

House Bill 925

By: Representatives Jacobs of the 80th, Lindsey of the 54th, Hamilton of the 23rd, Levitas of the 82nd, Jones of the 46th, and others

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 provide for preclearance of new townships under Section 5 of the federal Voting
3 Rights Act of 1965, as amended; to provide for legislative intent; to provide for the
4 requirements for the creation of such townships; to provide for town councils for such
5 townships; to provide for powers, duties, and functions of such town councils; to provide for
6 officers, meetings, elections, and filling of vacancies for such town councils; to provide for
7 certain immunities; to provide for the enactment of ordinances; to prohibit certain conflicts
8 of interest; to provide for a town court and town judge and their powers and duties; to
9 provide for an audit; to provide for a transition of services; to provide that counties and
10 municipalities shall continue to provide services in the township that are not specifically
11 delegated by law to the township; to provide for conformity; to amend Chapter 1 of Title 45
12 of the Official Code of Georgia Annotated, relating to general provisions concerning public
13 officers and employees, so as to include townships within the entities covered under the
14 whistleblower protection law; to amend Chapter 8 of Title 48 of the Official Code of Georgia
15 Annotated, relating to sales and use taxes, so as to provide for the imposition of a local
16 option sales tax to finance the operation of a township; to provide for related matters; to
17 provide for an effective date; to repeal conflicting laws; and for other purposes.

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

19 **SECTION 1.**

20 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
21 by revising Code Section 36-31-6, relating to responsibility of the Attorney General for
22 preclearances, as follows:

23 "36-31-6.

24 When a new municipal corporation or township is created by local Act, the Attorney
25 General shall be responsible for seeking any and all preclearances required in connection
26 with such Act and incorporation under the federal Voting Rights Act of 1965, as amended,

1 until such time as the new municipal corporation or township notifies the Attorney General
2 that it has the ability to seek any further preclearances required."

3 **SECTION 2.**

4 Said title is further amended by adding a new Chapter 94 to read as follows:

5 "CHAPTER 94

6 36-94-1.

7 The General Assembly shall be authorized by local law to provide for the creation of
8 townships in the unincorporated areas of counties in this state in accordance with the
9 provisions of this chapter.

10 36-94-2.

11 A local Act creating a township in accordance with this chapter shall contain the following:

12 (1) The name by which the township shall be known which shall be in the form of
13 'Township of _____' and shall not use any name that is currently the name of
14 an active, incorporated municipality or county in the State of Georgia;

15 (2) A description of the area to be included in the township which shall be composed of
16 a single, contiguous geographical area containing at least 1,000 acres, containing an
17 average resident population density of at least 200 persons per square mile, and in which
18 at least 10 percent of the total geographical area is used or is zoned for purposes other
19 than residential uses; provided, however, that no township created in the unincorporated
20 area of a county at the time of its creation shall include within its boundaries more than
21 one-third of the then existing unincorporated land area of the county within which it is
22 located or any unincorporated area of any other county or incorporated area of any
23 municipality;

24 (3) The number of members of the town council of the township;

25 (4) Whether members of the town council shall be elected at large or by district and, if
26 such members are to be elected by district, a description of the district boundaries;

27 (5) The initial terms of office for members of the town council and the date for the initial
28 election of members of the town council in accordance with the provisions of Code
29 Section 21-2-540;

30 (6) Whether elections for the town council shall be by majority or plurality vote;

31 (7) The manner of filling vacancies on the town council;

32 (8) The amount and nature of compensation, if any, of the members of the town council;

33 and

1 (9) The number of members of the town council who must be present to constitute a
2 quorum for the transaction of business by the town council and the number of affirmative
3 votes necessary for the town council to take official action.

4 (b) Any local Act creating a township shall be subject to approval by the electors of the
5 area to be incorporated into a township in a referendum. Such referendum shall be
6 conducted in conjunction with a presidential preference primary, a state-wide general
7 primary, or a state-wide general election or on the Tuesday following the first Monday in
8 November in odd-numbered years. The election superintendent of the county in which the
9 township is to be located shall call and conduct a special election for the purpose of
10 submitting the local Act to the electors of area to be incorporated as a township for
11 approval or rejection. The election superintendent shall issue the call and conduct that
12 election as provided by general law. The superintendent shall cause the date and purpose
13 of the election to be published once a week for two weeks immediately preceding the date
14 thereof in the official organ of the county or municipality, as the case may be. The ballot
15 shall have written or printed thereon express language concerning whether the local Act
16 creating the township shall be approved and language setting forth the taxing mechanism
17 and rate of taxation of the proposed township and its powers. All persons desiring to vote
18 for approval of the Act shall vote "Yes," and all persons desiring to vote for rejection of the
19 Act shall vote "No." If more than one-half of the votes cast on such question are for the
20 approval of the Act, the Act shall become of full force and effect on the first day of the
21 second month immediately following such election. If the Act is not approved or if the
22 election is not conducted as provided in this Code section, the Act shall not become
23 effective and shall be automatically repealed on the first day of January immediately
24 following that election date. The expense of such election shall be borne by the county.
25 It shall be the duty of the election superintendent conducting the referendum to certify the
26 results thereof to the Secretary of State.

27 36-94-3.

28 (a) The activities of a township created pursuant to this chapter shall be governed by a
29 town council. Persons elected to the town council shall be at least 18 years of age,
30 residents of the township, and qualified electors of the township. No person who holds any
31 other elected public office shall be eligible for election or to serve as a member of a town
32 council.

