

The House Committee on Governmental Affairs offers the following substitute to SB 89:

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 the creation of townships; to provide a short title; to provide for the
 3 requirements for the creation of such townships; to provide for boards of township
 4 supervisors for such townships; to provide for powers, duties, and functions of such township
 5 supervisors; to provide for officers, meetings, elections, and filling of vacancies for such
 6 township supervisors; to provide for certain immunities; to provide that property within such
 7 townships shall not be subject to municipal annexation; to provide for the enactment of
 8 ordinances; to prohibit certain conflicts of interest; to provide for an audit; to provide for a
 9 transition of services; to provide that a county shall continue to provide services in the
 10 township that are not specifically delegated by law to the township; to conform related laws;
 11 to provide for related matters; to provide for an effective date and for automatic repeal under
 12 certain circumstances; to repeal conflicting laws; and for other purposes.

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

14 **SECTION 1.**

15 This Act shall be known and may be cited as the "Georgia Township Act."

16 **SECTION 2.**

17 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
 18 by adding a new Chapter 94 to read as follows:

19 **"CHAPTER 94**

20 36-94-1.

21 The General Assembly shall be authorized by local law to provide for the creation of
 22 townships in the unincorporated areas of any county in this state in accordance with the
 23 provisions of this chapter.

1 36-94-2.

2 (a) The local Act creating a township in accordance with this chapter shall contain the
3 following:

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

7 (2) A description of the area to be included in the township which shall not include any
8 area that is a part of an active, incorporated municipality in the State of Georgia and
9 which shall be composed of a single, contiguous geographical area wholly within one
10 county containing at least 2,000 acres and a minimum of 500 parcels of property that
11 qualify for homestead exemption, and in which at least 10 percent of the total
12 geographical area is used or is zoned for purposes other than residential uses;

13 (3) The number of members of the board of township supervisors of the township;

14 (4) Whether members of the board of township supervisors shall be elected at large or
15 by district and, if such members are to be elected by district, a description of the district
16 boundaries;

17 (5) The initial terms of office for members of the board of township supervisors and the
18 date for the initial election of members of the board of township supervisors which shall
19 be in accordance with the provisions of Code Section 21-2-540;

20 (6) Whether elections for the board of township supervisors shall be by majority or
21 plurality vote;

22 (7) The amount and nature of compensation of the members of the board of township
23 supervisors, if any; and

24 (8) The number of members of the board of township supervisors who must be present
25 to constitute a quorum for the transaction of business by the board and the number of
26 affirmative votes necessary for the board to take official action.

27 (b) Prior to introducing a bill to create a township by local Act of the General Assembly,
28 a feasibility study shall be conducted on the projected annual revenues and expenses of the
29 proposed township. Such study must demonstrate that there is a substantial likelihood that
30 the projected annual revenues of the proposed township will exceed the projected annual
31 expenses of such township. The notice of intent to introduce local legislation required by
32 Code Section 28-1-14 for such proposed township shall include a statement that a
33 feasibility study has been conducted and shall notify the citizens of the location where a
34 copy of such study is available for review.

35 (c) Any local Act creating a township shall be subject to approval in a referendum by the
36 electors of the area to be formed into a township. Such referendum shall be conducted in
37 conjunction with a presidential preference primary, a state-wide general primary, or a

1 state-wide general election or on the Tuesday following the first Monday in November in
2 odd-numbered years. The election superintendent of the county in which the township is
3 to be located shall call and conduct a special election for the purpose of submitting the
4 local Act to the electors of the area to be formed into a township for approval or rejection.
5 The election superintendent shall issue the call and conduct that election as provided by
6 general law. The election superintendent shall cause the date and purpose of the election
7 to be published once a week for two weeks immediately preceding the date thereof in the
8 official organ of the county in which the proposed township would be located. The ballot
9 shall have written or printed thereon express language concerning whether the local Act
10 creating the township shall be approved. All persons desiring to vote for approval of the
11 Act shall vote "Yes," and all persons desiring to vote for rejection of the Act shall vote
12 "No." If more than one-half of the votes cast on such question are for the approval of the
13 Act, the Act shall become of full force and effect on the first day of the second full month
14 immediately following such election. If the Act is not approved or if the election is not
15 conducted as provided in this Code section, the Act shall not become effective and such
16 local Act shall be automatically repealed on the first day of January immediately following
17 that election date. The expense of such election shall be borne by the county. It shall be
18 the duty of the election superintendent conducting the referendum to certify the results
19 thereof to the Secretary of State.

20 36-94-3.

