

House Bill 570

By: Representatives Scott of the 2nd, Fleming of the 117th, Murphy of the 120th, Day of the 163rd, Smyre of the 132nd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 36 of the Official Code of Georgia Annotated, relating to local government,
2 so as to provide for the comprehensive regulation of interlocal agreements; to provide for a
3 short title; to provide for legislative purposes; to provide for definitions; to provide for
4 procedures, conditions, and limitations with respect to such agreements; to provide for the
5 status of such agreements; to provide for approval or disapproval of such agreements; to
6 provide for funding, property, personnel, and services; to provide for the cumulative nature
7 of such agreements; to provide for related matters; to provide an effective date; to repeal
8 conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

11 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
12 by adding a new chapter immediately following Chapter 69, to be designated Chapter 69A,
13 to read as follows:

14 style="text-align:center">"CHAPTER 69A

15 36-69A-1.

16 This chapter shall be known and may be cited as the 'Interlocal Cooperation Act.'

17 36-69A-2.

18 It is the purpose of this chapter to permit counties and municipalities in this state the most
19 efficient use of their powers by enabling them to cooperate with localities in other states
20 on a basis of mutual advantage and provide services and facilities in a manner and pursuant
21 to forms of governmental organization that will accord best with geographic, economic,
22 population, and other factors influencing the needs and development of local communities.

1 36-69A-3.

2 As used in this chapter, the term:

3 (1) 'Public agency' means:

4 (A) Any political subdivision of this state;

5 (B) Any volunteer fire department;

6 (C) Any volunteer rescue squad;

7 (D) Any agency of the state government or of the United States; and

8 (E) Any political subdivision of another state.

9 (2) 'State' means a state of the United States.

10 36-69A-4.

11 (a) Any power or powers, privileges, or authority exercised or capable of exercise by a
12 public agency of this state may be exercised and enjoyed jointly with any other public
13 agency of any other state or of the United States to the extent that laws of such other state
14 or of the United States permit such joint exercise or enjoyment. The authority for joint or
15 cooperative action of political subdivisions shall apply to powers, privileges, or authority
16 vested in, funded by, or under the control of their governing bodies and relative to which
17 the governing bodies may make other types of contracts. No joint or cooperative agreement
18 shall be entered into affecting or relating to the constitutional or statutory powers,
19 privileges, or authority of officers of political subdivisions.

20 (b) Any public agency in this state may enter into agreements with a public agency in
21 another state for joint or cooperative action pursuant to the provisions of this chapter.
22 Appropriate action of the governing bodies of the participating public agencies by
23 resolution or otherwise pursuant to law shall be necessary before any such agreement may
24 enter into force. Any such agreement shall be subject to the requirements provided by the
25 Constitution and general laws of this state with respect to intergovernmental contracts.

26 (c) Any such agreement shall specify the following:

27 (1) The precise organization, composition, and nature of any separate legal or
28 administrative entity or entities created thereby, which may include, but is not limited to,
29 a corporation not for profit, together with the powers delegated to such a corporation;

30 (2) Its purpose or purposes;

31 (3) The manner of financing the joint or cooperative undertaking and of establishing and
32 maintaining a budget for such undertaking;

33 (4) The permissible method or methods to be employed in accomplishing the partial or
34 complete termination of the agreement and for disposing of property upon such partial
35 or complete termination; and

36 (5) Any other necessary and proper matters.

1 (d) In the event that the agreement does not establish a separate legal entity or entities to
 2 conduct the joint or cooperative undertaking, the agreement shall, in addition to the
 3 requirements of subsection (c) of this Code section contain the following:

4 (1) Provision for an administrator or a joint board responsible for administering the joint
 5 or cooperative undertaking. In the case of a joint board, public agencies party to the
 6 agreement shall be represented; and

7 (2) The manner of acquiring, holding, and disposing of real and personal property used
 8 in the joint or cooperative undertaking.

9 (e)(1) No agreement made pursuant to this chapter shall relieve any public agency of any
 10 obligation or responsibility imposed upon it by law, except that, to the extent of actual
 11 and timely performance thereof by a joint board or other legal or administrative entity or
 12 entities created by an agreement made hereunder, those performances may be offered in
 13 satisfaction of the obligation or responsibility.