33 (b) A township shall be considered a limited purpose municipality under Georgia law and
34 shall exercise only those municipal powers expressly provided in this chapter. A township
35 shall not have nor exercise the power of eminent domain. A township shall not be a

1 participant in service delivery agreements and shall not share in the distribution of local
2 sales and use taxes, except as provided in Article 5 of Chapter 8 of Title 48.

3 (c) The town council shall have the following authority, powers, and duties:

4 (1) To provide comprehensive township planning for development by zoning and to
5 provide subdivision regulation and the like as the town council deems necessary and
6 reasonable to ensure a safe, healthy, and esthetically pleasing community in accordance
7 with a properly adopted zoning and land use ordinance and in accordance with the
8 provisions of Chapters 66, 67, and 67A of this title in the same manner as counties and
9 municipalities of this state presently or hereafter exercise such power;

10 (2) To adopt, amend, modify, and repeal ordinances relating to the authority, powers, and
11 duties of the township under this Code section with regard to planning and zoning, land
12 use, nuisances, alcoholic beverage licensing, and code enforcement;

13 (3) To regulate or prohibit the manufacture, sale, or transportation of alcoholic beverages
14 in the same manner as general purpose municipalities;

15 (4) To establish a budget and make appropriations for the support of the township, to
16 authorize the expenditure of money for any purposes authorized by this chapter, and to
17 provide for the payment of expenses of the township;

18 (5) To provide for the appointment, qualification, and selection of officers of the town
19 council in addition to the chairperson and vice chairperson and provide for the duties of
20 such officers;

21 (6) To adopt, amend, and abolish bylaws and internal operating procedures that are not
22 in conflict with the provisions of this chapter for the governance of the town council in
23 carrying out its authority, powers, duties, and functions;

24 (7) Subject to the provisions of subsection (g) of this Code section, to employ and
25 establish the compensation of persons to provide administrative, managerial, legal,
26 accounting, financial, and other such services related to the carrying out of the authority,
27 powers, duties, and functions of the town council as the town council deems appropriate;

28 (8) To review the performance of, promote, discipline, and terminate the employment
29 of any employee of the township;

30 (9) To establish and provide health insurance, retirement, and other employment benefits
31 for employees of the township;

32 (10) Subject to the provisions of subsection (g) of this Code section, to create, alter, or
33 abolish departments, offices, and agencies of the township and to confer upon such
34 agencies the necessary and appropriate authority for carrying out all the powers conferred
35 upon or delegated to the same;

36 (11) To regulate the erection and construction of buildings and all other structures not
37 inconsistent with general law; to adopt and enforce building, housing, plumbing,

1 electrical, gas, and heating and air-conditioning codes; and to regulate all housing and
2 building trades except as otherwise prohibited by general law;

3 (12) To establish, amend, repeal, and collect fees for the services of the township from
4 the users of such services, including, but not expressly limited to, fees for filing rezoning
5 and land use applications, issuing building permits and alcoholic beverage licenses, and
6 other licenses;

7 (13) To enter into contracts and agreements with other governments and entities and with
8 private persons, firms, and corporations, including contracts for the privatization of its
9 services and functions and including contracts for the creation, maintenance, and
10 updating of the Internet website required by Code Section 36-94-14;

11 (14) To accept or refuse gifts, donations, bequests, or grants from any source for any
12 purpose related to the powers and duties of the township or of its citizens on such terms
13 and conditions as the donor or grantor may impose;

14 (15) To appropriate and borrow money for the payment of debts of the township on such
15 terms as the town council deems appropriate;

16 (16) To acquire, dispose of, and hold in trust or otherwise any real, personal, or mixed
17 property, in fee simple or lesser interest, inside the limits of the township;

18 (17) To provide for the preservation and protection of property and equipment of the
19 township and the administration and use of same by the public;

20 (18) To purchase policies of workers' compensation and liability insurance in such
21 amounts and under such terms as the town council deems appropriate; and

22 (19) To provide for keeping a journal of its proceedings which shall be a public record.

23 (d) The town council shall hold regular meetings at such times and places as prescribed
24 by ordinance. Special meetings of the town council may be held on the call of the
25 chairperson or a majority of the members of the town council. Notice of such special
26 meeting shall be served on all other members personally, or by telephone personally, at
27 least 48 hours in advance of the meeting. Such notice to members of the town council shall
28 not be required if all members are present when the special meeting is called. Such notice
29 of any special meeting may be waived by a member in writing before or after such a
30 meeting, and attendance at the meeting shall also constitute a waiver of notice on any
31 business transacted in such member's presence. Only the business stated in the call may
32 be transacted at the special meeting.

33 (e) Townships shall be subject to the provisions of Chapter 14 of Title 50, relating to open
34 meetings, and Article 4 of Chapter 18 of Title 50, relating to open records. All meetings
35 of the town council and all documents in the custody of the township shall be public and
36 available, respectively, to the extent required by Chapter 14 of Title 50, Article 4 of

1 Chapter 18 of Title 50, and other applicable law, and notice to the public of special
2 meetings shall be given as required by law.

3 (f) A township shall be limited to employing the following staff positions and no others:

4 (1) Town manager;

5 (2) Town clerk and one clerical employee;

6 (3) Town judge;

7 (4) Town attorney;

8 (5) Two employees for planning and development duties;

9 (6) Two employees for permits and inspections duties; and

10 (7) Not more than one code enforcement officer for every 10,000 residents of the
11 township or fraction thereof.

