

House Bill 2

By: Representative Holt of the 112th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 36 of Title 36 of the Official Code of Georgia Annotated, relating to
2 annexation of territory, so as to provide for a short title; to establish state policy regarding
3 annexation; to provide that a municipal corporation having an independent school system
4 may not annex property located in a county without the consent of the county governing
5 authority; to provide for binding arbitration; to provide that, if a municipality proposes to
6 annex property in which certain services are provided by the county or which is included in
7 the county's comprehensive zoning plan, the county may demand arbitration; to provide for
8 an injunction; to provide for binding arbitration; to provide for the applicability of general
9 law; to provide for considerations; to provide an effective date; to repeal conflicting laws;
10 and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

13 This Act shall be known and may be cited as the "Fair Annexation Act."

14 style="text-align:center">**SECTION 2.**

15 Chapter 36 of Title 36 of the Official Code of Georgia Annotated, relating to annexation of
16 territory, is amended by adding immediately following Code Section 36-36-1 a new Code
17 Section 36-36-1.1 to read as follows:

18 "36-36-1.1.

19 Notwithstanding any other provision of this chapter, it is declared to be the policy of this
20 state that:

21 (1) The adjustment of municipal boundaries by annexation may be an appropriate
22 exercise of municipal powers but only when necessary to accommodate the natural
23 growth of a community by providing urban services not otherwise available to residents
24 and property owners outside municipal boundaries;

1 (2) Annexation is not in the best interest of residents and property owners inside and
 2 outside the boundaries of a municipality when the objective or purpose of an annexation
 3 is the generation of new municipal revenues rather than community building; and

4 (3) Annexation should be mutually beneficial for all affected parties and should not
 5 occur at the expense of counties, county school districts, or municipal or unincorporated
 6 residents or property owners affected by annexation."

7 SECTION 3.

8 Said chapter is further amended by inserting at the end of Article 1 a new Code Section
 9 36-36-12 to read as follows:

10 "36-36-12.

11 (a) Any other provision of this chapter to the contrary notwithstanding, a municipal
 12 corporation having an independent school system may not annex to the existing corporate
 13 limits of such municipality, by any method authorized pursuant to this chapter, any
 14 unincorporated area located in a county without the consent of the county governing
 15 authority.

16 (b)(1) If the governing authority refuses to give its consent to an annexation as provided
 17 in subsection (a) of this Code section, the governing authority of the municipal
 18 corporation may demand binding arbitration. The provisions of Part 1 of Article 1 of
 19 Chapter 9 of Title 9, the 'Georgia Arbitration Code,' shall govern such arbitration.

20 (2) An arbitrator shall be mutually selected by the municipality seeking the annexation
 21 and the county governing authority and appointed within 30 calendar days after a timely
 22 written notice to the county governing authority. Arbitration shall commence within 30
 23 days after the appointment of an arbitrator. Arbitration shall be completed and the
 24 arbitrator shall issue his or her ruling within 60 days following appointment.

25 (3) If the county and municipality are unable to agree on an arbitrator within the time
 26 specified in this subsection, either the county or the municipality may file a petition in the
 27 superior court of a county other than the county in which the municipality is seeking the
 28 annexation, and, in such event, the court shall appoint an arbitrator within 30 days of the
 29 filing of the petition. Arbitration shall commence within 30 days after the appointment
 30 of an arbitrator. Arbitration shall be completed and the arbitrator shall issue his or her
 31 ruling within 60 days following appointment.

32 (4) In resolving a dispute pursuant to this Code section, the arbitrator shall ensure that
 33 the proposed annexation conforms to state policy as expressed in Code Section 36-36-1.1
 34 and shall base his or her decision on the following criteria:

1 (A) Whether the proposed annexation is necessary to accommodate the natural growth
 2 of a community by providing urban services not otherwise available to residents and
 3 property owners outside municipal boundaries;

4 (B) Whether the proposed annexation is in the best interest of residents and property
 5 owners inside and outside the boundaries of the municipality proposing the annexation;

6 (C) Whether the primary objective or purpose of the proposed annexation is the
 7 generation of new municipal revenues rather than community building;

8 (D) Whether the proposed annexation is mutually beneficial for all affected parties and
 9 will not occur at the expense of counties, county school districts, or municipal or
 10 unincorporated residents or property owners affected by the annexation; and

11 (E) Whether the area to be annexed includes residential property, the extent of the
 12 residential property, and the projected daily attendance of school age children residing
 13 within the area.

14 (c) In order to determine the impact of annexation on the affected parties, the county, the
 15 county school district, the municipality, and the independent school district shall submit
 16 to the arbitrator a joint fiscal impact analysis of the proposed annexation. The cost of the
 17 preparation of such analysis shall be divided equally between the county and the
 18 municipality and shall be performed by an independent entity. The Department of
 19 Community Affairs shall prepare and promulgate a uniform methodology and format for
 20 such fiscal impact analysis, and any analysis submitted to the arbitrator shall have been
 21 prepared according to such methodology and in such format."

22 **SECTION 4.**

23 Said chapter is further amended by striking Code Section 36-36-70 in its entirety and
 24 inserting in lieu thereof the following:

25 "36-36-70.