21 (a) The activities of a township created pursuant to this chapter shall be governed by a
22 board of township supervisors. Persons elected to the board of township supervisors shall
23 be at least 18 years of age, residents of the township for a period of at least one year
24 immediately prior to their election, and qualified electors of the township. No person who
25 holds any other elective public office shall be eligible for election or to serve as a member
26 of the board of township supervisors.

27 (b) A township shall not be a municipality under Georgia law nor shall it exercise any
28 municipal powers except as expressly provided in this chapter. A township shall not have
29 nor exercise the power of eminent domain. A township shall not be a participant in service
30 delivery agreements and strategies and shall not share in the distribution of local sales and
31 use taxes authorized by Chapter 8 of Title 48.

32 (c) The board of township supervisors shall have the following authority, powers, and
33 duties:

34 (1) To provide comprehensive township planning for development by zoning and to
35 provide subdivision regulation and the like as the board deems necessary and reasonable
36 to ensure a safe, healthy, and esthetically pleasing community in accordance with a

1 properly adopted zoning and land use ordinance and in accordance with the provisions
2 of Chapters 66, 67, and 67A of this title in the same manner as counties and
3 municipalities of this state presently or hereafter exercise such power;

4 (2) To adopt, amend, modify, and repeal ordinances relating to the authority, powers, and
5 duties of the township under this Code section;

6 (3) To levy an ad valorem tax for the purpose of raising revenues to defray the limited
7 costs of discharging the obligations of the township and of providing township services,
8 for the repayment of principal and interest on general obligations, and for any other
9 public purpose within the authority, powers, and duties of the board of township
10 supervisors. Such tax shall be limited to an amount not to exceed .5 mill on all taxable
11 real and personal property located within the boundaries of the township that is subject
12 to such taxation by the state and county. Such tax shall be included by the tax
13 commissioner or tax collector of the county in which such property is located on county
14 tax bills for such property and shall be collected in the same manner as county taxes by
15 such county tax commissioner or tax collector, shall be deposited and maintained in a
16 separate account for such purpose including any interest received thereon, and shall be
17 promptly remitted to the township with the exception of an amount that may be withheld
18 by the county to cover the direct actual costs to the county of collecting and remitting
19 such tax for the township which shall not exceed the direct actual costs thereof;

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

23 (5) To provide for the appointment, qualification, and selection of officers of the board
24 in addition to the chairperson and vice chairperson and provide for the duties of such
25 officers;

26 (6) To adopt, amend, and abolish bylaws and internal operating procedures that are not
27 in conflict with the provisions of this chapter for the governance of the board in carrying
28 out its authority, powers, duties, and functions;

29 (7) To employ and establish the compensation of persons to provide administrative,
30 managerial, legal, accounting, financial, and other such services related to the carrying
31 out of the authority, powers, duties, and functions of the board as the board deems
32 appropriate;

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

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

- 1 (10) To create, alter, or abolish departments, offices, and agencies of the township and
2 to confer upon such agencies the necessary and appropriate authority for carrying out all
3 the powers conferred upon or delegated to the same;
- 4 (11) To regulate the erection and construction of buildings and all other structures not
5 inconsistent with general law; to adopt and enforce all codes as allowed by general law;
6 and to regulate all housing and building trades except as otherwise prohibited by general
7 law;
- 8 (12) To establish, amend, repeal, and collect fees for the services of the township from
9 the users of such services, including, but not expressly limited to, fees for filing rezoning
10 and land use applications and issuing building permits;
- 11 (13) To enter into contracts and agreements with other governments and entities and with
12 private persons, firms, and corporations;
- 13 (14) To accept or refuse gifts, donations, bequests, or grants from any source for any
14 purpose related to the powers and duties of the township or of its citizens on such terms
15 and conditions as the donor or grantor may impose;
- 16 (15) To appropriate and borrow money for the payment of debts of the township on such
17 terms as the board deems appropriate; provided, however, that the township shall not
18 have the power to issue bonds or incur bonded indebtedness;
- 19 (16) To acquire, dispose of, and hold in trust or otherwise any real, personal, or mixed
20 property, in fee simple or lesser interest, inside the property limits of the township;
- 21 (17) To provide for the preservation and protection of property and equipment of the
22 township and the administration and use of same by the public; and
- 23 (18) To provide for keeping a journal of its proceedings which shall be a public record.
- 24 (d) The board of township supervisors shall hold regular meetings at such times and places
25 as prescribed by ordinance. Special meetings of the board of township supervisors may be
26 held on the call of the chairperson or a majority of the members of the board of township
27 supervisors. Notice of such special meeting shall be served on all other members
28 personally, or by telephone personally, at least 48 hours in advance of the meeting. Such
29 notice to members of the board of township supervisors shall not be required if all members
30 are present when the special meeting is called. Such notice of any special meeting may be
31 waived by a member in writing before or after such a meeting, and attendance at the
32 meeting shall also constitute a waiver of notice on any business transacted in such
33 member's presence. Only the business stated in the call may be transacted at the special
34 meeting.
- 35 (e) All meetings of the board of township supervisors and all documents in the custody of
36 the township shall be public and available, respectively, to the extent required by Chapter
37 14 of Title 50, relating to open meetings; Article 4 of Chapter 18 of Title 50, relating to

1 open records; and other applicable law, and notice to the public of special meetings shall
2 be given as required by law.