12 36-94-4.

13 A township and its town council and employees shall be entitled to the same privileges and
14 immunities under law as general purpose municipalities and their governing authorities and
15 employees.

16 36-94-5.

17 (a) At any township election, all persons who are qualified under the Constitution and laws
18 of Georgia to vote for members of the General Assembly of Georgia and who are bona fide
19 residents of that township shall be eligible to qualify as voters in the election.

20 (b) All elections shall be held and conducted in accordance with Chapter 2 of Title 21, the
21 'Georgia Election Code,' and shall be conducted on a nonpartisan basis.

22 (c) Township general elections shall be held on the Tuesday after the first Monday in
23 November in odd-numbered years.

24 (d) Members of the town council of a township elected in a general election shall take
25 office on the first day of January following the date of their election.

26 (e) Except for the initial terms of office in a newly created township, each member of the
27 town council shall serve a four-year term of office. The initial terms of members of the
28 town council for a newly created township shall be as specified in the local Act creating
29 the township.

30 36-94-6.

31 (a) No elected official, appointed officer, or employee of the township shall knowingly:

32 (1) Engage in any business or transaction or have a financial or other personal interest,
33 direct or indirect, which is incompatible with the proper discharge of official duties or

- 1 which would tend to impair the independence of his or her judgment or action in the
2 performance of official duties;
- 3 (2) Engage in or accept private employment or render services for private interests when
4 such employment or service is incompatible with the proper discharge of official duties
5 or would tend to impair the independence of his or her judgment or action in the
6 performance of official duties;
- 7 (3) Disclose confidential information concerning the property, government, or affairs of
8 the township without proper legal authorization or use such information to advance the
9 financial or other private interest of himself or herself or others;
- 10 (4) Accept any valuable gift, whether in the form of service, loan, object, or promise,
11 from any person, firm, or corporation which to his or her knowledge is interested, directly
12 or indirectly, in any manner whatsoever in business dealings with the township; provided,
13 however, that an elected official who is a candidate for public office may accept
14 campaign contributions and services in connection with any such campaign;
- 15 (5) Represent other private interests in any action or proceeding against the township or
16 any portion of its government; or
- 17 (6) Vote or otherwise participate in the negotiation or in the making of any contract with
18 any business or entity in which he or she has a financial interest.
- 19 (b) Any elected official, appointed officer, or employee of the township who has any
20 private financial interest, directly or indirectly, in any contract or matter pending before or
21 within any department of the township shall disclose such private interest to the town
22 council. Any member of the town council who has a private interest in any matter pending
23 before the town council shall disclose such private interest and such disclosure shall be
24 entered on the records of the town council, and he or she shall disqualify himself or herself
25 from participating in any decision or vote relating thereto. Any elected official, appointed
26 officer, or employee of the township who shall have any private financial interest, directly
27 or indirectly, in any contract or matter pending before or within the town council shall
28 disclose such private interest to the town council.
- 29 (c) No elected official, appointed officer, or employee of the township shall use property
30 owned by the township for personal benefit, convenience, or profit, except in accordance
31 with policies promulgated by the town council.
- 32 (d) Any violation of this Code section which occurs with the knowledge, express or
33 implied, of a party to a contract or sale shall render said contract or sale voidable at the
34 option of the town council.
- 35 (e) Except as authorized by law, no member of the town council shall hold any other
36 elective public office or other township employment during the term for which elected.

1 36-94-7.

2 There shall be an annual independent audit of all township accounts, funds, and financial
3 transactions by a certified public accountant selected by the town council. The audit shall
4 be conducted according to generally accepted accounting principles. Any audit of any
5 funds by the state or federal government may be accepted as satisfying the requirements
6 of this chapter. Copies of all audit reports shall be available at printing cost to the public.

7 36-94-8.

8 Except for the purposes expressly set forth in this chapter or where jurisdiction to provide
9 a service is identified in the applicable service delivery strategy or otherwise authorized by
10 law, the property within the boundaries of a township created in the unincorporated area
11 of a county shall remain subject to all other provisions of law and the jurisdiction of the
12 governing authority of the county in which it is located as if such area were a part of the
13 unincorporated area of the county in which such property is located, and the governing
14 authority of the county in which such property is located shall continue to provide the
15 government services that it provided the area encompassed by the township prior to its
16 creation, except those expressly provided by the township, to such property.

17

18 36-94-9.

19 (a) Every proposed ordinance shall be introduced in writing and in the form required for
20 final adoption. No ordinance shall contain a subject which is not expressed in its title. The
21 enacting clause shall be 'The Town Council of the Township of _____
22 hereby ordains...' and every ordinance shall so begin.

23 (b) An ordinance may be introduced by any member of the town council and be read at a
24 regular or special meeting of the town council. Ordinances shall be considered and adopted
25 or rejected by the town council in accordance with the rules which it shall establish. Upon
26 introduction of any ordinance, the town council shall, as soon as possible, distribute a copy
27 to each member of the town council and shall file a reasonable number of copies in its
28 offices and at such other public places as the town council may designate.

29 36-94-10.

30 (a) At the first meeting of the town council in each calendar year, the members of the town
31 council shall select from among their number a chairperson and vice chairperson.

