

Senate Bill 569

By: Senators Weber of the 40th, Johnson of the 1st and Williams of the 19th

AS PASSED SENATE

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 change certain local government provisions with respect to newly created
 3 municipalities; to revise certain provisions relating to the removal of new municipal
 4 corporations from county special districts for the provision of local government services; to
 5 provide for the offer of sale to a newly created municipality of county property used for
 6 police stations, fire stations, or parks within the geographical boundaries of the new
 7 municipality; to provide for procedures, conditions, and limitations; to provide for additional
 8 limitations and requirements in the event a new municipality is created in a county
 9 subsequent to a referendum in which bonded indebtedness is approved; to provide an
 10 effective date; to repeal conflicting laws; and for other purposes.

11 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

12 **SECTION 1.**

13 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
 14 by adding a new Code section immediately following Code Section 36-31-11, to be
 15 designated Code Section 36-31-11.1, to read as follows:

16 "36-31-11.1.

17 (a) As used in this Code section, the term:

18 (1) 'County's cost' means the original amount paid by the county for the land, buildings,
 19 and improvements, plus interest at the rate of 3 percent per annum from the date the
 20 county paid any such amounts to the date title to such property is transferred to the
 21 municipality pursuant to this Code section.

22 (2) 'Police station,' 'fire station,' or 'park' means property, including buildings and fixtures
 23 located on such property, that is located within the municipality and has been used by the
 24 county to provide police, fire, or park services to territory located within the municipality
 25 during the calendar year prior to the year the municipality is removed from the special
 26 district under subsection (a) or (b) of this Code section.

1 (b) It is the intent of the legislature that the residents of a new municipality receive full
2 credit for taxes paid for police stations, fire stations, and parks; to assure that new
3 municipalities will have the facilities necessary to deliver such services; and to provide
4 certainty as to how the purchase price for such facilities will be determined. Where a
5 municipality is removed from a special district as provided in either Code Section 36-31-11
6 or subsection (c) of this Code section, the municipality may elect to purchase from the
7 county certain property used for the delivery of police, fire, or parks services, as provided
8 in subsections (d), (e), and (f) of this Code section.

9 (c) A municipal corporation created by local Act within a county which has a special
10 district for the provision of fire services shall continue to be part of such special fire district
11 where such local Act so provides or the governing authority of the municipality elects to
12 continue to be part of the special fire district by formal resolution, provided the governing
13 authority of the municipality delivers a copy of such resolution to the governing authority
14 of the county within ten business days after the date the resolution is adopted. Such
15 municipality may subsequently adopt a resolution stating its intent to be removed from the
16 district and the date of removal, provided the governing authority of the municipality
17 delivers a copy of such resolution to the governing authority of the county at least three
18 months prior to the date of removal.

19 (d) If the municipality elects to purchase any such property from the county, the governing
20 authority of the municipality shall provide written notice to the governing authority of the
21 county specifying the properties to be purchased and the date or dates the municipality will
22 assume responsibility for providing police, fire, or park services consistent with the
23 transition period provided in Code Section 36-31-8. Such notice shall be provided with
24 respect to each such property no less than two months prior to the date the municipality
25 intends assume responsibility for providing police, fire, or parks services using such
26 property. The county may not convey or otherwise encumber any police station, fire
27 station, or park located in the municipality from the date the local chartering Act is
28 approved by the Governor or becomes law without such approval to end of the transition
29 period provided in Code Section 36-31-8.

30 (e) If the municipality elects to purchase any such property, all of the county's right, title,
31 and interest in such property shall automatically be transferred by law to the governing
32 authority of the municipality, effective on the date the new municipality begins to use such
33 property to provide service. The governing authority of the county shall, prior the date of
34 transfer, execute and deliver to the governing authority of the municipality such
35 instruments as may be necessary to record the transfer of such right, title, and interest.

36 (f) The governing authority of the municipality shall, within 30 days after the date of
37 transfer of such right, title, and interest, pay to the governing authority of the county the

1 purchase price for such property. The purchase price may be determined by negotiation
2 and agreement of the two governing authorities.

