

The Senate State and Local Governmental Operations Committee offered the following substitute to HB 203:

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 procedures for issuing bonds, allocating bond proceeds, and distributing  
3 property that has been or may be improved using bond proceeds in a county that has  
4 activated a public safety and judicial facilities authority; to provide for the transfer to certain  
5 municipalities of certain county property located within the geographical boundaries of the  
6 municipality; to provide for definitions, procedures, conditions, limitations, and pricing  
7 requirements; to provide for requirements regarding water and sewer services; to clarify  
8 certain terms; to clarify the application of the referendum requirement for the issuance of  
9 bonds by certain authorities; to provide an effective date; to repeal conflicting laws; and for  
10 other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

12 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended  
13 by adding a new Code section to read as follows:

14 "36-31-11.1.

15 (a) As used in this Code section, the term:

16 (1) 'County' means a county in which a tax is being levied and collected for purposes of  
17 a metropolitan area system of public transportation and in which a public safety and  
18 judicial facilities authority has been activated by the county pursuant to Chapter 75 of this  
19 title.

20 (2) 'Fire station' means any property or facility located wholly within the territory of a  
21 qualified municipality, including buildings and fixtures located on such property owned  
22 by the county or subject to a lease-purchase or installment sale arrangement by the county  
23 and used by the county to provide fire protection services authorized by Article IX,  
24 Section II, Paragraph III(a)(1) of the Constitution.  
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26 (3) 'Park' means any property or facility located wholly within the territory of a  
27 municipality, including but not limited to athletic fields, athletic courts, recreation  
28 centers, playgrounds, swimming pools, arts centers, historical properties, and adjacent  
29 greenspace, and the fixtures located on such property or in such facility owned by the  
30 county or subject to a lease-purchase or installment sale arrangement by the county and  
31 used by the county to provide any services authorized by Article IX, Section II, Paragraph  
32 III(a)(5) of the Constitution or to provide any services authorized by Article IX, Section  
33 II, Paragraph III(a)(10) of the Constitution.

34 (4) 'Qualified municipality' means any new municipality located in a county and created  
35 by local Act which becomes law on or after January 1, 2008.

36 (b) A qualified municipality that succeeds to the control of local government services  
37 pursuant to Article IX, Section II, Paragraph III(a) of the Constitution may take control of  
38 and hold title to parks and fire stations as a trustee or agent for the public.

39 (c)(1) A qualified municipality located within a county which has a special district for  
40 the provision of fire services shall continue to be part of such special fire district where  
41 the local Act creating such qualified municipality so provides or where the governing  
42 authority of the qualified municipality elects by formal resolution to continue to be part  
43 of the special fire district and delivers a copy of such resolution to the governing  
44 authority of the county within 30 days after the date the resolution is adopted.

45 (2) If a qualified municipality initially elected to remain in a fire services special district,  
46 such municipality shall be removed from such fire services special district by adopting  
47 a resolution stating its intent to be removed from the district and the date of removal,  
48 provided the governing authority of the qualified municipality delivers a copy of such  
49 resolution to the governing authority of the county. The fire services shall be discontinued  
50 by the county on the first day of the next fiscal year of the county that begins at least 180  
51 days after the specified notice is received by the county.

52 (d) A qualified municipality located within a county that charges fees on a periodic basis  
53 for the provision of water or sewer services, or both, may elect to continue receiving such  
54 services for the same fees charged residents in the unincorporated area of the county. Such  
55 election may be set forth in the local Act creating such qualified municipality or be made  
56 by resolution of the governing authority of the qualified municipality provided the  
57 governing authority of the qualified municipality delivers a copy of such resolution to the  
58 governing authority of the county within 30 days after the date the resolution is adopted.

