

Senate Bill 110

By: Senators Pearson of the 51st, Seabaugh of the 28th, Rogers of the 21st, Murphy of the 27th and Johnson of the 1st

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 municipal annexation of territory, so as to repeal certain provisions relating to authority,  
3 procedures, identification, and status of lands relative to municipal deannexation; to provide  
4 for municipal deannexation of property pursuant to application of landowners thereof; to  
5 provide for procedures, conditions, and limitations; to provide for facilities and services; to  
6 provide for other matters relative to the foregoing; to repeal conflicting laws; and for other  
7 purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 36 of Title 36 of the Official Code of Georgia Annotated, relating to annexation of  
11 territory, is amended by revising Code Section 36-36-22, relating to authority, procedures,  
12 identification, and status of lands relative to deannexation, as follows:

13 "36-36-22.

14 ~~Authority is granted to the governing bodies of the several municipal corporations of this~~  
15 ~~state to deannex an area or areas of the existing corporate limits thereof, in accordance with~~  
16 ~~the procedures provided in this article and in Article 1 of this chapter, upon the written and~~  
17 ~~signed applications of all of the owners of all of the land, except the owners of any public~~  
18 ~~street, road, highway, or right of way, proposed to be deannexed, containing a complete~~  
19 ~~description of the lands to be deannexed and the adoption of a resolution by the governing~~  
20 ~~authority of the county in which such property is located consenting to such deannexation.~~  
21 ~~Lands to be deannexed at any one time shall be treated as one body, regardless of the~~  
22 ~~number of owners, and all parts shall be considered as adjoining the limits of the municipal~~  
23 ~~corporation when any one part of the entire body abuts such limits. When such application~~  
24 ~~is acted upon by the municipal authorities and the land is, by ordinance, deannexed from~~  
25 ~~the municipal corporation, an identification of the property so deannexed shall be filed with~~  
26 ~~the Department of Community Affairs and with the governing authority of the county in~~

~~which the property is located in accordance with Code Section 36-36-3. When so deannexed, such lands shall cease to constitute a part of the lands within the corporate limits of the municipal corporation as completely and fully as if the limits had been marked and defined by local Act of the General Assembly. Reserved."~~

## SECTION 2.

Said chapter is further amended by adding a new article to read as follows:

### "ARTICLE 7

36-36-100.

The procedures of this article shall apply to all deannexations pursuant to this chapter but shall not apply to deannexations by local Acts of the General Assembly.

36-36-101.

(a) An area or areas within the existing corporate limits of a municipality that are contiguous to the unincorporated area of a county within which the municipality is located shall be deannexed in accordance with the procedures provided in this Code section. Such deannexation shall occur upon the written and signed application of:

(1) All of the owners of all of the lands, except the owners of any public street, road, highway, or right of way, proposed to be deannexed; or

(2) Not less than 60 percent of the electors resident in the area included in any such application and of the owners of not less than 60 percent of the land area, by acreage, included in such application.

(b) The application required by subsection (a) of this Code section shall contain a complete description of the lands to be deannexed. In addition, a copy of a resolution by the governing authority of the county in which such property is located consenting to such deannexation shall also be included in the application.

(c) When a complete application is submitted to the municipal authorities, the land shall be deannexed from the municipal corporation effective for ad valorem tax purposes on December 31 of the year during which such application is submitted and for all other purposes on the first day of the next calendar quarter which begins at least one month after the month during which the requirements of this article have been met.

(d) An identification of the property so deannexed shall be filed with the Department of Community Affairs and with the governing authority of the county in which the property is located in accordance with Code Section 36-36-3.

1 (e) When deannexed pursuant to this Code section, such lands shall cease to constitute a  
2 part of the lands within the corporate limits of the municipal corporation as completely and  
3 fully as if the limits had been marked and defined by local Act of the General Assembly.

