within the infrastructure development zone, including all leased property or improvements to leased land, which shall be subject to foreclosure in the same manner as other property tax liens under the laws of this state. The lien shall include delinquencies and interest thereon at a rate not to exceed ten percent per year, the actual costs of foreclosure and any other costs of the infrastructure development zone resulting from the delinquency. The proceeds of any foreclosure sale shall be deposited in the special bond fund for payment of any

obligations secured thereby.

E. Subject to the election requirements of this section, an infrastructure development zone may issue general obligation bonds at such times and in such amounts as the infrastructure development zone deems appropriate to carry out a project or projects in phases.

F. Pursuant to this section, the infrastructure development zone may issue and sell refunding bonds to refund general obligation bonds of the infrastructure development zone authorized by the Infrastructure Development Zone Act. No election is required in connection with the issuance and sale of refunding bonds. Refunding bonds issued pursuant to this section shall have a final maturity date no later than the final maturity date of the bonds being refunded.

Section 29. SPECIAL ASSESSMENT--BONDS--IMPOSITION.--

A. At any time after the organization of the infrastructure development zone, the board may from time to time order that a hearing be held to determine whether a special assessment should be imposed and special assessment bonds issued to provide money for any services consistent with the service plan. The question of imposing a special assessment may be considered at the hearing on infrastructure development zone organization upon notice that both issues will be heard at that time, which notice shall include the information required in Subsection B of this section.

B. Notice of hearing shall be provided by publication of a notice at least thirty days in advance of the hearing itself. The notice shall include the following:

(1) a description of the method by which the amount of the proposed special assessment will be determined for each class of property to which the levy is proposed to apply, in sufficient detail to enable the owner of the affected parcel to determine the amount of the special assessment;

(2) a description of the project to be financed with special assessment bonds or revenues; and

(3) a statement that any person affected by the proposed special assessment may object in writing or in person at the hearing.

C. After a hearing on the proposed special assessment and the issuance of special assessment bonds, the board shall, based upon the evidence presented at the hearing, issue a decision as to whether to impose a special assessment and, if so, the method of assessment for each class of property and the project to be financed thereby. The decision shall also respond to each objection to the assessment raised at the hearing.

D. Special assessment bonds may be sold in a public offering or in a negotiated sale.

E. After the bonds are issued, the board shall

enter in its minutes a record of the bonds sold and their numbers and dates, and shall annually impose and cause a special assessment to be collected, at the same time and in the same manner as property taxes are levied and collected on all property within the infrastructure development zone that may be subject to the assessment, including all leased property or improvements to leased land, sufficient, together with any other money lawfully available to pay debt service on the bonds when due, except to the extent that the board has provided for other imposition, collection and foreclosure procedures in connection with special assessments. Money derived from the imposition of the special assessment when collected that is pledged to pay the debt service on the bonds shall be kept separately from other funds of the infrastructure development zone. Special assessment revenues not pledged to pay debt service on bonds may be used to pay other costs of the infrastructure development zone, including costs of organization, administration, operation and maintenance, service or enhanced services.

F. The board shall specify conditions under which the obligation to pay special assessments may be prepaid and permanently satisfied.

G. Special assessments against privately owned residential property shall be subject to the following provisions:

(1) the maximum amount of special assessment that may be imposed shall not be increased over time by an amount exceeding two percent per year, except that the amount of special assessment actually imposed may be increased by up to ten percent as a result of the delinquency or default by the owner of any other parcel within the infrastructure development zone;

(2) the special assessment shall be imposed for a specified time period, after which no further special assessment shall be imposed and collected, except that special assessments imposed solely to finance the cost of ongoing infrastructure development zone services, maintenance or operations or enhanced services may be levied while such services, maintenance or operations or enhanced services are continuing; and

(3) nothing in this subsection shall preclude the establishment of different categories of residential property or changing the amount of the special assessments for a parcel whose size or use is changed. A change in the amount of a special assessment imposed upon a parcel due to a change in its size or use shall not require voter approval if the method for changing the amount of special assessment was approved in the election approving the special assessment in sufficient detail to enable the owner of the affected parcel to determine how the change in size or use

of the parcel would affect the amount of the special assessment.