32 (b) The chairperson shall preside over all meetings of the town council and shall be
33 entitled to vote in all matters coming before the town council except matters in which such
34 chairperson has disqualified himself or herself as a result of a conflict of interest or other
35 cause.

1 (c) The vice chairperson shall assume the duties of the chairperson in the chairperson's
2 absence.

3 36-94-11.

4 (a) Upon the certification of the vote approving the creation of a township pursuant to
5 subsection (b) of Code Section 34-94-2, no rezonings or changes in the land use plan for
6 the properties contained in the township shall be permitted until such time as the town
7 council adopts a comprehensive land use plan and zoning ordinance. The land use plan and
8 zoning of the county in which the township is located that is in existence at the time of the
9 creation of the township shall remain in effect until the town council adopts a
10 comprehensive land use plan and zoning ordinance for the township.

11 (b) All alcoholic beverage licenses in existence on the date on which the township is
12 created shall remain in effect until the town council enacts ordinances concerning the
13 licensing and regulation of the manufacture, sale, and transportation of alcoholic beverages
14 within the township.

15 (c) The expense of the initial referendum and initial election of the members of the town
16 council shall be borne by the governing authority of the county in which the township is
17 located. It shall be the duty of the election superintendent of the county to hold and
18 conduct such elections. It shall be his or her further duty to certify the results thereof to the
19 Secretary of State. Only for the purposes of holding and conducting the election of the
20 initial town council, the election superintendent of the county in which the township is
21 located is vested with the powers and duties of the election superintendent of the township
22 and the town council regarding elections.

23 36-94-12.

24 (a) If there is express authorization provided in the local Act creating the township,
25 townships shall be authorized to convert to general purpose municipalities in accordance
26 with the provisions of this Code section.

27 (b) A township may, by resolution approved by a majority of the members of the town
28 council, submit to the electors of the township by referendum the question of whether the
29 township should be converted into a general purpose municipality. Such referendum shall
30 be conducted on a date specified in the resolution of the town council that complies with
31 Code Section 21-2-540. The election superintendent of the township shall call and conduct
32 a special election for the purpose of submitting the question to the electors of the township
33 for approval or rejection. The election superintendent shall issue the call and conduct that
34 election as provided by general law. The superintendent shall cause the date and purpose
35 of the election to be published once a week for two weeks immediately preceding the date

1 thereof in the official organ of the township. The ballot shall have written or printed
2 thereon express language concerning whether the township shall be converted into a
3 general purpose municipality. All persons desiring to vote for approval of the question
4 shall vote "Yes," and all persons desiring to vote for rejection of the question shall vote
5 "No." If more than one-half of the votes cast on such question are for the approval of the
6 question, the township shall become a general purpose municipality on the first day of
7 January of the year immediately following such election. The expense of such election
8 shall be borne by the township. It shall be the duty of the election superintendent
9 conducting the referendum to certify the results thereof to the Secretary of State. If the
10 question is approved, the town council shall notify the Department of Community Affairs
11 of the approval of the conversion of the township to a general purpose municipality.

12 (c) A town council proposing the conversion of the township to a general purpose
13 municipality shall draft and make available to the citizens of the township for review at
14 least two weeks immediately preceding the date of the vote by the town council on a
15 resolution to convert the township into a general purpose municipality a proposed charter
16 for the general purpose municipality. If the conversion of the township to a general
17 purpose municipality is approved by the electors of the township voting in the referendum,
18 such proposed charter shall become effective on the first day of January of the year
19 immediately following such referendum election. It shall be the duty of the town council
20 to certify a copy of the charter to the Secretary of State within 30 days following the
21 approval of the conversion of the township to a general purpose municipality.

22 (d) Prior to voting on a resolution to convert a township into a general purpose
23 municipality, the town council shall conduct a feasibility study on the question of
24 converting the township into a general purpose municipality. Such feasibility study shall
25 include, but not be limited to, an examination of whether there is a sufficient need for the
26 conversion to a general purpose municipality, whether adequate revenues would be
27 available to finance the operations of a general purpose municipality, whether other options
28 other than converting to a general purpose municipality exist to meet the needs of the
29 township area, and what possible adverse effects the conversion could have on the residents
30 of the township. Such feasibility study shall be made available to the residents of the
31 township for review at least two weeks immediately preceding the date of the vote by the
32 town council on a resolution to convert the township into a general purpose municipality.

33 36-94-13.

34 (a) In the event that, at any time, a township has sufficient funds on hand equal to or
35 greater than twice the amount of the present fiscal year budget, the amount in excess of
36 twice the amount of the present fiscal year budget shall be transferred to a separate,

1 segregated account. Except as provided in subsection (b) of this Code section, when the
2 amount of funds in such separate segregated account shall amount to enough funds that
3 every homestead within the township could receive a pro rata distribution of such funds
4 allocated based on the assessed value of such homestead, the funds shall be transferred to
5 the tax commissioner of the county for the purpose of providing each such homestead with
6 a property tax rebate.

7 (b) If the township has called and conducted a referendum for the purpose of submitting
8 to the electors of the township the question of how to apply surplus funds that exceed twice
9 the current fiscal year budget and the electors of the township have approved such
10 referendum, the surplus funds shall be used as provided for in such referendum. In such
11 referendum, the electors shall be given the choice of using such surplus funds:

12 (1) As a credit on the county ad valorem property tax bill for the next tax year following
13 such referendum for each homestead in the township on a pro rata basis;

14 (2) As a payment to the county in which the township is located to fund infrastructure
15 improvements within the boundaries of the township pursuant to an intergovernmental
16 agreement between the township and the county, specifying the list of projects which
17 shall be funded. Such list shall be made available to the citizens of the township at the
18 time of the calling for the referendum by the town council; or

19 (3) For a combination of the purposes specified in paragraphs (1) and (2) of this
20 subsection.