3 36-94-4.

4 A township and its board of township supervisors and employees shall be entitled to the
5 same privileges and immunities under law as a municipality and its governing authority and
6 employees.

7 36-94-5.

8 (a) For the purposes of this Code section, the term 'unincorporated island' means:

9 (A) An unincorporated area with its aggregate external boundaries abutting the
10 annexing township; or

11 (B) An unincorporated area with its aggregate external boundaries abutting any
12 combination of the annexing township and one or more municipalities or other
13 townships or the county boundary.

14 (b) Except as provided in subsection (d) of this Code section, the area within the boundary
15 of a township shall not be subject to annexation by any municipality without the approval
16 of a majority of the members of the board of township supervisors and approval by the
17 electors of the township in a referendum; provided, however, that areas within the
18 boundaries of a township that are contiguous to an existing municipality as defined in Code
19 Section 36-36-20 may be annexed by such municipality pursuant to Article 2 of Chapter 36
20 of this title, provided that such annexation will not result in the township falling below the
21 minimum standards for townships contained in paragraph (2) of subsection (a) of Code
22 Section 36-94-2.

23 (c) Upon the approval by a majority of the members of the board of township supervisors
24 and approval by the electors of the township in a referendum, a township may be converted
25 by a local Act of the General Assembly into a municipality.

26 (d) Provided that such areas abut the limits of the township, that such deannexation will
27 not create an unincorporated island, and that such deannexation will not result in the
28 township falling below the minimum standards for townships contained in paragraph (2)
29 of subsection (a) of Code Section 36-94-2, a township may deannex an area or areas of the
30 existing limits of the township upon the written and signed applications containing a
31 complete description of the lands to be deannexed of all of the owners, except the owners
32 of any public street, road, highway, or right of way, of all of the land proposed to be
33 deannexed. Lands to be deannexed at any one time shall be treated as one body, regardless
34 of the number of owners, and all parts shall be considered as abutting the limits of the
35 township when any one part of the entire body abuts such limits. When such application

1 is acted upon by the township and the land is, by ordinance, deannexed from the township,
 2 an identification of the property so deannexed shall be filed with the Department of
 3 Community Affairs and with the governing authority of the county in which the property
 4 is located in accordance with Code Section 36-36-3. When so deannexed, such lands shall
 5 cease to constitute a part of the lands within the corporate limits of the township as
 6 completely and fully as if the limits had been marked and defined by local Act of the
 7 General Assembly and shall be subject to annexation by any municipal corporation in
 8 accordance with the provisions of Chapter 36 of Title 36.

9 (e)(1) As used in this subsection, the term 'contiguous area' means any area that meets
 10 the following conditions at the time the annexation procedures are initiated:

11 (A) At least one-eighth of the aggregate external boundary or 50 feet of the area to be
 12 annexed, whichever is less, either abuts directly on the township boundary or would
 13 directly abut on the township boundary if it were not otherwise separated from the
 14 township boundary by lands owned by the township or some other political subdivision,
 15 by lands owned by this state, or by the definite width of:

16 (i) Any street or street right of way;

17 (ii) Any creek or river; or

18 (iii) Any right of way of a railroad or other public service corporation

19 which divides the township boundary and any area proposed to be annexed;

20 (B) The entire parcel or parcels of real property owned by the person seeking
 21 annexation is being annexed; provided, however, that lots shall not be subdivided in an
 22 effort to evade the requirements of this subparagraph; and

23 (C) The private property annexed, excluding any right of way of a railroad or other
 24 public service corporation, complies with the annexing township's minimum size
 25 requirements, if any, to construct a building or structure occupiable by persons or
 26 property under the policies or regulations of the township's development, zoning, or
 27 subdivision ordinances.

28 (2)(A) Notwithstanding the limitations of paragraph (1) of this subsection, an area may
 29 be annexed by agreement between the township and the governing body of the county
 30 in which the territory proposed to be annexed is located.

