

The Senate State and Local Governmental Operations Committee offered the following substitute to SB 83:

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 provide for legislative intent; to revise certain provisions relating to the
4 removal of new municipal corporations from county special districts for the provision of
5 local government services; to provide for the offer of sale to certain qualified municipalities
6 of county property used as police stations, fire stations, cultural properties, or vacant
7 properties within the geographical boundaries of the qualified municipality; to provide for
8 procedures, conditions, and limitations; to specify additional service delivery strategy
9 requirements regarding garbage and solid waste collection and disposal fees and fire
10 protection services fees; to provide for additional limitations and requirements in the event
11 a new municipality is created in a county subsequent to a referendum in which bonded
12 indebtedness is approved; to provide an effective date; to repeal conflicting laws; and for
13 other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

15 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
16 by revising Code Section 36-31-11, relating to removal of new municipalities from county
17 special services districts, as follows:

18 "36-31-11.

19 When a municipal corporation is created by local Act within a county which has a special
20 district for the provision of local government services consisting of the unincorporated area
21 of the county, the territory within the new municipal corporation shall be removed from the
22 special district ~~except to the extent otherwise provided by Code Section 36-31-8 during a~~
23 ~~transition period and~~ on such date as specified in the local Act creating the municipality
24 except that the county may continue to levy within such territory any previously imposed
25

1 tax for the purpose of retiring any special district debt until such time as such debt is
2 retired."

3 SECTION 2.

4 Said title is further amended by adding a new Code section to read as follows:

5 "36-31-11.1.

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

7 (1) 'Assessed value' for a county owned property means the assessed value determined
8 by the county assessor's office as of December 31 of the year prior to the date of
9 incorporation.

10 (2) 'Assigned capital assets' for a county property means county owned capital assets,
11 including, without limitation, vehicles, trucks, equipment, computers, and furniture
12 located at such property or used by county employees working at or stationed at such
13 property as of December 31 of the calendar year prior to the date of incorporation.

14 (3) 'Book value' for county owned capital assets means the book value of such assets
15 determined in accordance with standard accounting practices as of the date the qualified
16 municipality gives notice under subsection (h) of this Code section.

17 (4) 'Cultural property' means any qualified county property or facility, used in whole or
18 in part as a park, green space, library, arts center, nature center, golf course, recreational
19 facility, or any property or facility used for recreational, cultural, educational, or
20 institutional purposes. Each cultural property shall be deemed to include assigned capital
21 assets relative to that property.

22 (5) 'Date of incorporation' means the date the local Act creating a municipality becomes
23 law.

24 (6) 'Qualified county property' means any police station, fire station, cultural property,
25 or vacant property, including buildings and fixtures located on such property, that is
26 located within the municipality. Each qualified property shall be deemed to include
27 assigned capital assets relating to such property.

28 (7) 'Qualified municipality' means any new municipality created by local Act which
29 becomes law on or after January 1, 2007, or any existing municipality for which the
30 24-month transition period provided for in Code Section 36-31-8 has not yet expired.

31 (8) 'Vacant property' means any water drainage areas, easements, retention ponds, ponds,
32 lakes, forest, or vacant land areas, which are owned by the county and are not part of a
33 cultural property.

34 (b) It is the intent of the legislature that the residents of a qualified municipality receive
35 full credit for taxes paid for qualified county properties and assigned capital assets to be
36 purchased by the qualified municipality; to assure that qualified municipalities will have

1 the facilities necessary to deliver municipal services; and to provide certainty as to how the
2 purchase price for such properties will be determined.

3 (c)(1) A qualified municipality located within a county which has a special district for
4 the provision of fire services shall continue to be part of such special fire district where
5 the local Act creating such qualified municipality so provides or where the governing
6 authority of the qualified municipality, within 30 days of taking office, elects by formal
7 resolution to continue to be part of the special fire district by formal resolution, provided
8 the governing authority of the qualified municipality delivers a copy of such resolution
9 to the governing authority of the county within ten business days after the date the
10 resolution is adopted.

11 (2) If a qualified municipality elected initially to remain in a fire services special district,
12 such municipality shall be removed from such fire services special district by adopting
13 a resolution stating its intent to be removed from the district and the date of removal,
14 provided the governing authority of the qualified municipality delivers a copy of such
15 resolution to the governing authority of the county at least 30 days prior to the date of
16 removal.

