

## Senate Bill 555

By: Senators Chapman of the 3rd, Whitehead, Sr. of the 24th, Wiles of the 37th, Shafer of the 48th, Henson of the 41st 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 an exception to the perpetual existence of downtown development  
3 authorities; to provide for quorums, actions, meetings, and records of downtown  
4 development authorities; to provide for dissolution of downtown development authorities  
5 activated by municipal resolutions; to change certain provisions relating to creation of  
6 development authorities, appointment and terms of directors, quorum, and adopting and  
7 filing of resolution of need; to provide for open and public meetings and records; to change  
8 certain provisions relating to directors of development authorities, compensation, adoption  
9 of bylaws, delegation of powers and duties, conflicts of interest, and audits; to change certain  
10 provisions relating to perpetual existence and dissolution of development authorities  
11 activated by county or municipal resolutions; to change certain provisions relating to ethics  
12 and conflicts of interest of members of downtown development authorities; to change certain  
13 provisions relating to annual local government finances reports and local independent  
14 authority indebtedness reports, assistance by the Department of Community Affairs, and  
15 community indicator reports; to provide for notices and hearings prior to consideration of  
16 certain tax abatements or exemptions by local governing authorities; to repeal conflicting  
17 laws; and for other purposes.

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

19 **SECTION 1.**

20 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended  
21 in Chapter 42, relating to downtown development authorities, by striking subsection (c) of  
22 Code Section 36-42-7, relating to qualifications and reimbursement of directors, election of  
23 officers, and training, and inserting in lieu thereof the following:

24 "(c) The directors shall elect one of their members as ~~chairman~~ chairperson and another  
25 as vice ~~chairman~~ chairperson and shall also elect a secretary and a treasurer or a  
26 secretary-treasurer, either of whom may but need not be a director. The directors shall

1 receive no compensation for their services but shall be reimbursed for actual expenses  
2 incurred by them in the performance of their duties. Each authority shall have perpetual  
3 existence, except as otherwise provided by Code Section 36-42-12.1."

#### 4 SECTION 2.

5 Said title is further amended in said Chapter 42 by adding a new Code section to read as  
6 follows:

7 "36-42-7.1.

8 A majority of the directors shall constitute a quorum, but no action may be taken by the  
9 board without the affirmative vote of a majority of the full membership of the board. All  
10 actions taken by the board at any meeting shall be recorded in minutes thereof, and all  
11 meetings of the board shall be subject to the provisions of Chapter 14 of Title 50. Records  
12 of the authority shall be subject to the provisions of Article 4 of Chapter 18 of Title 50."

#### 13 SECTION 3.

14 Said title is further amended in said Chapter 42 by adding a new Code section to read as  
15 follows:

16 "36-42-12.1.

17 (a)(1) If an authority does not have any outstanding unpaid bonds or bond anticipation  
18 notes, the authority may be dissolved by adoption of an appropriate resolution by the  
19 governing authority of the municipal corporation.

20 (2) If an authority does not have any outstanding unpaid bonds or bond anticipation notes  
21 and has not within a calendar year ending on or after December 31, 2005, conducted an  
22 official meeting with a quorum present, then the authority shall be dissolved by operation  
23 of law.

24 (b) If an authority previously activated for a municipal corporation is dissolved as  
25 provided in subsection (a) of this Code section, all assets and debts and rights and  
26 obligations of the former authority shall devolve to the parent municipal corporation.

27 (c)(1) Where an authority is dissolved as provided in paragraph (1) of subsection (a) of  
28 this Code section, it shall cease to exist as of the effective date specified in the  
29 appropriate resolution or resolutions.

30 (2) Where an authority is dissolved as provided in paragraph (2) of subsection (a) of this  
31 Code section, it shall cease to exist as of January 1 of the immediately following calendar  
32 year or on July 1, 2006, whichever occurs last.

33 (3) The dissolution of an authority shall not prevent the subsequent activation of a new  
34 authority under this chapter for the same local government in the same manner as  
35 otherwise specified in this chapter."





1 (2) Where an authority is dissolved as provided in paragraph (2) of subsection (b) of this  
 2 Code section, it shall cease to exist as of January 1 of the immediately following calendar  
 3 year or on July 1, 2006, whichever occurs last.

4 (3) The dissolution of an authority, however, shall not prevent the subsequent activation  
 5 of a new authority under this chapter for the same local government or local  
 6 governments, in the same manner as otherwise specified in this chapter."