14 (2)(A) A separate legal or administrative entity, created by interlocal agreement under
 15 this chapter, is not empowered to:

- 16 (i) Assess, levy, or collect ad valorem taxes;
- 17 (ii) Issue general obligation bonds; or
- 18 (iii) Exercise the power of eminent domain.

19 (B) However, to the extent that the participating political subdivisions possess such
 20 powers, the political subdivisions may exercise such powers on behalf and for the
 21 benefit of the separate legal or administrative entity.

22 (f)(1) Any agreement under this chapter shall contain provisions for the following:

23 (A) The contract shall terminate absolutely and without further obligation on the part
 24 of the county or municipality at the close of the calendar year in which it was executed
 25 and at the close of each succeeding calendar year for which it may be renewed as
 26 provided in this Code section;

27 (B) The contract may provide for automatic renewal unless positive action is taken by
 28 the county or municipality to terminate such contract, and the nature of such action
 29 shall be determined by the county or municipality and specified in the contract;

30 (C) The contract shall state the total obligation of the county or municipality for the
 31 calendar year of execution and shall further state the total obligation which will be
 32 incurred in each calendar year renewal term, if renewed; and

33 (D) The contract shall provide that title to any supplies, materials, equipment, or other
 34 personal property shall remain in the vendor until fully paid for by the county or
 35 municipality.

36 (2) In addition to the provisions enumerated in paragraph (1) of this subsection, any
 37 contract authorized by this chapter may include:

1 (A) A provision which requires that the contract will terminate immediately and
 2 absolutely at such time as appropriated and otherwise unobligated funds are no longer
 3 available to satisfy the obligations of the county or municipality under the contract; or

4 (B) Any other provision reasonably necessary to protect the interests of the county or
 5 municipality.

6 (3) Any contract developed under this chapter containing the provisions enumerated in
 7 paragraph (1) of this subsection shall be deemed to obligate the county or municipality
 8 only for those sums payable during the calendar year of execution or, in the event of a
 9 renewal by the county or municipality, for those sums payable in the individual calendar
 10 year renewal term.

11 (4) No contract developed and executed pursuant to this chapter shall be deemed to
 12 create a debt of the county or municipality for the payment of any sum beyond the
 13 calendar year of execution or, in the event of a renewal, beyond the calendar year of such
 14 renewal.

15 (5) No contract developed and executed pursuant to this chapter may be delivered if the
 16 principal portion of such contract, when added to the amount of debt incurred by any
 17 county or municipality pursuant to Article IX, Section V, Paragraph I of the Constitution
 18 of Georgia, exceeds 10 percent of the assessed value of all taxable property within such
 19 county or municipality.

20 36-69A-5.

21 An agreement entered into pursuant to this chapter between or among one or more counties
 22 or municipalities of this state and one or more public agencies of another state or of the
 23 United States shall not constitute a waiver of sovereign immunity. In any case or
 24 controversy involving performance or interpretation thereof or liability thereunder, no
 25 action may be brought except in the state or superior court of the county in this state which
 26 executed the agreement or the county in this state in which a city in this state is located
 27 which executed the agreement.

28 36-69A-6.

29 In the event that an agreement made pursuant to this chapter shall deal in whole or in part
 30 with the provision of services or facilities with regard to which an officer or agency of the
 31 state government has constitutional or statutory powers of control, the agreement shall, as
 32 a condition precedent to its entry into force, be submitted to the state officer or agency
 33 having such power of control and shall be approved or disapproved by such state officer
 34 or agency as to all matters within such officer's or agency's jurisdiction.

1 36-69A-7.

2 Any county or municipality entering into an agreement pursuant to this chapter may
3 appropriate funds and may sell, lease, give, or otherwise supply the administrative joint
4 board or other legal or administrative entity created to operate the joint or cooperative
5 undertaking by providing such personnel or services therefor as may be within its legal
6 power to furnish.

7 36-69A-8.

8 Any one or more counties or municipalities in this state may contract with any one or more
9 public agencies of another state to perform any governmental service, activity, or
10 undertaking which each public agency entering into the contract is authorized by law to
11 perform; provided, however, that such contract shall be authorized by the governing body
12 of each party to the contract. Such contract shall set forth fully the purposes, powers, rights,
13 objectives, and responsibilities of the contracting parties.

14 36-69A-9.

15 The authority of this chapter shall be cumulative to and in addition to any rights, powers,
16 or authority otherwise authorized under the Constitution or general laws of this state."

17 **SECTION 2.**

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

20 **SECTION 3.**

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