17 (d)(1) A qualified municipality located within a county which has an enterprise fund
18 whereby the county charges fees on a periodic basis for the provision of water and sewer
19 operating services, water and sewer construction, and water and sewer renewal and
20 extension may elect to continue receiving such services for the same fees charged
21 residents in the unincorporated area of the county. Such election may be set forth in the
22 local Act creating such qualified municipality or be made by resolution of the governing
23 authority of the qualified municipality within 30 days of taking office, provided the
24 governing authority of the qualified municipality delivers a copy of such resolution to the
25 governing authority of the county within ten business days after the date the resolution
26 is adopted.

27 (2) Such qualified municipality may elect to terminate water and sewer operating
28 services by adopting a resolution stating the date of termination, provided the governing
29 authority of the qualified municipality delivers a copy of such resolution to the governing
30 authority of the county at least 30 days prior to the date of removal.

31 (e)(1) A qualified municipality located within a county which has an enterprise fund
32 whereby the county charges fees on a periodic basis for the provision of sanitation
33 services, including garbage and solid waste disposal and collection, may elect to continue
34 receiving such services for the same fees charged residents of the unincorporated area of
35 the county. Such election may be set forth in the local Act creating such qualified
36 municipality or be made by resolution the governing authority of the qualified
37 municipality within 30 days of taking office, provided the governing authority of the

1 qualified municipality delivers a copy of such resolution to the governing authority of the
2 county within ten business days after the date the resolution is adopted.

3 (2) Such qualified municipality may elect to terminate sanitation services by adopting
4 a resolution stating the date of removal, provided the governing authority of the qualified
5 municipality delivers a copy of such resolution to the governing authority of the county
6 at least 30 days prior to the date of removal.

7 (f) Within 60 days after the date of incorporation for the municipality, the governing
8 authority of the county shall provide to each of the county commissioners and members of
9 the General Assembly whose district includes any portion of the new municipality a listing
10 of all county owned properties located in the qualified municipality and a listing of
11 assigned capital assets for each such property. The listing of the capital assets shall also
12 include the current book value of each capital asset. Such information shall be made
13 available to the public for inspection and copying.

14 (g) The county shall not convey, otherwise encumber, or enter into any contractual
15 obligations with respect to any qualified county property or capital assets located in the
16 qualified municipality on or after the date of incorporation to the end of the transition
17 period provided in Code Section 36-31-8. The governing authority of the county shall
18 assign to the governing authority to the qualified municipality all of its right, title, and
19 interest in any executory contract in effect on the date of incorporation with respect to any
20 qualified county property or capital assets located in the qualified municipality.

21 (h) When a qualified municipality is removed from a special district as provided in either
22 Code Section 36-31-11 or subsection (c) of this Code section, the qualified municipality
23 may elect to purchase from the county qualified county properties, as provided in
24 subsections (h) through (l) of this Code section. If a qualified municipality elects to
25 purchase any qualified county property from the county, whether or not the property is
26 listed on the county property listing as provided in section (f) of this Code section, the
27 governing authority of the qualified municipality shall provide written notice to the
28 governing authority of the county specifying the qualified county properties and assigned
29 capital assets to be purchased and the date or dates the qualified municipality will assume
30 ownership of such property. Such notice shall be provided with respect to each such
31 property no less than 30 days prior to the date the qualified municipality intends to assume
32 ownership of the property.

33 (i) If a qualified municipality elects to purchase any qualified county property, the
34 purchase price may be determined by negotiation and agreement of the two governing
35 authorities. In that event, all of the county's right, title, and interest in such property shall
36 be transferred to the governing authority of the qualified municipality as provided in such
37 agreement.

1 (j) If a qualified municipality elects to purchase one or more county police stations or fire
2 stations the purchase price shall be \$5,000.00 for each police station or fire station.

3 (k) If a qualified municipality elects to purchase one or more cultural properties, the
4 purchase price shall be \$100.00 per acre. If a qualified municipality elects to purchase one
5 or more vacant properties, the purchase price shall be one payment of \$1,000.00 for all of
6 the vacant properties to be purchased by the qualified municipality. Upon payment by the
7 qualified municipality of the purchase price, all of the county's right, title, and interest in
8 such properties and any assigned capital for such properties that the qualified municipality
9 elects to purchase shall be transferred to the governing authority of the qualified
10 municipality. The governing authority of the county shall transfer, execute, and deliver to
11 the governing authority of the qualified municipality such instruments as may be necessary
12 to record the transfer of such right, title, and interest.