21 36-94-14.

22 A township shall maintain an Internet website on which it shall post agendas for meetings
23 of the town council and any committees thereof, the minutes of meetings of the town
24 council or any committees thereof, current and proposed budgets of the township, audits
25 of the township, feasibility studies conducted pursuant to Code Section 36-94-12, and any
26 other documents mandated by this chapter. Meeting agendas shall be made available on
27 the website at least 48 hours prior to such meeting. Minutes shall be made available on the
28 website at least 48 hours prior to the meeting at which the minutes will be considered for
29 approval and shall be posted on the website as approved within 48 hours following the
30 meeting at which the minutes were approved. Proposed budgets shall be made available
31 on the website at least one week prior to the meeting at which such proposed budget will
32 be considered. Feasibility studies and proposed charters for converting the township to a
33 general purpose municipality shall be made available on the website at least two weeks
34 prior to the meeting at which the town council will consider a resolution to convert the
35 township into a general purpose municipality. All other documents shall be made available
36 on the website as soon as practicable.

1 36-94-15.

2 (a) Within each township, there shall be a court to be known as the Town Court of the
3 Township of _____.

4 (b) The town court shall be presided over by a town judge. The method of selection and
5 term of such judge shall be provided by ordinance. No person shall be qualified or eligible
6 to serve as a judge on the town court unless that person shall have attained the age of 21
7 years and shall be a member of the State Bar of Georgia. All judges shall be appointed by
8 the town council. Compensation of the judge shall be fixed by ordinance. A judge may
9 be removed for cause by a vote of a majority of the members of the town council.

10 (c) Before assuming office, a judge shall take an oath, given by the chairperson of the town
11 council, that the judge will honestly and faithfully discharge the duties of the office to the
12 best of his or her ability and without fear, favor, or partiality. The oath shall be entered
13 upon the minutes of the town council.

14 (d) The town court shall be convened at regular intervals as provided by ordinance.

15 (e) The town court shall try and punish violations of town ordinances and codes and such
16 other violations as provided by law. The town court shall have the authority to punish
17 those in its presence for contempt, provided that such punishment shall not exceed a fine
18 of \$200.00 or ten days in jail. The town court may fix punishment for offenses within its
19 jurisdiction not exceeding a fine of \$500.00 or imprisonment for 90 days or both such fine
20 and imprisonment or may fix punishment by fine, imprisonment, or alternative sentencing
21 as now or hereafter provided by law.

22 (f) The town court shall have the authority to establish a schedule of fees to defray the cost
23 of operation and shall be entitled to reimbursement of the actual cost of meals,
24 transportation, and caretaking of prisoners bound over to superior courts for violation of
25 state law.

26 (g) The town court shall have authority to establish bail and recognizances to ensure the
27 presence of those charged with violations before said court and shall have discretionary
28 authority to accept cash or personal or real property as a surety bond for the appearance of
29 persons charged with violations. Whenever any person shall give bail for appearance and
30 shall fail to appear at the time fixed for trial, the bond shall be forfeited by the judge
31 presiding at such time and an execution shall be issued thereon by serving the defendant
32 and his or her sureties with a rule nisi at least two days before a hearing on the rule nisi.

33 (h) The town court shall have the same authority as superior courts to compel the
34 production of evidence in the possession of any party; to enforce obedience to its orders,
35 judgments, and sentences; and to administer such oaths as are necessary.

36 (i) The town court shall have the authority to bind prisoners over to the appropriate court
37 when it appears by probable cause that state law has been violated.

1 (j) A judge of the town court may compel the presence of all parties necessary to a proper
 2 disposal of each case by the issuance of summonses, subpoenas, and warrants which may
 3 be served as executed by any officer as authorized by law. A judge of the town court shall
 4 be authorized to issue warrants for the arrest of persons charged with offenses against any
 5 ordinance of the town, and a judge of the town court shall have the same authority as a
 6 magistrate of the state to issue warrants for offenses against state laws committed within
 7 the township.

8 (k) The right of certiorari from the decision and judgment of the town court shall exist in
 9 all criminal cases and ordinance violation cases, and such certiorari shall be obtained under
 10 the sanction of a judge of the superior court of the county in which the township is located,
 11 under the laws of the State of Georgia regulating the granting and issuance of writs of
 12 certiorari.

13 (l) With the approval of the town council, the town judge shall have full power and
 14 authority to make reasonable rules and regulations necessary and proper to secure the
 15 efficient and successful administration of the town court; provided, however, that the town
 16 council may adopt in part or in toto the rules and regulations applicable to superior courts.
 17 The rules and regulations made or adopted shall be filed with the town clerk, shall be
 18 available for public inspection, and, upon request, shall be furnished to all defendants in
 19 town court proceedings at least 48 hours prior to said proceedings."

20 SECTION 3.

21 Said title is further amended by revising Code Section 36-30-1, relating to the meaning of
 22 the terms "city," "town," "municipality," or "village," as follows:

23 "36-30-1.