3 (g) In the event that the county and the municipality fail to reach an agreement as to the
4 purchase price for any such properties, then the following process is available to the
5 parties:

6 (1) The county or municipality may file a petition in superior court of the county seeking
7 mandatory mediation. Such petition shall be assigned to a judge, pursuant to Code
8 Section 15-1-9.1 or 15-6-13, who is not a judge in the circuit in which the county is
9 located. The judge selected may also be a senior judge pursuant to Code Section 15-1-9.2
10 who resides in another circuit;

11 (2) The visiting or senior judge shall appoint a mediator within 30 days of receipt of the
12 petition. Mediation shall commence within 30 days of the appointment of a mediator.
13 The mandatory mediation process shall be completed within 60 days following the
14 appointment of the mediator. A majority of the members of the governing body of the
15 county and of the municipality shall attend the initial mediation. Following the initial
16 meeting, the mediation shall proceed in the manner established at the initial meeting. If
17 there is no agreement on how the mediation should proceed, a majority of the members
18 of the governing body of the county and of the municipality shall be required to attend
19 each mediation session unless another process is agreed upon. The cost of alternative
20 dispute resolution authorized by this subsection shall be shared by the parties to the
21 dispute pro rata based on each party's population according to the most recent United
22 States decennial census;

23 (3) If no agreement is reached at the conclusion of the mediation, either the county or the
24 municipality may petition the superior court and seek resolution of the items remaining
25 in dispute. The visiting or senior judge shall conduct an evidentiary hearing or hearings
26 as such judge deems necessary and render a decision with regard to the disputed items.
27 The judge shall determine the purchase price as follows:

28 (A) The appraised value of the total ad valorem real property tax digest for the area
29 within the municipality shall be determined;

30 (B) The appraised value of the total ad valorem real property tax digest for the entire
31 special district from which the municipality was removed pursuant to Code Section
32 36-31-11 or subsection (c) of this Code section shall be determined;

33 (C) The tax ratio shall be determined by dividing the appraised value for the
34 municipality, as determined in subparagraph (A) of this paragraph, by the appraised
35 value for the special district, as determined in subparagraph (B) of this paragraph;

36 (D) The county cost's shall be determined separately for all fire stations, all police
37 stations, and all parks located in the municipality. If a park is located partially within

1 a municipality or if a police station or fire station was used by the county to provide
2 services to an area partially within the municipality, then a share of the county's cost
3 shall be allocated to the municipality proportionate to portion of the park's acreage
4 located within the municipality or to the portion of the police or fire service area located
5 in the municipality;

6 (E) The county's cost shall be determined separately for all fire stations, all police
7 stations, and all parks located in the special district from which the municipality was
8 removed pursuant to Code Section 36-31-11 or subsection (c) of this Code section;

9 (F) An asset ratio shall be determined separately for police stations, fire stations, and
10 parks by dividing the county's cost for each type of property, as determined in
11 subparagraph (D) of this paragraph, by the county's cost of all properties of that type
12 located in the special district, as determined in subparagraph (E) of this paragraph;

13 (G) The county's cost for parks, police stations, or fire stations located in the
14 municipality shall be considered to have been fully funded by the municipality's
15 residents if the tax ratio is equal to or greater than the asset ratio for each type of
16 property, in which case the purchase price for properties of type shall be zero. The tax
17 ratio shall be compared separately to the asset ratio for each of the three types of
18 property to determine if each type of property has been fully funded or partially funded;

19 (H) The county's cost for parks, police stations, or fire stations located in the
20 municipality shall be considered to have been partially funded by the municipality's
21 residents if the tax ratio is less than the asset ratio. The percentage of the county's cost
22 that shall be considered funded shall equal 100 times the tax ratio divided by the asset
23 ratio for each type of property. The municipality shall pay to the county as part of the
24 purchase price the percentage of the county's cost that is under funded, which shall
25 equal 100 percent minus the percentage funded; and

26 (I) If the county used a police station or fire station to serve an area located outside the
27 municipality, the purchase price shall include a portion of the fair market value of the
28 police station or fire station. That portion shall equal the acreage served outside the
29 municipality divided by the total acreage served by the police station or fire station;

30 (4) The municipality may elect to pay the purchase price for any police station, fire
31 station, or park amortized over a 25 year period at an interest rate equal to rate available
32 to county on bonded indebtedness at the time of the transfer of title to the property from
33 the county to the municipality;

34 (5) Any municipality for which the transition period provided in Code Section 36-31-8
35 has not yet expired with respect to either police services, fire services, or parks may elect
36 to purchase police stations, fire stations, or parks located in that municipality under the
37 provisions of subsection (b), (d), (e), and (f) of this Code section; and

1 (6) The judge shall be authorized to impose mediation costs and court costs against any
2 party upon a finding of bad faith."

