

House Bill 315

By: Representatives Moraitakis of the 42nd, Post 4, Gardner of the 42nd, Post 3, Ashe of the 42nd, Post 2 and Teper of the 42nd, Post 1

A BILL TO BE ENTITLED
AN ACT

1 To revise provisions of law relating to creation of new municipal corporations; to amend
2 Chapter 31 of Title 36 of the Official Code of Georgia Annotated, relating to incorporation
3 of municipal corporations, so as to change the time in which certain minimum distance
4 requirements apply; to amend Code Section 48-8-89.1 of the Official Code of Georgia
5 Annotated, relating to distribution of the joint county and municipal local option sales tax
6 with respect to new qualified municipalities, so as to provide for distribution with respect to
7 newly incorporated municipalities; to provide for related matters; to provide an effective
8 date; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Chapter 31 of Title 36 of the Official Code of Georgia Annotated, relating to incorporation
12 of municipal corporations, is amended by striking Code Section 36-31-2 thereof, relating to
13 minimum distances between corporate boundaries, and inserting in its place the following:
14 "36-31-2.

15 (a) On and after December 31, 2004, no ~~No~~ local Act granting a municipal charter shall be
16 enacted wherein any part of the proposed corporate boundary is less than three miles
17 distance from the corporate boundary of any existing municipal corporation in this state;
18 provided, however, that, if the residents of a certain geographical area within three miles
19 of an existing municipal corporation have been denied annexation to the municipal
20 corporation by the people of the municipal corporation, the residents of such geographical
21 area shall be entitled to incorporate a new municipal corporation at any time within 12
22 months after such denial, and a local Act granting a municipal charter may be enacted;
23 provided, further, that the population of the area proposed to be incorporated must exceed
24 the population of the existing municipal corporation, and a certificate from the governing
25 authority of the existing municipal corporation or from the judge of the superior court of
26 the county, evidencing the denial of annexation and the population figures, must
27 accompany the certificate of incorporation required by this chapter.

1 (b) Any provision of subsection (a) of this Code section to the contrary, a local Act
 2 granting a municipal charter to any area comprising the former boundaries of a municipal
 3 corporation the charter of which was repealed by operation of Code Section 36-30-7.1 may
 4 be enacted at the regular 1996 or 1997 session of the General Assembly without regard to
 5 the proximity of the proposed municipal corporation to an existing municipal corporation."

6 SECTION 2.

7 Code Section 48-8-89.1 of the Official Code of Georgia Annotated, relating to distribution
 8 of the joint county and municipal local option sales tax upon creation of a new municipal
 9 corporation, is amended by striking subsection (a) and inserting in its place a new subsection
 10 to read as follows:

11 "(a) If Except as otherwise provided in subsection (f) of this Code section, if there exists
 12 within any special district in which the tax authorized by this article is imposed a qualified
 13 municipality which was not a qualified municipality on the date of filing with the
 14 commissioner of the most recently filed certificate under Code Section 48-8-89, such
 15 qualified municipality may request the commissioner to give notice of the qualified
 16 municipality's existence as provided in this subsection. Upon receipt of such a request, the
 17 commissioner shall, unless he or she determines that the requesting entity is not a qualified
 18 municipality, within 30 days give written notice of the qualified municipality's existence
 19 to the county which is conterminous with the special district in which the qualified
 20 municipality is located and to each other qualified municipality within the special district.
 21 Such written notice shall include the name of the new qualified municipality, the effective
 22 date of the notice, and a statement of the provisions of this Code section."

23 SECTION 3.

24 Said Code Section 48-8-89.1 is further amended by adding at its end a new subsection (f) to
 25 read as follows:

26 "(f)(1) If a new municipality is created by local Act of the General Assembly, then the
 27 net proceeds of the tax shall be distributed to the governing authority of the new
 28 municipality and each other municipality which is a qualified municipality within the
 29 special district and to the governing authority of the county whose geographical boundary
 30 is conterminous with that of the special district pro rata according to population according
 31 to the most recently effective federal decennial census. Each municipality shall receive
 32 a fraction of the net proceeds of the tax determined by dividing the population of the
 33 qualified municipality by the population of the county. The county shall receive a fraction
 34 of the net proceeds of the tax determined by dividing the population of the unincorporated
 35 area of the county by the population of the county. For the purpose of determining the

1 population of the municipalities, only that portion of the population of each such
2 municipality which is located within the special district shall be computed.

3 (2) It shall not be necessary that the newly incorporated municipality meet the definition
4 of a qualified municipality in order for the newly incorporated municipality to receive tax
5 proceeds as provided in this subsection. The newly incorporated municipality shall have
6 a period of five years from the effective date of its incorporation to meet the definition
7 of a qualified municipality in order to continue to receive tax proceeds as provided in this
8 subsection. If the newly incorporated municipality does not meet the definition of a
9 qualified municipality at the end of such five-year period, the provisions of Code Section
10 48-8-89.2 shall apply.

11 (3) The commissioner shall begin to distribute the proceeds as specified in paragraph (1)
12 of this subsection on the first day of January of the first calendar year which begins more
13 than 60 days after the effective date of the local Act incorporating the new qualified
14 municipality. The commissioner shall continue to distribute the proceeds of the tax as
15 specified in paragraph (1) of this subsection until a subsequent distribution certificate is
16 filed and becomes effective as provided in Code Section 48-8-89."

17 **SECTION 4.**

18 This Act shall become effective upon its approval by the Governor or upon its becoming law
19 without such approval.

20 **SECTION 5.**

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