

The House Committee on Judiciary offers the following substitute to HB 306:

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:

SECTION 1.

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

12 "36-31-13.

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

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

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

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

21 (1) 'Charter' means a local Act of the General Assembly creating or proposing the
22 creation of a new municipal corporation and does not include a local Act granting a new
23 charter to an existing 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.
26

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 or federal consideration under the federal Voting
 6 Rights Act of 1965, as 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 had an effective date on or after the opening day
 17 of the session at which the charter was introduced, shall be defeased and any such
 18 territory so annexed shall by operation of law be deannexed from the annexing municipal
 19 corporation as of the date on which the Governor approves the charter or the date on
 20 which the charter becomes law without the Governor's approval. For purposes of this
 21 paragraph the effective date of an annexation is the first day of the month following the
 22 month during which the requirements of Article 2, 3, or 4 of Chapter 36 of this title have
 23 been met."

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 have an effective date on or after the
 31 opening day of the 2007 session, as provided by the terms of Code Section 36-31-13 as
 32 enacted by this 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 have an effective date
 36 after November 2, 2006, notwithstanding the fact that the terms of Code Section 36-31-13

1 as enacted by this Act would defease annexations which had an effective date on or after
2 an earlier date;
3 (3) Notwithstanding the provisions of paragraph (2) of this section, an annexation shall
4 not be defeased if the annexation had an effective date on or after November 2, 2006, and
5 prior to March 2, 2007, and the annexation was by the 100 percent method of annexation
6 provided in Article 2 of Chapter 36 of Title 36 of the O.C.G.A., consisted of the property
7 of a single owner, and was a tract of 15 acres or less.

8 **SECTION 3.**

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

11 **SECTION 4.**

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