

Senate Bill 58

By: Senator Weber of the 40th

**AS PASSED SENATE**

**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 change certain local government provisions with respect to newly created  
3 municipalities; to provide for the offer of sale to certain qualified municipalities of county  
4 property used as police stations, fire stations, cultural properties, or vacant properties within  
5 the geographical boundaries of the qualified municipality; to provide for procedures,  
6 conditions, and limitations; to specify additional service delivery strategy requirements  
7 regarding garbage and solid waste collection and disposal fees and fire protection services  
8 fees; to provide for additional limitations and requirements in the event a new municipality  
9 is created in a county subsequent to a referendum in which bonded indebtedness is approved;  
10 to provide an effective date; to repeal conflicting laws; and for other purposes.

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

12 **SECTION 1.**

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

15 "36-31-11.1.

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

17 (1) 'Appraised value' for a county owned property means the fair market value as  
18 determined by a Georgia general certified appraiser as of December 31 of the year prior  
19 to the date of incorporation. The county and the city shall agree upon the appraiser;  
20 provided, however, that, if the county and city cannot agree on an appraiser, either party  
21 may apply to the chief judge of the superior court of the county who shall appoint a  
22 qualified appraiser.

23 (2) 'Assigned capital assets' for a county property means county owned capital assets,  
24 including, without limitation, vehicles, trucks, equipment, computers, and furniture  
25 located at such property or used by county employees working at or stationed at such  
26 property as of the date of incorporation.

27 (3) 'Book value' for county owned capital assets means the book value of such assets  
 28 determined in accordance with standard accounting practices as of the date the qualified  
 29 municipality gives notice under subsection (g) of this Code section.

30 (4) 'Cultural property' means any qualified county property or facility, used in whole or  
 31 in part as a park, green space, arts center, nature center, historical property, or any  
 32 property or facility used for recreational, cultural, educational, or institutional purposes.  
 33 Each cultural property shall be deemed to include assigned capital assets relative to that  
 34 property.

35 (5) 'Date of incorporation' means the date the local Act creating a municipality becomes  
 36 law.

37 (6) 'Qualified county property' means any property, including buildings and fixtures  
 38 located on such property, used in whole or in part as a police station, fire station, cultural  
 39 property, or vacant property located within the municipality. Each qualified property  
 40 shall be deemed to include assigned capital assets relating to such property.

41 (7) 'Qualified municipality' means any new municipality created by local Act which  
 42 becomes law on or after January 1, 2008.

43 (8) 'Vacant property' means any water drainage areas, easements, retention ponds, ponds,  
 44 lakes, or wetlands which are owned by the county and are not part of a cultural property.

45 (b) It is the intent of the legislature that the residents of a qualified municipality receive  
 46 full credit for taxes paid for qualified county properties and assigned capital assets to be  
 47 purchased by the qualified municipality; to assure that qualified municipalities will have  
 48 the facilities necessary to deliver municipal services; and to provide certainty as to how the  
 49 purchase price for such properties will be determined.

50 (c)(1) A qualified municipality located within a county which has a special district for  
 51 the provision of fire services shall continue to be part of such special fire district where  
 52 the local Act creating such qualified municipality so provides or where the governing  
 53 authority of the qualified municipality, within 30 days of taking office, elects by formal  
 54 resolution to continue to be part of the special fire district by formal resolution, provided  
 55 the governing authority of the qualified municipality delivers a copy of such resolution  
 56 to the governing authority of the county within ten business days after the date the  
 57 resolution is adopted.

58 (2) If a qualified municipality elected initially to remain in a fire services special district,  
 59 such municipality shall be removed from such fire services special district by adopting  
 60 a resolution stating its intent to be removed from the district and the date of removal,  
 61 provided the governing authority of the qualified municipality delivers a copy of such  
 62 resolution to the governing authority of the county. The fire services shall be

63 discontinued by the county on the first day of the next fiscal year of the county that  
64 begins at least 180 days after the specified notice is received by the county.

65 (3) If the local Act does not provide that fire services shall be provided through the  
66 county special district or if the qualified municipality decides not to continue receiving  
67 fire services through the county, the fire services shall be discontinued by the county on  
68 the first day of the next fiscal year of the county that begins at least 180 days after the  
69 specified notice is received by the county.