3 SECTION 2.

4 Said title is further amended in Code Section 36-82-1, relating to elections and requirements
5 regarding bonded debt, by striking subsection (d) and inserting in its place a new subsection
6 (d) to read as follows:

7 "(d)(1) Every legal advertisement of a bond election shall contain a reference that any
8 brochures, listings, or other advertisements issued by the governing body of any county,
9 municipality, or other political subdivision of this state or by any other person, firm,
10 corporation, or association with the knowledge and consent of the governing body of such
11 county, municipality, or other political subdivision of this state shall be deemed to be a
12 statement of intention of the governing body of such county, municipality, or other
13 political subdivision of this state concerning the use of the bond funds; and such
14 statement of intention shall be binding on the governing body of such county,
15 municipality, or other political subdivision of this state in the expenditure of any such
16 bond funds or interest received from such bond funds which have been invested, unless
17 the governing body of such county, municipality, or other political subdivision of this
18 state uses such bond funds for the retirement of bonded indebtedness, in the manner
19 provided for in this Code section; and such statement of intention shall be set forth in the
20 resolution pursuant to which such bonds are issued.

21 (2)(A) Such statement of intention shall remain fully binding upon the governing
22 authority of such county in the event a new municipality is created in such county
23 subsequent to the referendum at which such indebtedness is approved and such bond
24 funds shall be expended within the area of the new municipality in the same manner as
25 otherwise required prior to the creation of the municipality. Bond funds and interest

26 received from such bond funds which have been invested shall be expended in the
27 manner in which advertised and for the purpose stated in such statement of intention.

28 (B) In the event that ownership of property of the county which is the subject of any
29 bond funds under this Code section is transferred to a newly created municipality, the
30 county shall, within 30 days of the date of conveyance of such property to such newly
31 created municipality, pay such bond funds and interest received from such bond funds
32 with respect to such project to such newly created municipality. The newly created
33 municipality shall expend such received funds as well as future such bond funds with
34 respect to such project in the manner in which advertised by the county and for the
35 purpose stated in such statement of intention. If the statement of intention identifies a
36 project to be undertaken but does not breakout the amount budgeted for such project,

1 then the value of the project shall be paid by the county to the newly created
 2 municipality.

3 (C) If the county and municipality fail to reach an agreement as to the amount to be
 4 paid or any related matter, either the county or the municipality may petition the
 5 superior court and seek resolution of the items in dispute. Such petition shall be
 6 assigned to a judge, pursuant to Code Section 15-1-9.1 or 15-6-13, who is not a judge
 7 in the circuit in which the county is located. The judge selected may also be a senior
 8 judge pursuant to Code Section 15-1-9.2 who resides in another circuit. The visiting
 9 or senior judge shall conduct an evidentiary hearing or hearings as such judge deems
 10 necessary and render a decision with regard to the disputed items.

11 (3)(A) Except as otherwise provided in subparagraph (B) of this paragraph, the ~~The~~
 12 governing body of such county, municipality, or other political subdivision of this state
 13 may, by a two-thirds' vote, declare any project which has been established pursuant to
 14 any such statement of intention to be unnecessary.

15 (B) In the event any such project is located within the corporate limits of a newly
 16 formed municipality, the governing body of a county shall not be authorized to declare
 17 any project which has been established pursuant to any such statement of intention to
 18 be unnecessary without a concurrent declaration by one-third vote of the governing
 19 body of such newly formed municipality.

20 (4) In that the event a project has been determined to be unnecessary in accordance with
 21 paragraph (3) of this subsection, the governing body of such county, municipality, or
 22 other political subdivision of this state shall use such bond funds for the payment of all
 23 or any part of the principal and interest on any bonded indebtedness of such county,
 24 municipality, or other political subdivision of this state then outstanding. Surpluses from
 25 the overestimated projects, including interest received on bond funds of such projects,
 26 shall be used first to complete underestimated projects and all remaining funds received
 27 from interest and overestimated projects shall be used for other projects or improvements
 28 which the governing body of such county, municipality, or other political subdivision of
 29 this state may deem necessary and which are encompassed within the language of the
 30 statement of purpose in the election notice.

31 (5) Any meetings of any governing bodies at which any bond fund allocation is made
 32 shall be open to the public. Such meetings shall be announced to the news media in
 33 advance and shall be open to the news media."

34 SECTION 3.

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

1 **SECTION 4.**

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