H. An infrastructure development zone's imposition of a special assessment shall constitute a lien on the property within the infrastructure development zone subject to the special assessment, including property acquired by the state or its political subdivisions after imposition of the special assessment, which shall be effective during the period in which the special assessment is imposed and shall have priority co-equal to the lien of property taxes. A special assessment shall be subject to foreclosure by the infrastructure development zone at any time after six months following written notice of delinquency to the owner of the real property to which the delinquency applies. The lien shall include delinquencies, penalties and interest thereon at a rate not to exceed the maximum legal rate of interest per year and penalties otherwise applicable for delinquent property taxes, the infrastructure development zone's actual costs of foreclosure and any other costs of the infrastructure development zone resulting from the delinquency. All rights of redemption applicable to property sold in connection with property tax foreclosures pursuant to the laws of this state shall apply to property sold following foreclosure of a special assessment lien. The portion of proceeds of any foreclosure sale necessary to discharge the lien for the

special assessment shall be deposited in the special bond fund for payment of any obligations secured thereby.

I. No holder of special assessment bonds issued pursuant to the Infrastructure Development Zone Act may compel any exercise of the taxing power of the infrastructure development zone, municipality or county to pay the bonds or the interest on the bonds. Special assessment bonds issued pursuant to that act are not a debt of the infrastructure development zone, municipality or county, nor is the payment of special assessment bonds enforceable out of any money other than the revenue pledged to the payment of the bonds.

J. Subject to the requirements of this section, an infrastructure development zone may issue special assessment bonds at such times and in such amounts as the board deems appropriate to carry out a project or projects in phases.

K. Pursuant to this section, the board may issue and sell refunding bonds to refund any special assessment bonds of the infrastructure development zone authorized by the Infrastructure Development Zone Act. Refunding bonds issued pursuant to this section shall have a final maturity date no later than the final maturity date of the bonds being refunded.

Section 30. REVENUE BONDS--FEES AND CHARGES.--

A. At any time after the organization of the infrastructure development zone, the board may hold a hearing

on the question of authorizing the board to issue one or more series of revenue bonds of the infrastructure development zone to provide money for any public infrastructure purposes consistent with the service plan.

B. If revenue bonds are approved by resolution, the board may issue and sell revenue bonds of the infrastructure development zone.

C. The revenue bonds may be sold in a public offering or in a negotiated sale; however, if the bonds are to be sold in a public offering, no revenue bonds may be issued by the infrastructure development zone unless the revenue bonds receive one of the four highest investment grade ratings by a nationally recognized bond rating agency.

D. The board may pledge to the payment of its revenue bonds any revenues of the infrastructure development zone or revenues to be collected by the municipality or county in trust for the infrastructure development zone and returned to the infrastructure development zone.

E. The infrastructure development zone shall prescribe fees and charges, and shall revise them when necessary, to generate revenue sufficient, together with any money from the sources described in Section 26 of the Infrastructure Development Zone Act, to pay when due the principal and interest of all revenue bonds for the payment of which revenue has been pledged. The establishment or revision

of any rates, fees and charges shall be identified and noticed concurrently with the annual budget process of the infrastructure development zone pursuant to Section 32 of the Infrastructure Development Zone Act.

F. If, in the resolution of the board, the revenues to be pledged are limited to certain types of revenues, only those types of revenues may be pledged and only those revenues shall be maintained.

G. No holder of revenue bonds issued pursuant to the Infrastructure Development Zone Act may compel any exercise of the taxing power of the infrastructure development zone, municipality or county to pay the bonds or the interest on the bonds. Revenue bonds issued pursuant to that act are not a debt of the infrastructure development zone, municipality or county, nor is the payment of revenue bonds enforceable out of any money other than the revenue pledged to the payment of the bonds.

H. Subject to the requirements of this section, an infrastructure development zone may issue revenue bonds at such times and in such amounts as the board deems appropriate to carry out a project in phases.

I. Pursuant to this section, the infrastructure development zone may issue and sell refunding bonds to refund revenue bonds of the infrastructure development zone authorized by the Infrastructure Development Zone Act.

Refunding bonds issued pursuant to this section shall have a final maturity date no later than the final maturity date of the bonds being refunded.