26 (a) The General Assembly finds that annexation may create service delivery problems for
 27 counties that provide certain urban services and may also undermine the comprehensive
 28 plans or land use controls established by counties pursuant to Article IX, Section II,
 29 Paragraph IV of the Georgia Constitution. As such, the intent of this Code section is to
 30 provide a procedure to minimize negative effects of annexation on county services and
 31 facilities in counties wherein annexation is proposed as well as on residents and property
 32 owners in such counties.

33 (b) If a municipal governing authority proposes to annex to the existing corporate limits
 34 of such municipality, by any method authorized pursuant to this chapter, any
 35 unincorporated area in which water, sewerage, law enforcement, fire protection, and
 36 garbage or refuse collection is furnished or is to be furnished by the county, directly or by
 37 contract, in which such unincorporated area is situated, or where the county has included

1 such unincorporated area in the comprehensive zoning or development plan of the county,
2 it shall provide written notice to the county governing authority as required by Code
3 Section 36-36-6. The governing authority of the county may object to the proposed
4 annexation by adopting a resolution within 30 days after the receipt of such notice and
5 providing a copy of the resolution to the municipal governing authority. If the county
6 objects to the proposed annexation, the governing authorities of the two governments or
7 their representatives shall have 30 days from the date of the adoption of such resolution by
8 the county to resolve the county's objections through negotiation. No proposed annexation
9 shall become effective until the conclusion of the 30 day period following the receipt of
10 the municipality's notice by the county or until the conclusion of the 30 day negotiation
11 period if the county objects to the annexation, whichever is later.

12 (c)(1) If the county and municipality do not resolve the county's objections within the
13 30 day period, the governing authority of the county may demand binding arbitration by
14 adopting a resolution within 30 days of the end of the negotiation period and then
15 providing a copy to the municipal governing authority. If the county demands arbitration,
16 the annexation shall be enjoined pending the outcome of such arbitration. If a county
17 governing authority has requested arbitration as provided in this subsection, the
18 provisions of Part 1 of Article 1 of Chapter 9 of Title 9, the 'Georgia Arbitration Code,'
19 shall govern such arbitration. The arbitrator shall be mutually selected and appointed
20 within 30 calendar days of the adoption of a timely resolution by the county governing
21 authority demanding arbitration. Arbitration shall commence within 30 days of the
22 appointment of an arbitrator. Arbitration shall be completed and the arbitrator shall issue
23 his or her ruling within 60 days following appointment.

24 (2) If the county and municipality are unable to agree on an arbitrator within the time
25 specified in paragraph (1) of this subsection, either the county or the municipality may
26 file a petition in the superior court of a county other than the county in which the
27 municipality is seeking the annexation and, in such event, the court shall appoint an
28 arbitrator within 30 days of the filing of the petition. Arbitration shall commence within
29 30 days after the appointment of an arbitrator. Arbitration shall be completed and the
30 arbitrator shall issue his or her ruling within 60 days following appointment.

31 (d) In resolving the dispute pursuant to subsection (c) of this Code section, the arbitrator
32 shall ensure that the proposed annexation conforms to state policy as expressed in Code
33 Section 36-36-1.1 and subsection (a) of this Code section and shall base his or her decision
34 on the following criteria:

35 (1) Whether the proposed annexation is necessary to accommodate the natural growth
36 of a community by providing urban services not otherwise available to residents and
37 property owners outside municipal boundaries;

- 1 (2) Whether the proposed annexation is in the best interest of residents and property
 2 owners inside and outside the boundaries of a municipality proposing the annexation;
- 3 (3) Whether the primary objective or purpose of the annexation is the generation of new
 4 municipal revenues rather than community building;
- 5 (4) Whether the proposed annexation is mutually beneficial for all affected parties and
 6 will not occur at the expense of counties, county school districts, or municipal or
 7 unincorporated residents or property owners affected by annexation;
- 8 (5) Whether the annexing municipality will provide the full range of municipal services
 9 in the area to be annexed within 30 days of the effective date of annexation;
- 10 (6) Whether the proposed land use for the disputed annexation is consistent with the
 11 county's comprehensive plan and there is agreement to maintain the current land use for
 12 at least ten years following the effective date of annexation;
- 13 (7) Whether the proposed annexation will have an impact on county utilities, county
 14 services, county service districts, and the services provided within the service districts
 15 including financing;
- 16 (8) Whether the proposed annexation will have an impact on the cost of building and
 17 maintaining transportation infrastructure;
- 18 (9) Whether the proposed annexation would have an impact on the county school system;
 19 and
- 20 (10) Whether the county has made infrastructure investments in the area proposed for
 21 annexation and the impact of annexation on such investments including the financing of
 22 such investments.
- 23 (e) In order to determine the impact of annexation on the affected parties, the county and
 24 the municipality shall submit to the arbitrator a joint fiscal impact analysis of the proposed
 25 annexation. The cost of the preparation of such analysis shall be divided equally between
 26 the county and the municipality and shall be performed by an independent entity. The
 27 Department of Community Affairs shall prepare and promulgate a uniform methodology
 28 and format for such fiscal impact analysis, and any analysis submitted to the arbitrator shall
 29 have been prepared according to such methodology and in such format.
- 30 (f) Upon the agreement of the county and the municipality proposing an annexation, the
 31 requirements of this Code section may be supplemented, but not supplanted, by the dispute
 32 resolution process authorized by Code Section 36-36-11."

33 SECTION 5.

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

36 SECTION 6.

H. B. 2

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