59 (e) The county shall not convey, otherwise encumber, move any fixtures or buildings, or  
60 enter into any contractual obligations with respect to any park or fire station located in the  
61 qualified municipality. The governing authority of the county shall assign to the governing  
62 authority of the qualified municipality all of its right, title, and interest in any executory

63 contract in effect on any park or fire station that the qualified municipality elects to  
64 purchase as provided in this Code section. Such assignment shall be effective on the date  
65 the municipality assumes ownership of any such park or fire station or as otherwise may  
66 be agreed between the governing authority of the municipality and the governing authority  
67 of the county.

68 (f) A municipality may elect to purchase parks within the territory of the municipality from  
69 the county in which the municipality is located. Notwithstanding any other law to the  
70 contrary, whenever a municipality elects to purchase any such parks, the governing  
71 authority of the municipality shall provide written notice to the governing authority of the  
72 county specifying the parks to be purchased and the date or dates the municipality will  
73 assume ownership of such parks. The purchase price for such parks shall be \$100.00 per  
74 acre. Such notice shall be provided for each such park no less than 30 days prior to the  
75 date the municipality intends to assume ownership.

76 (g) Upon the payment of the purchase price, all of the county's right, title, and interest in  
77 the parks that the municipality elects to purchase shall be transferred to the governing  
78 authority of the municipality. Such transfer shall be effective on the date the municipality  
79 intends to assume ownership of such parks and as stated in the notice given pursuant to  
80 subsection (f) of this Code section. The governing authority of the county shall transfer,  
81 execute, and deliver to the governing authority of the municipality such instruments as may  
82 be necessary to record the transfer of such right, title, and interest. Notwithstanding any  
83 provision in any property deed or law to the contrary, a municipality may purchase a park  
84 from the county without permission of the state and may use such park for all purposes for  
85 which the county was authorized under such deed or law.

86 (h) In the event a park is transferred by a county to a municipality under this Code section,  
87 the municipality shall be prohibited from imposing or collecting user fees from residents  
88 of the county in excess of the amount of such fees imposed or collected from residents of  
89 the municipality.

90 (i) Where residents of a municipality are required pursuant to Code Section 36-31-11 to  
91 continue to pay taxes for the purpose of retiring any special district debt created by the  
92 issuance of bonds by the county on behalf of the special district for the purpose of  
93 improving parks and the municipality elects to purchase any such park pursuant to this  
94 Code section, the county shall transfer to the municipality as an agent of the special district  
95 the amount the county planned to spend on such park at the time of the referendum on the  
96 bonds, based upon any statement of intention concerning use of the bond proceeds by the  
97 governing authority of the county. Such amount shall be determined based on county  
98 resolutions, county records, and any public statements or representations made by county  
99 managers, representatives, officials, or their agents as to the amount that would be spent

100 on such park in order to solicit voter support for the referendum; provided, however, that  
101 the amount to be transferred by the county to the municipality shall be reduced by any  
102 amount spent by the county to improve such park prior to the date of the municipality's  
103 notice of its election to purchase the park as provided in subsection (f) of this Code section.  
104 The transfer shall be due within 30 days after the municipality assumes ownership of any  
105 such park. The municipality shall be required to expend any such funds for and on behalf  
106 of the special district in a manner consistent with the purpose and intent of the issuance of  
107 the bonds.

108 (j) A qualified municipality may elect to purchase one or more fire stations from the  
109 county in which it is located. Notwithstanding any other law to the contrary, whenever a  
110 qualified municipality elects to purchase a fire station from the county, the governing  
111 authority of the qualified municipality shall provide written notice to the governing  
112 authority of the county specifying the fire station to be purchased and the date or dates the  
113 qualified municipality will assume ownership of such fire station. Such notice shall be  
114 provided with respect to each such property no less than 30 days prior to the date the  
115 qualified municipality intends to assume ownership of the fire station.

116 (k)(1) Except as otherwise provided in paragraph (2) of this subsection, if a qualified  
117 municipality elects to purchase a fire station that serves only territory wholly within the  
118 qualified municipality, the purchase price shall be \$5,000.00 for each such fire station.