31 (B) Notwithstanding the limitations of paragraph (1) of this subsection, the boundary
 32 line between a township and an abutting municipality may be adjusted by agreement
 33 between the township and the governing body of the municipality.

34 (3) If the entire area to be annexed is owned by the township to which the area is to be
 35 annexed at the time annexation procedures are initiated, then the term 'contiguous area'
 36 means any area which, at the time annexation procedures are initiated, abuts directly on
 37 the township boundary or which would directly abut on the township boundary if it were

1 not otherwise separated from the township boundary by lands owned by the township or
 2 some other political subdivision, by lands owned by this state, or by the definite width
 3 or length of:

4 (A) Any street or street right of way;

5 (B) Any creek or river; or

6 (C) Any right of way of a railroad or other public service corporation
 7 which divides the township boundary and any area proposed to be annexed.

8 (4) A township may annex to its existing limits unincorporated areas within the same
 9 county which are contiguous to the existing township limits at the time of such
 10 annexation upon the written and signed applications containing a complete description
 11 of the lands to be annexed of all of the owners, except the owners of any public street,
 12 road, highway, or right of way, of all of the land proposed to be annexed; provided,
 13 however, that such annexation shall not create an unincorporated island. Lands to be
 14 annexed at any one time shall be treated as one body, regardless of the number of owners,
 15 and all parts shall be considered as abutting the limits of the township when any one part
 16 of the entire body abuts such limits. When such application is acted upon by the
 17 township and the land is, by ordinance, annexed to the township, an identification of the
 18 property so annexed shall be filed with the Department of Community Affairs and with
 19 the governing authority of the county in which the property is located in accordance with
 20 Code Section 36-36-3. When so annexed, such lands shall constitute a part of the lands
 21 within the corporate limits of the township as completely and fully as if the limits had
 22 been marked and defined by local Act of the General Assembly. Except as provided in
 23 subsection (c) of Code Section 36-36-20, nothing in this article shall be construed to
 24 authorize annexation of the length of any public right of way except to the extent that
 25 such right of way adjoins private property otherwise annexed by the township.

26 36-94-6.

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

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

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

34 (d) Members of the board of township supervisors of a township elected in a general
 35 election shall take office on the first day of January following the date of their election.

1 (e) Except for the initial terms of office in a newly created township, each member of the
2 board of township supervisors shall serve a four-year term of office. The initial terms of
3 members of the board of township supervisors for a newly created township shall be as
4 specified in the local Act creating the township.

5 (f) A vacancy in the office of a member of the board of township supervisors shall be filled
6 as follows:

7 (1) If there is a period of more than 27 months remaining in the member's term of office
8 at the time of the vacancy, the vacancy shall be filled by a special election; or

9 (2) If there is a period of 27 months or less remaining in the member's term of office at
10 the time of the vacancy, the vacancy shall be filled by appointment by the remaining
11 members of the board of township supervisors.

12 36-94-7.

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

14 (1) Engage in any business or transaction or have a financial or other personal interest,
15 direct or indirect, which is incompatible with the proper discharge of official duties or
16 which would tend to impair the independence of his or her judgment or action in the
17 performance of official duties;

18 (2) Engage in or accept private employment or render services for private interests when
19 such employment or service is incompatible with the proper discharge of official duties
20 or would tend to impair the independence of his or her judgment or action in the
21 performance of official duties;

22 (3) Disclose confidential information concerning the property, government, or affairs of
23 the township without proper legal authorization or use such information to advance the
24 financial or other private interest of himself or herself or others;

25 (4) Accept any valuable gift, whether in the form of service, loan, object, or promise,
26 from any person, firm, or corporation which to his or her knowledge is interested, directly
27 or indirectly, in any manner whatsoever in business dealings with the township; provided,
28 however, that an elected official who is a candidate for public office may accept
29 campaign contributions and services in connection with any such campaign;

30 (5) Represent other private interests in any action or proceeding against the township or
31 any portion of its government; or

32 (6) Vote or otherwise participate in the negotiation or in the making of any contract with
33 any business or entity in which he or she has a financial interest.

34 (b) Any elected official, appointed officer, or employee of the township who has any
35 private financial interest, directly or indirectly, in any contract or matter pending before or
36 within any department of the township shall disclose such private interest to the board of

1 township supervisors. Any member of the board of township supervisors of a township
2 who has a private interest in any matter pending before the board of township supervisors
3 shall disclose such private interest and such disclosure shall be entered on the records of
4 the board, and he or she shall disqualify himself or herself from participating in any
5 decision or vote relating thereto. Any elected official, appointed officer, or employee of
6 the township who shall have any private financial interest, directly or indirectly, in any
7 contract or matter pending before or within the board of township supervisors shall disclose
8 such private interest to the board of township supervisors.