4 (f) Lands to be deannexed at any one time shall be treated as one body, regardless of the  
5 number of owners, and all parts shall be considered as adjoining the limits of the municipal  
6 corporation when any one part of the entire body abuts such limits.

7 (g) For the purposes of this Code section, property shall be considered contiguous to the  
8 unincorporated area of a county if the area proposed for deannexation either abuts directly  
9 on an unincorporated area or would directly abut on the unincorporated area if it were not  
10 otherwise separated from the municipal boundary by lands owned by a municipal  
11 corporation, the county, or some other political subdivision; lands owned by this state; the  
12 definite width of any street or street right of way; any creek or river; or any right of way  
13 of a railroad or other public service corporation.

14 (h) Property that has been annexed to a municipal corporation shall not be deannexed  
15 pursuant to the provisions of this Code section until at least two calendar years after the  
16 date the annexation of said property became effective.

17 (i) Property that is included within the municipal boundaries of a newly incorporated  
18 municipality shall not be subject to deannexation pursuant to the provisions of this Code  
19 section until at least two calendar years after the date the incorporation became effective.

20 (j) Property that has been deannexed from a municipal corporation pursuant to the  
21 provisions of this Code section shall not be annexed again until at least two calendar years  
22 after the date the deannexation of said property became effective, unless such annexation  
23 is accomplished by local Act of the General Assembly.

24 36-36-102.

25 (a)(1) Upon receiving an application for deannexation pursuant to Code Section  
26 36-36-101, the municipal governing authority shall notify the governing authority of the  
27 county within five business days of receipt of such notice if any municipally owned  
28 public facilities are located in the area proposed to be deannexed.

29 (2) Except as otherwise provided in this Code section, ownership and control of  
30 municipally owned public properties and facilities are not diminished or otherwise  
31 affected by deannexation of the area in which the municipally owned public property or  
32 facility is located.

33 (3) Whenever municipally owned property or facility within an area deannexed from a  
34 municipality is no longer usable for service to the area as a result of the deannexation, the  
35 county shall be required to acquire said property from the municipal governing authority  
36 under the following conditions:

- 1 (A) The deannexation must be final;
- 2 (B) The governing authority of the municipality has adopted an ordinance or resolution  
3 declaring the property or facility is no longer usable for service to the deannexed area  
4 as a result of the deannexation; and
- 5 (C) Unless otherwise provided by mutual agreement, the municipality shall be  
6 compensated by the county in an amount equal to the fair market value of the property  
7 or facility which is no longer usable for service to the deannexed area. If the county  
8 and municipality fail to agree on the fair market value of the property or facility within  
9 180 days following adoption of the resolution required by this subsection, the question  
10 of fair market value shall be submitted to a special master appointed by the superior  
11 court of the county in which the property or facility is located for determination of  
12 value.
- 13 (b) Notwithstanding the provisions of subsection (a) of this Code section, where either  
14 water distribution or sewage treatment services or both are provided by a municipality in  
15 accordance with a service delivery agreement entered into pursuant to Article 2 of Chapter  
16 70 of this title to an area of the municipality that has been deannexed, the municipality may  
17 continue to provide such services to the deannexed area after the deannexation becomes  
18 effective and ownership and control of facilities are not diminished or otherwise affected  
19 by the deannexation. Water distribution and sewage treatment services authorized by this  
20 subsection shall be provided at rates and in accordance with terms as may be applicable to  
21 water and sewer services provided to other municipal customers within the unincorporated  
22 area. Where there are no prior existing municipal customers in the unincorporated area, the  
23 rates charged to customers in the deannexed area shall be reasonable and may be subject  
24 to challenge as provided in paragraph (2) of Code Section 36-70-24.
- 25 (c) Whenever a property is deannexed on both sides of a municipal road right of way, the  
26 county within which the deannexed property is located shall assume the ownership, control,  
27 care, and maintenance of such right of way unless the governing authorities of the  
28 municipality and the county agree otherwise by joint resolution."

29 **SECTION 3.**

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