24 (a) Municipal corporations may be incorporated in two forms in this state: general purpose
 25 or limited purpose. A general purpose municipal corporation shall have all the powers
 26 given by law to municipal corporations. A limited purpose municipal corporation shall be
 27 known as a township and shall have only those powers specifically enumerated in Chapter
 28 94 of this title and may be created only in the unincorporated area of a county.

29 (b) Wherever the words 'city,' 'town,' 'municipality,' or 'village' appear in the statutory laws
 30 of this state, such words shall be construed as synonymous, and the General Assembly so
 31 declares this to be its intention in the use of these words; such words shall be held to mean
 32 a general purpose municipal corporation as defined by statutory law and judicial
 33 interpretation."

1 (7) 'Transfer of development rights' means the process by which development rights from
2 a sending property are affixed to one or more receiving properties."

3 SECTION 6.

4 Said title is further amended by revising Code Section 36-66A-2, relating to procedures,
5 methods, and standards for transfer of development rights, as follows:

6 "36-66A-2.

7 (a) Pursuant to the provisions of this Code section, the governing body of any
8 municipality, or county, or township by ordinance may, in order to conserve and promote
9 the public health, safety, and general welfare, establish procedures, methods, and standards
10 for the transfer of development rights within its jurisdiction.

11 (b) Any proposed transfer of development rights shall be subject to the approval and
12 consent of the property owners of both the sending and receiving property.

13 (c) Prior to any transfer of development rights, a municipality, or county, or township shall
14 adopt an ordinance providing for:

15 (1) The issuance and recordation of the instruments necessary to sever development
16 rights from the sending property and to affix development rights to the receiving
17 property. These instruments shall be executed by the affected property owners and
18 lienholders;

19 (2) The preservation of the character of the sending property and assurance that the
20 prohibitions against the use and development of the sending property shall bind the
21 landowner and every successor in interest to the landowner;

22 (3) The severance of transferable development rights from the sending property and the
23 delayed transfer of development rights to a receiving property;

24 (4) The purchase, sale, exchange, or other conveyance of transferable development rights
25 prior to the rights being affixed to a receiving property;

26 (5) A system for monitoring the severance, ownership, assignment, and transfer of
27 transferable development rights;

28 (6) The right of a municipality, or county, or township to purchase development rights
29 and to hold them for conservation purposes or resale;

30 (7) The right of a person to purchase development rights and to hold them for
31 conservation purposes or resale;

32 (8) Development rights made transferable pursuant to this Code section shall be interests
33 in real property and shall be considered as such for purposes of conveyancing and
34 taxation. Once a deed of transferable development rights created pursuant to this Code
35 section has been sold, conveyed, or otherwise transferred by the owner of the parcel from
36 which the development rights were derived, the transfer of development rights shall vest

1 in the grantee and become freely alienable. For the purposes of ad valorem real property
 2 taxation, the value of a transferable development right shall be deemed appurtenant to the
 3 sending property until the transferable development right is registered as a distinct
 4 interest in real property with the appropriate tax assessor or the transferable development
 5 right is used at a receiving property and becomes appurtenant thereto;

6 (9) A map or other description of areas designated as sending and receiving areas for the
 7 transfer of development rights between properties; and

8 (10) Such other provisions as the municipality, county, or township deems necessary to
 9 aid in the implementation of the provisions of this chapter.

10 (d)(1) Prior to the enactment of an ordinance as provided in subsection (c) of this Code
 11 section, the local governing authority shall provide for a hearing on the proposed
 12 ordinance. At least 15 but not more than 45 days prior to the date of the hearing, the local
 13 governing authority shall cause to be published in a newspaper of general circulation
 14 within the territorial boundaries of the political subdivision a notice of the hearing. The
 15 notice shall state the time, place, and purpose of the hearing.

16 (2) Prior to any changes in an area designated in an ordinance as a sending or receiving
 17 area, the local governing authority shall provide for notice and a hearing as provided in
 18 paragraph (1) of this subsection.

19 (e) Proposed transfers of development rights shall become effective upon the recording of
 20 the conveyance with the appropriate deed-recording authorities and the filing of a certified
 21 copy of such recording with the local governing authority of each political subdivision in
 22 which a sending or receiving area is located in whole or in part.

23 (f) Municipalities ~~and counties~~, counties, and townships which are jointly affected by
 24 development are authorized to enter ~~in to~~ into intergovernmental agreements for the
 25 purpose of enacting interdependent ordinances providing for the transfer of development
 26 rights between or among such jurisdictions, provided that such agreements otherwise
 27 comply with applicable laws. Any ordinances enacted pursuant to this subsection may
 28 provide for additional notice and hearing and signage requirements applicable to properties
 29 within the sending and receiving areas in each participating political subdivision."

30 SECTION 7.

31 Said title is further amended by revising Code Section 36-67-1, relating to applicability and
 32 definitions relating to zoning proposal review procedures, as follows:

33 "36-67-1.

34 This article shall apply only to those counties which have a population of 625,000 or more
 35 according to the United States decennial census of 2000 or any future such census and to
 36 those municipalities and townships wholly or partially located within such counties which

1 have a population of 100,000 or more according to the United States decennial census of
 2 1980 or any future such census. As used in this article, the term 'local government' means
 3 those counties, townships, and municipalities subject to this article; and the term 'governing
 4 authority' means the governing authority of each such county, township, and municipality."