9 (c) No elected official, appointed officer, or employee of the township shall use property
10 owned by the township for personal benefit, convenience, or profit, except in accordance
11 with policies promulgated by the board of township supervisors.

12 (d) Any violation of this Code section which occurs with the knowledge, express or
13 implied, of a party to a contract or sale shall render said contract or sale voidable at the
14 option of the board of township supervisors.

15 (e) Except as authorized by law, no member of the board of township supervisors shall
16 hold any other elective public office or other township employment during the term for
17 which elected.

18 36-94-8.

19 There shall be an annual independent audit of all township accounts, funds, and financial
20 transactions by a certified public accountant selected by the board of township supervisors.
21 The audit shall be conducted according to generally accepted government auditing
22 standards and in accordance with the provisions of Chapter 81 of this title. Any audit of
23 any funds by the state or federal government may be accepted as satisfying the
24 requirements of this chapter. Copies of all audit reports shall be available at printing cost
25 to the public.

26 36-94-9.

27 (a) Except for the purposes expressly set forth in this chapter or where jurisdiction to
28 provide a service is identified in the applicable service delivery strategy or otherwise
29 authorized by law, the property within the boundaries of a township shall remain subject
30 to all other provisions of law and the jurisdiction of the governing authority of the county
31 in which it is located as if such area were a part of the unincorporated area of the county
32 in which such property is located, and the governing authority of the county in which such
33 property is located shall continue to provide all government services to the area
34 encompassed by the township in the same manner and at the same level that such services
35 would have been provided if the township had not been created, except zoning, land use

1 planning, code enforcement, and issuing building permits to the extent that the local Act
2 creating the township authorizes the township to provide such services.

3 (b) All property owned by the township shall be exempt from all ad valorem taxation.

4 36-94-10.

5 (a) Every proposed ordinance shall be introduced in writing and in the form required for
6 final adoption. No ordinance shall contain a subject which is not expressed in its title. The
7 enacting clause shall be 'The Board of Township Supervisors of the Township of
8 _____ hereby ordains...' and every ordinance shall so begin.

9 (b) An ordinance may be introduced by any member of the board of township supervisors
10 and be read at a regular or special meeting of the board. Ordinances shall be considered
11 and adopted or rejected by the board of township supervisors in accordance with the rules
12 which it shall establish. Upon introduction of any ordinance, the board of township
13 supervisors shall, as soon as possible, distribute a copy to each member of the board of
14 township supervisors and shall file a reasonable number of copies in its offices and at such
15 other public places as the board of township supervisors may designate.

16 (c) No later than one calendar year after the first day of existence of a township,
17 ordinances adopted by the township shall be codified or compiled in the manner required
18 by Code Section 36-80-19 for counties and municipalities.

19 36-94-11.

20 (a) At the first meeting of the board of township supervisors in each calendar year, the
21 members of the board shall select from among their number a chairperson and vice
22 chairperson.

23 (b) The chairperson shall preside over all meetings of the board of township supervisors
24 and shall be entitled to vote in all matters coming before the board of township supervisors
25 except matters in which such chairperson has disqualified himself or herself as a result of
26 a conflict of interest or other cause.

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

29 36-94-12.

30 (a) Until July 1 of the year following the election of the initial board of township
31 supervisors of a township, the existing county land use plan and zoning ordinances shall
32 remain in effect and the county in which the township is located shall continue to be
33 responsible for planning and zoning functions and the enforcement of land use provisions

1 for the property in such county in the same manner as if the township had not come into
2 existence.

3 (b) On July 1 of the year following the election of the initial board of township supervisors
4 of a township, the county in which the township is located shall no longer be responsible
5 for planning and zoning functions and the enforcement of land use provisions and shall not
6 undertake to exercise any such function over property located in the township.

7 (c) The expense of the initial election of the members of the board of township supervisors
8 shall be borne by the governing authority of the county in which the township is primarily
9 located. Within two years after the initial elections for the members of the board of
10 township supervisors, the township shall reimburse the county for the actual cost of
11 printing and personnel services for such election. It shall be the duty of the county election
12 superintendent to hold and conduct such election. It shall be his or her further duty to
13 certify the result thereof to the Secretary of State. Only for the purposes of holding and
14 conducting the election of the initial board of township supervisors, the election
15 superintendent of the county in which the township is primarily located is vested with the
16 powers and duties of the election superintendent of the township and the board of township
17 supervisors regarding elections.

18 36-94-13.

