

House Bill 306

By: Representatives Fludd of the 66<sup>th</sup>, Beasley-Teague of the 65<sup>th</sup>, and Bruce of the 64<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 31 of Title 36 of the Official Code of Georgia Annotated, relating to  
2 incorporation of municipal corporations, so as to provide that at a point in time in the process  
3 of legislative consideration of a new incorporation, other municipal corporations shall be  
4 prohibited from annexing territory proposed for inclusion in a new municipal corporation;  
5 to provide for the defeasance of annexations of territory proposed for inclusion in a new  
6 municipal corporation when such annexations took place after a point in time; to provide for  
7 related matters; to provide for an effective date and applicability; to repeal conflicting laws;  
8 and for other purposes.

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

10 **SECTION 1.**

11 Chapter 31 of Title 36 of the Official Code of Georgia Annotated, relating to incorporation  
12 of municipal corporations, is amended by adding a new Code section to read as follows:

13 "36-31-13.

14 (a) The General Assembly finds and determines that:

15 (1) In the legislative process of the creation of a new municipal corporation, orderly  
16 procedure requires that there be a date certain for determination of the boundaries of the  
17 new municipal corporation; and

18 (2) In order for that objective to be accomplished, other municipal corporations must be  
19 prohibited at some point in time from annexing territory proposed for inclusion in a  
20 proposed new municipal corporation.

21 (b) As used in this Code section, the term:

22 (1) 'Charter' means a local Act of the General Assembly creating or proposing the  
23 creation of a new municipal corporation.

24 (2) 'New municipal corporation' means a new municipal corporation of this state created  
25 by or proposed to be created by a charter.

1 (3) 'Pending charter' means a charter which has been enacted by the General Assembly  
 2 and which may or may not become fully effective pending the outcome of one or more  
 3 conditions.

4 (c) When a pending charter has not yet become fully effective because of a pending  
 5 referendum election, pending submission under the federal Voting Rights Act of 1965, as  
 6 amended, or other pending conditions precedent:

7 (1) No other municipal corporation may annex any part of the territory described in the  
 8 charter as included or proposed for inclusion within the new municipal corporation. This  
 9 prohibition shall be dissolved if the creation or continued existence of the proposed new  
 10 municipal corporation under the charter definitively ceases to be possible because of  
 11 defeat at a referendum election, definitive final failure to secure approval under the  
 12 federal Voting Rights Act of 1965, as amended, or definitive failure of any other  
 13 condition specified in the charter; and

14 (2) Any annexation by any other municipal corporation of any part of the territory  
 15 described in the pending charter as included or proposed for inclusion within the new  
 16 municipal corporation, which annexation took effect on or after the opening day of the  
 17 session at which the charter was introduced, shall be defeased and any such territory so  
 18 annexed shall by operation of law be deannexed from the annexing municipal corporation  
 19 as of the date on which the Governor approves the charter or the date on which the  
 20 charter becomes law without the Governor's approval. For purposes of this paragraph  
 21 an annexation shall be considered as having taken effect on the date of the last action of  
 22 the governing authority of the annexing municipal corporation necessary to complete the  
 23 annexation."

## 24 SECTION 2.

25 It is the specific intent of the General Assembly that the provisions of this Act apply not only  
 26 prospectively but also concurrently and retroactively with respect to a pending charter  
 27 enacted at the 2007 or any earlier session of the General Assembly as follows:

28 (1) With respect to a pending charter enacted at the 2007 session, this Act shall prohibit  
 29 future annexations and shall defease any annexation that is defeasible by the terms of this  
 30 Act with respect to any such annexations which took effect on or after the opening day  
 31 of the 2007 session, as provided by the terms of Code Section 36-31-13 as enacted by this  
 32 Act;

33 (2) With respect to a pending charter enacted prior to the 2007 session, this Act shall  
 34 prohibit future annexations and shall defease any annexation that is defeasible by the  
 35 terms of this Act with respect only to any such annexations which took effect on or after  
 36 November 1, 2006, notwithstanding the fact that the terms of Code Section 36-31-13 as

1 enacted by this Act would defease annexations which took effect on or after an earlier  
2 date.

3 **SECTION 3.**

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

6 **SECTION 4.**

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