5 **SECTION 8.**

6 Said title is further amended by revising paragraph (4) of Code Section 36-67A-1, relating
 7 to definitions relating to conflicts of interest in zoning actions, as follows:

8 "(4) 'Local government' means any county, township, or municipality of this state."

9 **SECTION 9.**

10 Said title is further amended by revising Article 1 of Chapter 70, related to planning, as
 11 follows:

12 "ARTICLE 1

13 36-70-1.

14 The local governments of the State of Georgia are of vital importance to the state and its
 15 citizens. The state has an essential public interest in promoting, developing, sustaining, and
 16 assisting local governments. In addition, the natural resources, environment, and vital
 17 areas of the state are of vital importance to the state and its citizens. The state has an
 18 essential public interest in protecting and preserving the natural resources, the environment,
 19 and the vital areas of the state. The purpose of this article is to provide for local
 20 governments to serve these essential public interests of the state by authorizing and
 21 promoting the establishment, implementation, and performance of coordinated and
 22 comprehensive planning by township governments, municipal governments, and county
 23 governments, and this article shall be construed liberally to achieve that end. This article
 24 is enacted pursuant to the authority granted the General Assembly in the Constitution of
 25 the State of Georgia, including, but not limited to, the authority provided in Article III,
 26 Section VI, Paragraphs I and II(a)(1) and Article IX, Section II, Paragraphs III and IV.

27 36-70-2.

28 As used in this chapter, the term:

29 (1) 'Comprehensive plan' means any plan by a county, township, or municipality
 30 covering such county, township, or municipality proposed or prepared pursuant to the
 31 minimum standards and procedures for preparation of comprehensive plans and for
 32 implementation of comprehensive plans established by the department.

1 (2) 'Coordinated and comprehensive planning' means planning by counties, townships,
2 and municipalities undertaken in accordance with the minimum standards and procedures
3 for preparation of plans, for implementation of plans, and for participation in the
4 coordinated and comprehensive planning process, as established by the department.

5 (3) 'County' means any county of this state.

6 (4) 'Department' means the Department of Community Affairs of the State of Georgia
7 created pursuant to Article 1 of Chapter 8 of Title 50.

8 (5) 'Governing authority' or 'governing body' means the board of commissioners of a
9 county, sole commissioner of a county, council, commissioners, town council, or other
10 governing authority for a county, township, or municipality.

11 (5.1) 'Inactive municipality' means any municipality which has not for a period of three
12 consecutive calendar years carried out any of the following activities:

13 (A) The levying or collecting of any taxes or fees;

14 (B) The provision of any of the following governmental services: water; sewage;
15 garbage collection; police protection; fire protection; or library; or

16 (C) The holding of a municipal election.

17 (5.2) 'Local government' means any county as defined in paragraph (3) of this Code
18 section, any township as defined in paragraph (10) of this Code section, or any
19 municipality as defined in paragraph (7) of this Code section. The term does not include
20 any school district of this state nor any sheriff, clerk of the superior court, judge of the
21 probate court, or tax commissioner or the office, personnel, or services provided by such
22 elected officials.

23 (5.3) 'Mechanisms' includes, but is not limited to, intergovernmental agreements,
24 ordinances, resolutions, and local Acts of the General Assembly in effect on July 1, 1997,
25 or executed thereafter.

26 (6) 'Minimum standards and procedures' means the minimum standards and procedures
27 for preparation of comprehensive plans, for implementation of comprehensive plans, and
28 for participation in the coordinated and comprehensive planning process, as established
29 by the department, in accordance with Article 1 of Chapter 8 of Title 50. Minimum
30 standards and procedures shall include any standards and procedures for such purposes
31 prescribed by a regional development center for counties, townships, and municipalities
32 within its region and approved in advance by the department.

33 (7) 'Municipality' means any municipal corporation of the state and any consolidated
34 city-county government of the state.

35 (8) 'Region' means the territorial area within the boundaries of operation for any regional
36 development center, as such boundaries shall be established from time to time by the
37 board of the department.

1 (9) 'Regional development center' means a regional development center established
2 under Article 2 of Chapter 8 of Title 50.

3 (10) 'Township' means a township created pursuant to Chapter 94 of this title.

4 36-70-3.

5 The governing bodies of municipalities, townships, and counties are authorized:

6 (1) To develop, or to cause to be developed pursuant to a contract or other arrangement
7 approved by the governing body, a comprehensive plan;

8 (2) To develop, establish, and implement land use regulations which are consistent with
9 the comprehensive plan of the municipality, township, or county, as the case may be;

10 (3) To develop, establish, and implement a plan for capital improvements which
11 conforms to minimum standards and procedures and to make any capital improvements
12 plan a part of the comprehensive plan of the municipality, township, or county, as the
13 case may be;

14 (4) To employ personnel, or to enter into contracts with a regional development center
15 or other public or private entity, to assist the municipality, township, or county in
16 developing, establishing, and implementing its comprehensive plan;

17 (5) To contract with one or more counties, townships, or municipalities, or ~~both~~ any
18 combination thereof, for assistance in developing, establishing, and implementing a
19 comprehensive plan, regardless of whether the contract is to obtain such assistance or to
20 provide such assistance; and

21 (6) To take all action necessary or desirable to further the policy of the state for
22 coordinated and comprehensive planning, without regard for whether any such action is
23 specifically mentioned in this article or is otherwise specifically granted by law.

24 36-70-4.