70 (d) A qualified municipality located within a county that charges fees on a periodic basis  
71 for the provision of water or sewer services, or both, may elect to continue receiving such  
72 services for the same fees charged residents in the unincorporated area of the county. Such  
73 election may be set forth in the local Act creating such qualified municipality or be made  
74 by resolution of the governing authority of the qualified municipality within 60 days of  
75 taking office, provided the governing authority of the qualified municipality delivers a copy  
76 of such resolution to the governing authority of the county within ten business days after  
77 the date the resolution is adopted.

78 (e)(1) A qualified municipality located within a county that charges fees on a periodic  
79 basis for the provision of sanitation services, including garbage and solid waste disposal  
80 and collection, may elect to continue receiving such services for the same fees charged  
81 residents of the unincorporated area of the county. Such election may be set forth in the  
82 local Act creating such qualified municipality or be made by resolution of the governing  
83 authority of the qualified municipality within 60 days of taking office, provided the  
84 governing authority of the qualified municipality delivers a copy of such resolution to the  
85 governing authority of the county within ten business days after the date the resolution  
86 is adopted.

87 (2) Such qualified municipality may elect to terminate sanitation services by adopting  
88 a resolution stating the date of removal, provided the governing authority of the qualified  
89 municipality delivers a copy of such resolution to the governing authority of the county.  
90 The sanitation services shall be discontinued by the county on the first day of the next  
91 fiscal year of the county which begins at least 180 days after the specified notice is  
92 received by the county.

93 (3) If the qualified municipality decides not to continue receiving sanitation services  
94 through the county, the sanitation services shall be discontinued by the county on the first  
95 day of the next fiscal year of the county which begins at least 180 days after the specified  
96 notice is received by the county.

97 (f) The county shall not convey, otherwise encumber, move any fixtures or buildings, or  
98 enter into any contractual obligations with respect to any qualified county property or  
99 assigned capital assets located in the qualified municipality on or after the date of

100 incorporation to the end of the transition period provided in Code Section 36-31-8. The  
101 governing authority of the county shall assign to the governing authority of the qualified  
102 municipality all of its right, title, and interest in any executory contract in effect on the date  
103 of incorporation with respect to any qualified county property or assigned capital assets that  
104 the qualified municipality elects to purchase as provided in subsection (g) of this Code  
105 Section. Such assignment shall be effective on the date the municipality assumes  
106 ownership of such properties or as otherwise may be agreed between the governing  
107 authority of the municipality and the governing authority of the county.

108 (g) When a qualified municipality is removed from a special district as provided in either  
109 Code Section 36-31-11 or subsection (c) of this Code section, the qualified municipality  
110 may elect to purchase from the county qualified county properties and assigned capital  
111 assets. If a qualified municipality elects to purchase any qualified county property from  
112 the county, the governing authority of the qualified municipality shall provide written  
113 notice to the governing authority of the county specifying the qualified county properties  
114 and assigned capital assets to be purchased and the date or dates the qualified municipality  
115 will assume ownership of such property. Such notice shall be provided with respect to  
116 each such property no less than 30 days prior to the date the qualified municipality intends  
117 to assume ownership of the property.

118 (h) If a qualified municipality elects to purchase any qualified county property, the  
119 purchase price may be determined by negotiation and agreement of the two governing  
120 authorities. In that event, all of the county's right, title, and interest in such property shall  
121 be transferred to the governing authority of the qualified municipality as provided in such  
122 agreement.

123 (i)(1) Except as otherwise provided in paragraph (2) of this subsection, if a qualified  
124 municipality elects to purchase one or more county police stations or fire stations the  
125 purchase price shall be \$5,000.00 for each police station or fire station.

126 (2) If the county used a police station or fire station during the calendar year prior to the  
127 date of incorporation to serve an area located outside the municipality, the purchase price  
128 shall include a portion of the appraised value of the police station or fire station. That  
129 portion shall equal the acreage served outside the municipality divided by the total  
130 acreage served by the police station or fire station. If the portion served outside the  
131 municipality exceeds 20 percent of the total service area, then from the date the  
132 municipality assumes ownership of such police station or fire station, the municipality  
133 shall be obligated to offer to lease the police station or fire station back to the county for  
134 a period not to exceed one year for an amount of \$10.00 for the lease period.