19 (a) When a township receives a request for rezoning, a change in the land use plan, the
20 creation of a subdivision, or an amendment to the township's planning or development
21 regulations or ordinances or subdivision regulations, the township shall submit the request
22 or proposed amendment to the governing authority of the county in which the township is
23 located. The county governing authority shall have ten business days to respond in writing
24 to the township with any opinions, concerns, or potential fiscal impacts on county residents
25 that the county desires the township to consider. The county's response shall include any
26 recommended actions that the county believes might mitigate any adverse consequences
27 or impacts to the county. The township shall make any responses received from a county
28 governing authority a part of the public record and shall acknowledge receipt of the
29 response. The township shall consider the county's response and shall attempt to mitigate
30 any adverse consequences or impacts identified by the county. The township shall provide
31 the county with a copy of any final action taken by the township on the rezoning, change
32 in the land use plan, the creation of a subdivision, or amendment to the township's planning
33 or development regulations or ordinances or subdivision regulations.

34 (b) When a township proposes a new ordinance or an amendment to existing ordinances,
35 the township shall submit the proposed ordinance or amendment to the governing authority
36 of the county in which the township is located. The county governing authority shall have

1 ten business days to respond in writing to the township with any opinions, concerns, or
2 potential fiscal impacts on county residents that the county desires the township to
3 consider. The county's response shall include any recommended actions that the county
4 believes might mitigate any adverse consequences or impacts to the county. The township
5 shall make any responses received from a county governing authority a part of the public
6 record and shall acknowledge receipt of the response. The township shall consider the
7 county's response and shall attempt to mitigate any adverse consequences or impacts
8 identified by the county. The township shall provide the county with a copy of any final
9 action taken by the township on the ordinance or amendment.

10 (c) When a township receives a request for rezoning, a change in the land use plan, or the
11 creation of a subdivision affecting property that abuts or is contiguous to another township
12 or a municipality, the township shall submit the request, change, or proposed subdivision
13 to the board of township supervisors of the other township or the governing authority of
14 the municipality, as appropriate. The other township or municipal governing authority
15 shall have ten business days to respond in writing to the township with any opinions,
16 concerns, or potential fiscal impacts on the other township's or municipality's residents that
17 the other township or municipality desires the township to consider. The other township's
18 or municipality's response shall include any recommended actions that the other township
19 or municipality believes might mitigate any adverse consequences or impacts to the other
20 township or municipality. The township shall make any responses received from another
21 township or municipality a part of the public record and shall acknowledge receipt of the
22 response. The township shall consider the other township's or municipality's response and
23 shall attempt to mitigate any adverse consequences or impacts identified by the other
24 township or municipality. The township shall provide the other township or municipality,
25 as appropriate, with a copy of any final action taken by the township on the rezoning,
26 change in the land use plan, or the creation of the subdivision.

27 (d) When a township proposes a new ordinance or an amendment to existing ordinances
28 that potentially may impact another township or municipality that abuts or is contiguous
29 to the township, the township shall submit the proposed ordinance or amendment to the
30 board of township supervisors of the other township or the governing authority of the
31 municipality, as appropriate. The other township or municipality shall have ten business
32 days to respond in writing to the township with any opinions, concerns, or potential fiscal
33 impacts on the other township's or municipality's residents that the other township or
34 municipality desires the township to consider. The other township's or municipality's
35 response shall include any recommended actions that the other township or municipality
36 believes might mitigate any adverse consequences or impacts to the other township or
37 municipality. The township shall make any responses received from the other township

1 or municipality a part of the public record and shall acknowledge receipt of the response.
2 The township shall consider the other township's or municipality's response and shall
3 attempt to mitigate any adverse consequences or impacts identified by the other township
4 or municipality. The township shall provide the other township or municipality, as
5 appropriate, with a copy of any final action taken by the township on the ordinance or
6 amendment.

7 (e) The county in which a township is located shall coordinate service delivery of
8 county-wide services within the township. The township shall provide regular input and
9 advice to the county in which the township is located regarding county-wide services that
10 are delivered within the township. If a township deems it necessary, it may request that the
11 county consider, and the county shall consider, the establishment of a special service and
12 taxing district for higher levels of service within the township. If such districts are to be
13 created, the county shall seek the advice of the township and the township shall advise the
14 county in the establishment, implementation, and management of such districts.

15 (f) The board of township supervisors and the county governing authority of the county
16 in which the township is located shall meet jointly at least twice each year to discuss any
17 coordination needs that any of such governing bodies deems relevant to the proper and
18 efficient operations of such governments.