## 7 SECTION 7.

8 Said title is further amended by striking Code Section 36-62A-1, relating to ethics and  
 9 conflicts of interest of members of downtown development authorities, and inserting in lieu  
 10 thereof the following:

11 "36-62A-1.

12 ~~(a)(1)~~ All directors and members of any downtown development authority created  
 13 pursuant to Chapter 42 of this title, known as the 'Downtown Development Authorities  
 14 Law,' or of any authority created by or pursuant to a local constitutional amendment,  
 15 whether for the purpose of promoting the development of trade, commerce, industry, and  
 16 employment opportunities or for other purposes, to the extent that the Constitution of  
 17 Georgia authorizes the General Assembly by law to define further and to enlarge or restrict  
 18 the powers and duties of any such authority created by or pursuant to a local constitutional  
 19 amendment shall comply with the provisions of Code Section 45-10-3, relating to a code  
 20 of ethics of members of boards, commissions, and authorities and shall not engage in any  
 21 transaction with the authority.

22 ~~(2) The provisions of paragraph (9) of Code Section 45-10-3 and of paragraph (1) of this~~  
 23 ~~subsection shall be deemed to have been complied with and any such authority may~~  
 24 ~~purchase from, sell to, borrow from, loan to, contract with, or otherwise deal with any~~  
 25 ~~director or member or any organization or person with which any director or member of~~  
 26 ~~said authority is in any way interested or involved, provided (1) that any interest or~~  
 27 ~~involvement by such director or member is disclosed in advance to the directors or~~  
 28 ~~members of the authority and is recorded in the minutes of the authority, (2) that no~~  
 29 ~~director having a substantial interest or involvement may be present at that portion of an~~  
 30 ~~authority meeting during which discussion of any matter is conducted involving any such~~  
 31 ~~organization or person, and (3) that no director having a substantial interest or~~  
 32 ~~involvement may participate in any decision of the authority relating to any matter~~  
 33 ~~involving such organization or person. As used in this subsection, a 'substantial interest~~  
 34 ~~or involvement' shall mean any interest or involvement which reasonably may be~~  
 35 ~~expected to result in a direct financial benefit to such director or member as determined~~  
 36 ~~by the authority, which determination shall be final and not subject to review.~~

~~(b) Nothing contained in subsection (a) of this Code section or in Code Section 45-10-3 shall be deemed to prohibit any director who is present at any decision of the authority from providing legal services in connection with any of the undertakings of the authority or from being paid for such services."~~

#### SECTION 8.

Said title is further amended by striking Code Section 36-81-8, relating to annual local government finances reports and local independent authority indebtedness reports, assistance by the Department of Community Affairs, and community indicator reports, and inserting in lieu thereof the following:

"36-81-8.

(a) As used in this Code section, the term 'local independent authority' means each local public body corporate and politic created in and for a county, municipality, consolidated government, or combination thereof, which is authorized to issue bonds under the Constitution and laws of this state.

(b)(1)(A) Each unit of local government shall submit an annual report of local government finances to the Department of Community Affairs. The report shall include the revenues, expenditures, assets, amounts of local ad valorem property tax exemptions granted for purposes of encouraging development or redevelopment, and debts of all funds and agencies of the local government, and other such information as may be reasonably requested by the department.

(B) Each unit of local government which levies a tax pursuant to Article 3 of Chapter 13 of Title 48 shall also submit a schedule of all revenues therefrom which are expended for the promotion of tourism, conventions, and trade shows or any other tourism related purpose which is specified under Code Section 48-13-51. Such schedule shall identify both the project or projects involved and the contracted entity involved in each such expenditure.

(2) Each local independent authority shall submit an annual report of indebtedness to the Department of Community Affairs. Such report shall include the revenues, expenditures, assets, and debts of all funds of the local independent authority and shall describe any actions taken by such local independent authority to incur indebtedness.

(3) The local government finances report and the local independent authority indebtedness report shall be filed on forms promulgated by the department; and shall be submitted within the requested time periods established by the department.

(4) The current annual local government finances reports and local independent authority indebtedness reports filed with the department in 2007 and thereafter shall be made available for inspection and viewing by the public on the department's Internet website.

1 Each local government or local independent authority that files such a report shall also  
 2 cause a summary of the same to be published in the applicable county legal organ not  
 3 later than 30 days after filing such report. Such summary shall be in simplified form,  
 4 shall be divided into logically arranged captioned sections, and shall contain readable  
 5 language using layperson's terms.