25 (a) Each municipality, township, and county shall automatically be a member of the
26 regional development center for the region which includes such municipality, township,
27 or county, as the case may be.

28 (b) Each municipality, township, and county shall pay, when and as they become due, the
29 annual dues required for membership in its regional development center.

30 (c) Each municipality, township, and county shall participate in compiling a Georgia data
31 base and network, coordinated by the department, to serve as a comprehensive source of
32 information available, in an accessible form, to local governments and state agencies.

1 36-70-5.

2 (a) Except as provided in subsection (b) of this Code section, nothing in this article shall
3 limit or compromise the right of the governing body of any county, township, or
4 municipality to exercise the power of zoning.

5 (b) Any municipality which is as of April 17, 1992, an inactive municipality shall not on
6 or after April 17, 1992, exercise any powers under this article or exercise any zoning
7 powers, until and unless the municipality is restored to active status by the enactment of
8 an appropriate new or amended charter by local Act of the General Assembly. Any
9 municipality which becomes an inactive municipality after April 17, 1992, shall not after
10 becoming inactive exercise powers under this article or exercise any zoning powers, until
11 and unless the municipality is restored to active status by the enactment of an appropriate
12 new or amended charter by local Act of the General Assembly.

13 (c) Any county which has located within its boundaries all or any part of any inactive
14 municipality shall have full authority to exercise through its governing body all planning
15 and zoning powers within the area of such inactive municipality within the county, in the
16 same manner as if such area were an unincorporated area."

17 **SECTION 10.**

18 Chapter 1 of Title 45 of the Official Code of Georgia Annotated, relating to general
19 provisions concerning public officers and employees, is amended by revising paragraphs (3)
20 and (4) of subsection (a) of Code Section 45-1-4, relating to complaints or information from
21 public employees as to fraud, waste, and abuse in state programs and operations, as follows:

22 "(3) 'Public employee' means any person who is employed by the executive, judicial, or
23 legislative branch of the state or by any other department, board, bureau, commission,
24 authority, or other agency of the state. This term also includes all employees, officials,
25 and administrators of any agency covered under the State Merit System of Personnel
26 Administration and any local or regional governmental entity, including townships, that
27 receives any funds from the State of Georgia or any state agency.

28 (4) 'Public employer' means the executive, judicial, or legislative branch of the state; any
29 other department, board, bureau, commission, authority, or other agency of the state
30 which employs or appoints a public employee or public employees; or any local or
31 regional governmental entity, including townships, that receives any funds from the State
32 of Georgia or any state agency."

33 **SECTION 11.**

34 Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales and use
35 taxes, is amended by adding a new article to read as follows:

"ARTICLE 5

1
2 48-8-230.

3 (a) Townships created under Chapter 94 of Title 36 shall be authorized to impose a local
4 option sales and use tax of up to 1 percent as provided in this article.

5 (b) Pursuant to the authority granted by Article IX, Section II, Paragraph VI of the
6 Constitution of this state, there is created within each township a special district which shall
7 correspond with and shall be conterminous with the geographical boundary of the
8 township.

9 (c) Such sales and use taxes shall be imposed by such townships after approval by
10 resolution of the town council and approval by the electors of the township in a
11 referendum. Such referendum shall be conducted in substantially the same manner as for
12 the approval of the imposition of joint county and municipal sales and use taxes under
13 Article 2 of this chapter. Such taxes shall be collected by the commissioner on behalf of
14 such townships in the same manner as provided for under Article 2 of this chapter; and the
15 provisions regarding the authority of the commissioner to administer and collect this tax,
16 retain the 1 percent administrative fee, and promulgate rules and regulations governing this
17 tax shall apply equally to such townships.

18 (d) The General Assembly may also provide for the inclusion of authorization for the
19 imposition of the local option sales and use tax provided for in this article with the
20 referendum to approve or reject the creation of the township.

21 (e) If the imposition of the tax is approved at the special election, the tax shall be imposed
22 on the first day of the next succeeding calendar quarter which begins more than 80 days
23 after the date of the election at which the tax was approved by the electors. With respect
24 to services which are regularly billed on a monthly basis, however, the resolution shall
25 become effective with respect to and the tax shall apply to services billed on or after the
26 effective date specified in this subsection.

27 (f) If a township is converted to a general purpose municipality as provided in Code
28 Section 36-94-12, such sales and use tax shall terminate on December 31 of the year in
29 which the referendum election approving the conversion of the township into a general
30 purpose municipality is approved, provided that, if the continuation of such sales and use
31 tax is expressly included in the question of converting the township into a general purpose
32 municipality, such tax shall continue in force and effect.

33 (g) The proceeds of such sales and use tax shall only be used by the township to carry out
34 its functions, powers, and duties under this chapter; provided, however, that such proceeds
35 may be used to fund feasibility studies of converting the township into a general purpose

1 municipality as provided in Code Section 36-94-12. The results of any such feasibility
2 studies shall be available to the general public upon request.

3 (h) The tax authorized by this article shall be in addition to any other local sales and use
4 tax. The imposition of any other local sales and use tax within a county, municipality, or
5 special district shall not affect the authority of a township to impose the tax authorized by
6 this article, and the imposition of the tax authorized by this article shall not affect the
7 imposition of any otherwise authorized local sales and use tax within the county,
8 municipality, or special district."

9 **SECTION 12.**

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

12 **SECTION 13.**

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