135 (j) If a qualified municipality elects to purchase one or more cultural properties, the  
136 purchase price shall be \$100.00 per acre. If a qualified municipality elects to purchase one

137 or more vacant properties, the purchase price shall be one payment of \$1,000.00 for all of  
138 the vacant properties to be purchased by the qualified municipality.

139 (k) A qualified municipality may elect to pay the purchase price for one or more qualified  
140 county properties amortized over a 25 year period at an interest rate equal to two  
141 percentage points less than the legal rate of interest specified in subparagraph (a)(1)(A) of  
142 Code Section 7-4-2. Upon the payment of \$5,000.00 and delivery of written notice from  
143 the governing authority of the municipality to the governing authority of the county that  
144 the municipality intends to pay the balance of the purchase price over a 25 year period or  
145 upon payment by the qualified municipality of the purchase price, all of the county's right,  
146 title, and interest in such properties and any assigned capital assets for such properties that  
147 the qualified municipality elects to purchase shall be transferred to the governing authority  
148 of the qualified municipality. Such transfer shall be effective on the date the municipality  
149 intends to assume ownership of such properties as stated in the notice given pursuant to  
150 subsection (g) of this Code Section. The governing authority of the county shall transfer,  
151 execute, and deliver to the governing authority of the qualified municipality such  
152 instruments as may be necessary to record the transfer of such right, title, and interest.

153 (l) In the event of a dispute between the county and the qualified municipality as to the  
154 purchase of any qualified county property, the following process is available to the parties:

155 (1) The county or qualified municipality may file a petition in superior court of the  
156 county seeking mandatory mediation. Such petition shall be assigned to a judge, pursuant  
157 to Code Section 15-1-9.1 or 15-6-13, who is not a judge in the circuit in which the county  
158 is located. The judge selected may also be a senior judge pursuant to Code Section  
159 15-1-9.2 who resides in another circuit;

160 (2) The visiting or senior judge shall appoint a mediator within 30 days of receipt of the  
161 petition. Mediation shall commence within 30 days of the appointment of a mediator.  
162 The mandatory mediation process shall be completed within 60 days following the  
163 appointment of the mediator. A majority of the members of the governing body of the  
164 county and of the qualified municipality shall attend the initial mediation. Following the  
165 initial meeting, the mediation shall proceed in the manner established at the initial  
166 meeting. If there is no agreement on how the mediation should proceed, a majority of the  
167 members of the governing body of the county and of the qualified municipality shall be  
168 required to attend each mediation session unless another process is agreed upon. The cost  
169 of alternative dispute resolution authorized by this subsection shall be shared by the  
170 parties to the dispute pro rata based on each party's population according to the most  
171 recent United States decennial census;

172 (3) If no agreement is reached at the conclusion of the mediation, either the county or the  
173 qualified municipality may petition the superior court and seek resolution of the items

174 remaining in dispute. The visiting or senior judge shall conduct an evidentiary hearing  
 175 or hearings as such judge deems necessary and render a decision on the disputed items.  
 176 The judge shall expedite the hearing and ruling if the court finds that the dispute before  
 177 the court is causing an impairment of the use of any property for the delivery of services  
 178 to residents of the unincorporated area of the county or the qualified municipality.

179 (m) In the event a cultural property is transferred by a county to a qualified municipality  
 180 under this Code section, the qualified municipality shall be prohibited from imposing or  
 181 collecting user fees from residents of the county in excess of the amount of such fees  
 182 imposed or collected from residents of the qualified municipality.

183 (n) In the event a portion of a county owned property qualifies as a qualified county  
 184 property, and the remainder of the property was used by the county during the year prior  
 185 to the date of incorporation to provide services that will not be provided by the qualified  
 186 municipality, the qualified municipality may elect to purchase the entire property or facility  
 187 in the same manner as otherwise authorized under this Code section for the appropriate  
 188 type of qualified county property. Following such purchase, the qualified municipality  
 189 shall offer to lease such portion of the property which is to be continued as county-operated  
 190 property back to the county. Such lease shall be for \$10.00 per month for so long as the  
 191 county continues to use such property for a county provided service that is not provided by  
 192 the qualified municipality, unless otherwise agreed to by the governing authority of the  
 193 qualified municipality and the governing authority of the county.