19 (g) When a county receives a request for rezoning, a change in the land use plan, or the
20 creation of a subdivision affecting property that abuts or is contiguous to a township, the
21 county shall submit the request, change, or proposed subdivision to the board of township
22 supervisors of the township. The township shall have ten business days to respond in
23 writing to the county with any opinions, concerns, or potential fiscal impacts on township
24 residents that the township desires the county to consider. The township's response shall
25 include any recommended actions that the township believes might mitigate any adverse
26 consequences or impacts to the township. The county shall make any responses received
27 from a township a part of the public record and shall acknowledge receipt of the response.
28 The county shall consider the township's response and shall attempt to mitigate any
29 adverse consequences or impacts identified by the township. The county shall provide the
30 township with a copy of any final action taken by the county on the rezoning, change in the
31 land use plan, or the creation of the subdivision.

32 (h) When a county proposes a new ordinance or an amendment to existing ordinances that
33 potentially may impact a township, the county shall submit the proposed ordinance or
34 amendment to the board of township supervisors of the township. The township shall have
35 ten business days to respond in writing to the county with any opinions, concerns, or
36 potential fiscal impacts on township residents that the township desires the county to
37 consider. The township's response shall include any recommended actions that the

1 township believes might mitigate any adverse consequences or impacts to the township.
 2 The county shall make any responses received from a township a part of the public record
 3 and shall acknowledge receipt of the response. The county shall consider the township's
 4 response and shall attempt to mitigate any adverse consequences or impacts identified by
 5 the township. The county shall provide the township with a copy of any final action taken
 6 by the county on the ordinance or amendment.

7 36-94-14.

8 Violations of township ordinances and other code violations as provided by law shall be
 9 heard in the magistrate court of the county in which the township is located, and the
 10 magistrate court shall have jurisdiction to handle such matters."

11 **SECTION 3.**

12 Said title is further amended by revising paragraph (1) of Code Section 36-66-3, relating to
 13 definitions regarding zoning procedures, to read as follows:

14 "(1) 'Local government' means any county, ~~or municipality,~~ or township which exercises
 15 zoning power within its territorial boundaries."

16 **SECTION 4.**

17 Said title is further amended by revising Code Section 36-66A-1, relating to definitions
 18 regarding transfer of development rights, to read as follows:

19 "36-66A-1.

20 As used in this chapter, the term:

21 (1) 'Development rights' means the maximum development that would be allowed on the
 22 sending property under any general or specific plan and local zoning ordinance of a
 23 municipality, ~~or county,~~ or township in effect on the date the municipality, ~~or county,~~ or
 24 township adopts an ordinance pursuant to this chapter. Development rights may be
 25 calculated and allocated in accordance with factors including dwelling units, area, floor
 26 area, floor area ~~ratio~~ ratio, height limitations, traffic generation, or any other criteria that
 27 will quantify a value for the development rights in a manner that will carry out the
 28 objectives of this Code section.

29 (2) 'Person' means any natural person, corporation, partnership, trust, foundation,
 30 nonprofit agency, or other legal entity.

31 (3) 'Receiving area' means an area identified by an ordinance as an area authorized to
 32 receive development rights transferred from a sending area.

33 (4) 'Receiving property' means a lot or parcel within which development rights are
 34 increased pursuant to a transfer of development rights. Receiving property shall be

1 appropriate and suitable for development and shall be sufficient to accommodate the
2 transferable development rights of the sending property without substantial adverse
3 environmental, economic, or social impact to the receiving property or to neighboring
4 property.

5 (5) 'Sending area' means an area identified by an ordinance as an area from which
6 development rights are authorized to be transferred to a receiving area.

7 (6) 'Sending property' means a lot or parcel with special characteristics, including farm
8 land; woodland; desert land; mountain land; a flood plain; natural habitats; wetlands;
9 ~~groundwater~~ ground water recharge area; marsh hammocks; recreation areas or parkland,
10 including golf course areas; or land that has unique ~~aesthetic~~ esthetic, architectural, or
11 historic value that a municipality, ~~or county,~~ or township desires to protect from future
12 development.

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

15 SECTION 5.

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

18 "36-66A-2.