13 (l) In the event of a dispute between the county and the qualified municipality as to the
14 purchase of any qualified county property, the following process is available to the parties:

15 (1) The county or qualified municipality may file a petition in superior court of the
16 county seeking mandatory mediation. Such petition shall be assigned to a judge, pursuant
17 to Code Section 15-1-9.1 or 15-6-13, who is not a judge in the circuit in which the county
18 is located. The judge selected may also be a senior judge pursuant to Code Section
19 15-1-9.2 who resides in another circuit;

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

32 (3) If no agreement is reached at the conclusion of the mediation, either the county or the
33 qualified municipality may petition the superior court and seek resolution of the items
34 remaining in dispute. The visiting or senior judge shall conduct an evidentiary hearing
35 or hearings as such judge deems necessary and render a decision with regard to the
36 disputed items. The judge shall expedite the hearing and ruling if the court finds that the
37 dispute before the court is causing an impairment of the use of any property for delivery

1 of services to residents of the unincorporated area of the county or the qualified
2 municipality.

3 (m) In the event a cultural property is transferred by a county to a qualified municipality
4 under this Code section, the qualified municipality shall be prohibited from imposing or
5 collecting user fees from residents of the county in excess of the amount of such fees
6 imposed or collected from residents of the qualified municipality.

7 (n) In the event that a portion of a county owned property qualifies as a qualified county
8 property, and the remainder of the property was used by the county during the year prior
9 to the date of incorporation to provide services that will not be provided by the qualified
10 municipality, the qualified municipality may elect to purchase the entire property or facility
11 in the same manner as otherwise authorized under this Code section for the appropriate
12 type of qualified county property. Following such purchase, the qualified municipality
13 shall lease such portion of a building and fixtures which is to be continued as
14 county-operated property back to the county. Such lease shall be for \$10.00 per month for
15 so long as the county continues to use such property for a county provided service that is
16 not provided by the qualified municipality, unless otherwise agreed to by the governing
17 authority of the qualified municipality and the governing authority of the county."

18 SECTION 3.

19 Said title is further amended in Code Section 36-82-1, relating to elections and requirements
20 regarding bonded debt, by adding a new subsection to read as follows:

21 "(e.1)(1) As used in this subsection, the term:

22 (A) 'Bonds' means any bond to purchase properties or for capital improvements to
23 existing properties or facilities which, at the time of the issuance of the bonds, were to
24 be used by the county for the provision of any of the services listed in Article IX,
25 Section II, Paragraph III of the Constitution of the State of Georgia and, subsequent to
26 the issuance of the bonds, a new municipality took over the provision of such services.

27 (B) 'Net homestead digest' means for each qualified municipality the total net assessed
28 value of all qualified homestead property located in that portion of a new municipality
29 located in the county remaining after all other homestead exemptions are applied.

30 (C) 'Total homestead digest' means the total net assessed value of all qualified
31 homestead property located in the county remaining after all other homestead
32 exemptions are applied.

33 (2) This subsection shall apply only to a new municipal corporation created by local Act
34 within a county which has a special district for the provision of local government services
35 consisting of the unincorporated area of the county. In the event a new municipality
36 lying wholly or partially in such a county is incorporated subsequent to the issuance of

1 any bonds by the county, the governing authority of the county shall pay to the governing
2 authority of the new municipality a portion of the bond proceeds. The amount to be paid
3 shall be determined as follows:

4 (A) If the resolution pursuant to which such bonds were issued specifies the amount
5 to be spent in the area included in the new municipality for the purchase of properties
6 and for capital improvements, then such amount plus a proportionate amount of the
7 interest earned by the county on the bond proceeds prior to the date payment to the new
8 municipality is due, less any credit due under subparagraph (C) of this paragraph
9 pursuant to which the bonds were issued shall be paid to the new municipality;

10 (B) If the resolution does not specify the amount to be spent in the area included in the
11 new municipality for the purchase of properties and for capital improvements, then the
12 amount to be paid shall be a portion of the bond proceeds plus a proportionate amount
13 of the interest earned by the county on such proceeds prior to the date payment to the
14 new municipality is due, less any credit due under subparagraph (C) of this paragraph.
15 Such portion shall equal the net homestead digest for the new municipality divided by
16 the total homestead digest;

17 (C) The county shall be given a credit against the amount due under either
18 subparagraph (A) or (B) of this paragraph for any payments that were made by the
19 county to any third party prior to the date the payment to the new municipality is due,
20 were made pursuant to a valid contract in existence as of the date the local Act creating
21 the new municipality became law, and were for the purchase of new properties or
22 capital improvements in the area included in the new municipality; and

23 (D) The payment determined in accordance with subparagraphs (A) and (B) of this
24 paragraph shall be due on the date the new municipality is removed from the special
25 district as provided by Code Section 36-31-11 and in the local Act creating the
26 municipality.

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

SECTION 4.

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

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SECTION 5.

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