194 (o) Property transferred to a qualified municipality from a county pursuant to this Code  
 195 section shall not be sold, leased, assigned, or transferred, in whole or in part, to any private  
 196 person or entity for a nonpublic use other than to the county from which it was transferred.  
 197 Any such sale to a county pursuant to this subsection shall be on the same terms as the  
 198 original transfer from the county to the municipality."

199 **SECTION 2.**

200 Said title is further amended in Code Section 36-82-1, relating to elections and requirements  
 201 regarding bonded debt, by adding a new subsection to read as follows:

202 "(e.1)(1) As used in this subsection, the term:

203 (A) 'Bonds' means any bond to purchase properties or for capital improvements to  
 204 existing properties or facilities which, at the time of the issuance of the bonds, were to  
 205 be used by the county for the provision of any of the services listed in Article IX,  
 206 Section II, Paragraph III of the Constitution of the State of Georgia and, subsequent to  
 207 the issuance of the bonds, a new municipality took over the provision of such services.

208 (B) 'Bond proceeds' means the proceeds received by the county as the result of the sale  
 209 of bonds.

210 (C) 'Net homestead digest' means for each qualified municipality the total net assessed  
 211 value of all qualified homestead property located in that portion of a new municipality  
 212 located in the county remaining after all homestead exemptions are applied.

213 (D) 'Total homestead digest' means the total net assessed value of all qualified  
 214 homestead property located in the county remaining after all homestead exemptions are  
 215 applied.

216 (2) This subsection shall apply only to a new municipal corporation created by local Act  
 217 within a county which has a special district for the provision of local government services  
 218 consisting of the unincorporated area of the county. In the event a new municipality lying  
 219 wholly or partially in such a county is incorporated subsequent to the issuance of any  
 220 bonds by the county, the governing authority of the county shall pay to the governing  
 221 authority of the new municipality a portion of the bond proceeds. The amount to be paid  
 222 shall be determined as follows:

223 (A) If the resolution of the governing authority of the county pursuant to which such  
 224 bonds were issued specifies the amount to be spent in the area included in the new  
 225 municipality for the purchase of properties and for capital improvements, then such  
 226 amount plus a proportionate amount of the interest earned by the county on the bond  
 227 proceeds prior to the date payment to the new municipality is due, less any credit due  
 228 under subparagraph (C) of this paragraph shall be paid to the new municipality;

229 (B) If such resolution does not specify the amount to be spent in the area included in  
 230 the new municipality for the purchase of properties and for capital improvements, then  
 231 the amount to be paid shall be a portion of the bond proceeds plus a proportionate  
 232 amount of the interest earned by the county on such proceeds prior to the date payment  
 233 to the new municipality is due, less any credit due under subparagraph (C) of this  
 234 paragraph. Such portion shall equal the net homestead digest for the new municipality  
 235 divided by the total homestead digest;

236 (C) The county shall be given a credit against the amount due under either  
 237 subparagraph (A) or (B) of this paragraph for any payments that were made:

238 (i) By the county from bond proceeds to any third party prior to the date the payment  
 239 to the new municipality is due;

240 (ii) Pursuant to a valid contract in existence as of the effective date of the local Act  
 241 creating the new municipality; and

242 (iii) For the purchase of new properties or for capital improvements in the area  
 243 included in the new municipality; and

244 (D) The payment determined in accordance with subparagraphs (A) and (B) of this  
 245 paragraph shall be due ten days after a majority of the members of the initial city  
 246 council takes the oath of office.

247 (3) If the county and municipality fail to reach an agreement on the amount to be paid  
248 or any related matter, either the county or the municipality may petition the superior court  
249 and seek resolution of the items in dispute. Such petition shall be assigned to a judge,  
250 pursuant to Code Section 15-1-9.1 or 15-6-13, who is not a judge in the circuit in which  
251 the county is located. The judge selected may also be a senior judge pursuant to Code  
252 Section 15-1-9.2 who resides in another circuit. The visiting or senior judge shall conduct  
253 an evidentiary hearing or hearings as such judge deems necessary and render a decision  
254 with regard to the disputed items."

255 **SECTION 3.**

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

258 **SECTION 4.**

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