

House Bill 570 (AS PASSED HOUSE AND SENATE)

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 other than a county school district or
5 independent school district;

6 (B) Any volunteer fire department;

7 (C) Any volunteer rescue squad;

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

9 (E) Any political subdivision of another state.

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

11 36-69A-4.

12 (a) Any power or powers, privileges, or authority exercised or capable of exercise by a
13 public agency of this state may be exercised and enjoyed jointly with any other public
14 agency of any other state or of the United States to the extent that laws of such other state
15 or of the United States permit such joint exercise or enjoyment. The authority for joint or
16 cooperative action of political subdivisions shall apply to powers, privileges, or authority
17 vested in, funded by, or under the control of their governing bodies.

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

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

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

29 (2) Its purpose or purposes;

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

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

35 (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. All of the privileges and
 24 immunities from liability; exemption from laws, ordinances, and rules; and all pension,
 25 insurance, relief, disability, workers' compensation, salary, death, and other benefits which
 26 apply to the activity of such officers, agents, or employees of any such political subdivision
 27 or institution within the University System of Georgia when performing their respective
 28 functions within the territorial limits of their respective political subdivisions or campuses
 29 shall apply to such officers, agents, or employees to the same degree, manner, and extent
 30 while engaged in the performance of any of their functions and duties extraterritorially
 31 under the provisions of this chapter relating to mutual aid. The provisions of this Code
 32 section shall apply with equal effect to paid, volunteer, and auxiliary employees. In any
 33 case or controversy involving performance or interpretation thereof or liability thereunder,
 34 no action may be brought except in the state or superior court of the county in this state
 35 which executed the agreement or the county in this state in which a city in this state is
 36 located which executed the agreement.

1 36-69A-6.

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

8 36-69A-7.

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

14 36-69A-8.

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

21 36-69A-9.

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

24 **SECTION 2.**

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

27 **SECTION 3.**

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