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

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

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

27 (1) The issuance and recordation of the instruments necessary to sever development
28 rights from the sending property and to affix development rights to the receiving
29 property. These instruments shall be executed by the affected property owners and
30 lienholders;

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

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

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

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

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

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

9 (8) Development rights made transferable pursuant to this Code section shall be interests
10 in real property and shall be considered as such for purposes of conveyancing and
11 taxation. Once a deed of transferable development rights created pursuant to this Code
12 section has been sold, conveyed, or otherwise transferred by the owner of the parcel from
13 which the development rights were derived, the transfer of development rights shall vest
14 in the grantee and become freely alienable. For the purposes of ad valorem real property
15 taxation, the value of a transferable development right shall be deemed appurtenant to the
16 sending property until the transferable development right is registered as a distinct
17 interest in real property with the appropriate tax assessor or the transferable development
18 right is used at a receiving property and becomes appurtenant thereto;

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

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

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

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

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

36 (f) Municipalities ~~and counties,~~ counties, and townships which are jointly affected by
37 development are authorized to enter ~~in to~~ into intergovernmental agreements for the

1 purpose of enacting interdependent ordinances providing for the transfer of development
 2 rights between or among such jurisdictions, provided that such agreements otherwise
 3 comply with applicable laws. Any ordinances enacted pursuant to this subsection may
 4 provide for additional notice and hearing and signage requirements applicable to properties
 5 within the sending and receiving areas in each participating political subdivision."

6 **SECTION 6.**

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

9 "36-67-1.

10 This article shall apply only to those counties which have a population of 625,000 or more
 11 according to the United States decennial census of 2000 or any future such census and to
 12 those municipalities and townships wholly or partially located within such counties which
 13 have a population of 100,000 or more according to the United States decennial census of
 14 1980 or any future such census. As used in this article, the term 'local government' means
 15 those counties, townships, and municipalities subject to this article; and the term 'governing
 16 authority' means the governing authority of each such county, township, and municipality."

17 **SECTION 7.**

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

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

21 **SECTION 8.**

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

24 "ARTICLE 1

25 36-70-1.

26 The local governments of the State of Georgia are of vital importance to the state and its
 27 citizens. The state has an essential public interest in promoting, developing, sustaining, and
 28 assisting local governments. In addition, the natural resources, environment, and vital
 29 areas of the state are of vital importance to the state and its citizens. The state has an
 30 essential public interest in protecting and preserving the natural resources, the environment,
 31 and the vital areas of the state. The purpose of this article is to provide for local
 32 governments to serve these essential public interests of the state by authorizing and
 33 promoting the establishment, implementation, and performance of coordinated and

1 comprehensive planning by township governments, municipal governments, and county
 2 governments, and this article shall be construed liberally to achieve that end. This article
 3 is enacted pursuant to the authority granted the General Assembly in the Constitution of
 4 the State of Georgia, including, but not limited to, the authority provided in Article III,
 5 Section VI, Paragraphs I and II(a)(1) and Article IX, Section II, Paragraphs III and IV.

6 36-70-2.

7 As used in this chapter, the term:

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

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

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

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

19 (5) 'Governing authority' or 'governing body' means the board of commissioners of a
 20 county, sole commissioner of a county, council, commissioners, township supervisors,
 21 or other governing authority for a county, township, or municipality.

22 (5.1) 'Inactive municipality' means any municipality which has not for a period of three
 23 consecutive calendar years carried out any of the following activities:

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

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

27 (C) The holding of a municipal election.

28 (5.2) 'Local government' means any county as defined in paragraph (3) of this Code
 29 section, any township as defined in paragraph (10) of this Code section, or any
 30 municipality as defined in paragraph (7) of this Code section. The term does not include
 31 any school district of this state nor any sheriff, clerk of the superior court, judge of the
 32 probate court, or tax commissioner or the office, personnel, or services provided by such
 33 elected officials.

34 (5.3) 'Mechanisms' includes, but is not limited to, intergovernmental agreements,
 35 ordinances, resolutions, and local Acts of the General Assembly in effect on July 1, 1997,
 36 or executed thereafter.

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

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

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

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

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

16 36-70-3.

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

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

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

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

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

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

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

1 36-70-4.

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

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

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

10 36-70-5.

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

14 (b) Any municipality which is as of April 17, 1992, an inactive municipality shall not on
15 or after April 17, 1992, exercise any powers under this article or exercise any zoning
16 powers, until and unless the municipality is restored to active status by the enactment of
17 an appropriate new or amended charter by local Act of the General Assembly. Any
18 municipality which becomes an inactive municipality after April 17, 1992, shall not after
19 becoming inactive exercise powers under this article or exercise any zoning powers, until
20 and unless the municipality is restored to active status by the enactment of an appropriate
21 new or amended charter by local Act of the General Assembly.

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

26

27

SECTION 9.

28 This Act shall become effective on January 1, 2009, provided that an amendment to the state
29 Constitution is passed by the General Assembly and ratified by the voters at the 2008 general
30 election providing for the creation of townships and the exercise of zoning powers by such
31 townships. If such an amendment is not passed and ratified, then this Act shall stand
32 repealed by operation of law on January 1, 2009.

33

SECTION 10.

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