6 (c) The department shall have the authority to require local governments and local  
 7 independent authorities to submit the reports as provided for in subsection (b) of this Code  
 8 section as a condition of such local government or local independent authority receiving  
 9 state appropriated funds from the department. Upon the receipt of the report of local  
 10 government finance from a local government or the report of local independent authority  
 11 debt from a local independent authority, the department is authorized to release any state  
 12 appropriated grant funds that may be due at such time to the local government or the local  
 13 independent authority.

14 (d) The department's implementation of subsections (b) and (c) of this Code section shall  
 15 be subject to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; and the  
 16 department is specifically directed to promulgate the forms provided for in subsection (b)  
 17 of this Code section in the manner provided for promulgation of rules under Chapter 13 of  
 18 Title 50.

19 (e) Utilizing information contained in audit reports of local governments filed with the  
 20 state auditor, the report of county or municipal finances filed with the Department of  
 21 Community Affairs, and other available state or federal information of public record, the  
 22 Department of Community Affairs shall prepare annually a report on local government  
 23 finances. Utilizing information contained in reports of indebtedness returned to the  
 24 Department of Community Affairs, the Department of Community Affairs shall prepare  
 25 annually a report on indebtedness of local independent authorities. The local government  
 26 finances report shall be filed on January 15 of each year, ~~beginning January 15, 1985,~~ and  
 27 the local independent authority indebtedness report shall be filed on January 15 of each  
 28 year, ~~beginning January 1, 1990,~~ with the Governor, the Speaker of the House of  
 29 Representatives, the President of the Senate, the ~~chairman~~ chairperson of the House Ways  
 30 and Means Committee, the ~~chairman~~ chairperson of the House State Planning and  
 31 Community Affairs Committee, the ~~chairman~~ chairperson of the Senate Finance and Public  
 32 ~~Utilities~~ Committee, and the ~~chairman~~ chairperson of the Senate State and Local  
 33 Governmental Operations Committee, as well as with the chief elected official or chief  
 34 appointed official of each local unit of government and each local independent authority  
 35 and member of the General Assembly upon request.

36 (f) The local government finances report and the local independent authority indebtedness  
 37 report shall be organized, within the limits of available resources, in such a manner as to

1 allow for reasonable comparative analysis of local government revenues and expenditures  
2 and for reasonable comparative analysis of local independent authority debt.

3 (g) The department, in addition to its other duties, shall assist local units of government  
4 and local independent authorities in fulfilling the requirements of this article. The  
5 department shall coordinate its technical assistance efforts with the state auditor, the  
6 University System of Georgia, the Association County Commissioners of Georgia, the  
7 Georgia Municipal Association, and the Georgia Society of Certified Public Accountants  
8 and should coordinate with any other organizations interested and currently active in local  
9 government financial management so as to ensure that coordination of training and  
10 assistance is maintained. The department may contract or subcontract with other public or  
11 private agencies to provide assistance to local units of government or local independent  
12 authorities.

13 (h) The department, either in conjunction with the local government finances report or  
14 separately, shall prepare a community indicators report for each local unit of government  
15 having annual expenditures of \$250,000.00 or more as indicated pursuant to the most  
16 recent Report of Local Government Finances. The community indicators report shall  
17 include data on local government services, administration, and community characteristics.  
18 The department shall have the authority to require local governments to submit reports on  
19 local government services and operations as a condition of such local government receiving  
20 state appropriated funds from the department. Such reports shall be obtained utilizing the  
21 local government finance survey as provided in subsection (b) of this Code section and the  
22 local government operations survey collected by the department. The department shall  
23 develop the community indicators report in cooperation with the Association County  
24 Commissioners of Georgia and the Georgia Municipal Association and shall prepare  
25 annually the report on or before December 31, ~~1998, and annually thereafter.~~"

## 26 SECTION 9.

27 Said title is further amended in Chapter 88, the 'Enterprise Zone Employment Act of 1997,'  
28 by adding a new Code section to read as follows:

29 "36-88-9.1.

30 Prior to approving any tax exemption or abatement pursuant to this chapter, the local  
31 governing authority shall conduct a public hearing on the matter. The local governing  
32 authority shall publish in the county legal organ at least 30 days in advance of the hearing  
33 a written notice of the date, time, and location of such hearing and an itemization of the tax  
34 exemption or abatement to be considered by the local governing authority. No action shall  
35 be taken by the local governing authority on such proposed tax exemption or abatement  
36 until at least 15 days after such public hearing."

1

**SECTION 10.**

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