119 (2) If the county uses a fire station to serve an area located outside the qualified  
120 municipality, the purchase price for each such fire station shall be \$5,000.00 plus an  
121 additional amount determined as provided in this paragraph. Such additional amount  
122 shall be the product of the fair market value of such fire station multiplied by the  
123 percentage of the total service area of such fire station which is located outside of the  
124 corporate limits of the qualified municipality. If the portion served outside the qualified  
125 municipality exceeds 20 percent of the total service area, then from the date the qualified  
126 municipality assumes ownership of such fire station, the qualified municipality shall be  
127 obligated to offer to lease the fire station back to the county for a period not to exceed  
128 two years for an amount of \$10.00 for the lease period.

129 (l) If a county and municipality fail to reach an agreement on the amount to be paid or any  
130 related matter under this Code section, either the county or the municipality may petition  
131 the superior court to seek resolution of the items in dispute. Such petition shall be assigned  
132 to a judge, pursuant to Code Section 15-1-9.1 or 15-6-13, who is not a judge in the circuit  
133 in which the county is located. The judge selected may also be a senior judge pursuant to  
134 Code Section 15-1-9.2 who resides in another circuit. The visiting or senior judge shall  
135 conduct an evidentiary hearing or hearings as such judge deems necessary and render a  
136 decision with regard to the disputed items."

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## SECTION 2.

Said title is further amended by revising Code Section 36-75-11, relating to resolutions and referendums required prior to issuance of bonded indebtedness for new projects, as follows:

"36-75-11.

(a) On and after May 24, 2007, no public safety and judicial facilities authority created and activated by a single county pursuant to this chapter shall be authorized to issue ~~bonded indebtedness~~ bonds for new projects unless a resolution approving such projects passed by a majority vote of the governing authority of the county that created and activated such authority was ratified by the electors of the county in a referendum.

(b) ~~If The proceeds of bonds issued by a public safety and judicial facilities authority created and activated by a single county pursuant to this chapter desires to fund multiple projects in a bond issue, such projects and any interest on such proceeds shall be ranked in the order they will be funded after approval by the governing authority and ratification by the electors under this Code section used only for the projects set forth in the resolution approving the issuance of such bonds or for debt service on such bonds. Such order of funding shall be binding on the public safety and judicial facilities authority and such projects shall be funded in the order approved unless a different order is submitted to the governing authority for approval and electors for ratification.~~

(c) Any authority other than the type of authority defined in paragraph (1) of Code Section 36-75-3:

(1) Which is authorized by general or local Act to operate and ~~incur bonded indebtedness~~ issue bonds in a single county that has activated or that activates a public safety and judicial facilities authority pursuant to this chapter; and

(2) Which constructs or operates buildings or facilities for use by any department, agency, division, or commission of any county that has activated or that activates a public safety and judicial facilities authority pursuant to this chapter

shall obtain approval by resolution and referendum as provided in this Code section prior to issuing bonds for any new buildings, ~~or facilities, or real property~~ or improvements to existing buildings, or facilities, or real property and shall be bound to such resolution as provided in subsection (b) of this Code section.

(d) Subsections (a), (b), and (c) of this Code section shall apply only to the issuance of bonds the principal and interest of which will be repaid, directly or indirectly, in whole or in part, through funds of the county by agreement between the county and:

(1) A public safety and judicial facilities authority created and activated pursuant to this chapter; or

172 (2) Any authority other than the type of authority defined in paragraph (1) of Code  
173 Section 36-75-3 that meets the conditions set forth in paragraphs (1) and (2) of  
174 subsection (c) of this Code section.

175 (e) The provisions of this Code section shall not apply under any circumstances to the  
176 issuance of 'recovery zone economic development bonds' and 'recovery zone facility bonds'  
177 as such terms are defined in Section 1401 of the federal American Recovery and  
178 Reinvestment Act of 2009."

179 **SECTION 3.**

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

182 **SECTION 4.**

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