Section 31. TERM OF BONDS.--For any bonds issued in connection with Section 28, 29 or 30 of the Infrastructure Development Zone Act, the board shall prescribe the denominations of the bonds, the principal amount of each issue and the form of the bonds and shall establish the maturities, which shall not exceed thirty years, interest payment dates and interest rates, whether fixed or variable, not exceeding the maximum rate stated in the notice of the election or the resolution of the board. The bonds may be sold by competitive bid or negotiated sale for public or private offering at, below or above par. The proceeds of the bonds shall be deposited with the treasurer, or with a trustee or agent designated by the board, to the credit of the infrastructure development zone to be withdrawn for the purposes provided by the Infrastructure Development Zone Act. Pending that use, the proceeds may be invested as determined by the board. The bonds shall be made payable as to both principal and interest solely from revenues of the infrastructure development zone, and shall specify the revenues pledged for such purposes, and shall contain such other terms, conditions, covenants and agreements as the board deems proper. The bonds may be payable from any combination of taxes, assessments or other

revenues collected or received pursuant to the Infrastructure Development Zone Act.

Section 32. PETITION FOR TAX REDUCTION--ANNUAL FINANCIAL ESTIMATE--BUDGET--CERTIFICATION TO LOCAL GOVERNMENT DIVISION.--

A. Upon presentation to the board of a petition signed by the owners of a majority of the property in the infrastructure development zone, the board shall adopt a resolution to reduce or eliminate the portion of a tax or special assessment, beginning the next fiscal year, required for one or more services specified in the petition. Signatures on a petition to reduce or eliminate a tax or special assessment shall be valid for a period of sixty days.

B. When levying a property tax or imposing a special assessment, the board shall make annual statements and estimates of the operation and maintenance expenses of the infrastructure development zone, the costs of services to be financed by the taxes or special assessment and the amount of all other expenditures for services proposed to be paid from the taxes or special assessment and of the amount to be raised to pay general obligation bonds of the infrastructure development zone or special assessment bonds, all of which shall be provided for by the levy and collection of property taxes on the net taxable value of the real property in the infrastructure development zone or by the imposition and

collection of special assessments. The board shall file the annual statements and estimates with the county clerk for each county in the infrastructure development zone. The board shall publish a notice of the filing of the estimate, shall hold hearings on the portions of the estimate not relating to debt service on general obligation bonds or special assessment bonds and shall adopt a budget. The board, on or before the date set by law for certifying the annual budget of the municipality or county, shall fix, levy and assess the amounts to be raised by property taxes or special assessments of the infrastructure development zone and shall cause certified copies of the order to be delivered to the local government division of the department of finance and administration. All statutes relating to the levy and collection of property taxes, including the collection of delinquent taxes and sale of property for nonpayment of taxes, apply to infrastructure development zone property taxes and to special assessments, except to the extent that the board has provided for other imposition, collection and foreclosure procedures in connection with special assessments.

Section 33. BONDS NOT OBLIGATION OF STATE.--Except as otherwise provided in the Infrastructure Development Zone Act, all bonds or other obligations issued pursuant to that act are payable solely from the revenues of the infrastructure development zone that may be pledged to the payment of such

obligations, and the bonds or other obligations shall not create an obligation, debt or liability of the state or any other of its political subdivisions. No breach of any pledge, obligation or agreement of an infrastructure development zone shall impose a pecuniary liability or a charge upon the general credit or taxing power of the state or any other of its political subdivisions.

Section 34. EXEMPTION FROM COMMUNITY SERVICE DISTRICT ACT AND SPECIAL DISTRICT PROCEDURES ACT.--Infrastructure development zones and the provisions of the Infrastructure Development Zone Act are exempt from the provisions of the Community Service District Act and the Special District Procedures Act.

Section 35. CUMULATIVE AUTHORITY.--The Infrastructure Development Zone Act shall be deemed to provide an additional and alternative method for the doing of things authorized by that act, and shall be regarded as supplemental and additional to powers conferred by other laws and shall not be regarded as in derogation of any powers now existing; provided that the issuance of bonds under the provisions of the Infrastructure Development Zone Act need not comply with the requirements of any other law applicable to the issuance of bonds.

Section 36. LIBERAL INTERPRETATION.--The Infrastructure Development Zone Act, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to

effect the purposes of that act. _____