

House Bill 30

By: Representative Jacobs of the 80th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 36 of the Official Code of Georgia Annotated, relating to local government,
2 so as to provide for preclearance of new townships under Section 5 of the federal Voting
3 Rights Act of 1965, as amended; to provide for a short title; to provide for the requirements
4 for the creation and funding of such townships; to provide for township councils for such
5 townships; to provide for powers, duties, and functions of such township councils; to provide
6 for officers, meetings, elections, and filling of vacancies for such township councils; to
7 provide for certain immunities; to provide for the enactment of ordinances; to prohibit certain
8 conflicts of interest; to provide for an audit; to provide for a transition of services; to provide
9 that counties and municipalities shall continue to provide services in the township that are
10 not specifically delegated by law to the township; to provide for the amendment and
11 alteration of township boundaries; to provide for conformity; to provide for related matters;
12 to provide for a contingent effective date; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

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

18 "36-31-6.

19 When a new municipal corporation or township is created by local Act, the Attorney
20 General shall be responsible for seeking any and all preclearances required in connection
21 with such Act and incorporation under the federal Voting Rights Act of 1965, as amended,
22 until such time as the new municipal corporation or township notifies the Attorney General
23 that it has the ability to seek any further preclearances required."

24 **SECTION 2.**

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

26

"CHAPTER 9427 36-94-1.28 (a) This chapter shall be known and may be cited as the 'Georgia Townships Act.'29 (b) The General Assembly shall be authorized by local law to provide for the creation of
30 townships in the unincorporated areas of counties in this state in accordance with the
31 provisions of this chapter.32 (c) Prior to introducing a bill to create a township by local Act of the General Assembly,
33 a feasibility study shall be conducted on the projected annual revenues and expenses of the
34 proposed township. Such study must demonstrate that there is a substantial likelihood that
35 the projected annual revenues of the proposed township will exceed the projected annual
36 expenses of such township. The notice of intent to introduce local legislation required by
37 Code Section 28-1-14 for such proposed township shall include a statement that a
38 feasibility study has been conducted and shall notify the citizens of the location where a
39 copy of such study is available for review.40 (d) The General Assembly shall not create authorities in connection with townships nor
41 shall any authority be created by a township.42 36-94-2.43 (a) A local Act creating a township shall contain the following:44 (1) The name by which the township shall be known which shall be in the form of
45 'Township of _____' and shall not use any name that is currently the name of
46 an active, incorporated municipality or county in the State of Georgia;47 (2) A description of the area to be included in the township which shall be composed of
48 a single, contiguous geographical area wholly within one county containing at least 2,000
49 acres and a minimum of 500 parcels of property that qualify for homestead exemption,
50 and in which at least 10 percent of the total geographical area is used or is zoned for
51 purposes other than residential uses; provided, however, that no township shall include
52 within its boundaries more than one-third of the then existing unincorporated land area
53 of the county within which it is located unless one-fifth or less of the then existing land
54 area of the county remains unincorporated, in which case a township established pursuant
55 to this chapter may include the entire remaining unincorporated area of the county;56 (3) The number of members of the township council of the township;57 (4) Whether members of the township council shall be elected at large or by district and,
58 if such members are to be elected by district, a description of the district boundaries;

59 (5) The initial terms of office for members of the township council and the date for the
60 initial election of members of the township council in accordance with the provisions of
61 Code Section 21-2-540;

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

63 (7) The manner of filling vacancies on the township council;

64 (8) The amount and nature of compensation, if any, of the members of the township
65 council; and

66 (9) The number of members of the township council who must be present to constitute
67 a quorum for the transaction of business by the township council and the number of
68 affirmative votes necessary for the township council to take official action.

69 (b) Any local Act creating a township shall be subject to approval by the electors of the
70 area to be incorporated into a township in a referendum. Such referendum shall be
71 conducted in conjunction with a presidential preference primary, a state-wide general
72 primary, or a state-wide general election or on the Tuesday following the first Monday in
73 November in odd-numbered years. The election superintendent of the county in which the
74 township is to be located shall call and conduct a special election for the purpose of
75 submitting the local Act to the electors of area to be incorporated as a township for
76 approval or rejection. The election superintendent shall issue the call and conduct that
77 election as provided by general law. The election superintendent shall cause the date and
78 purpose of the election to be published once a week for two weeks immediately preceding
79 the date thereof in the official organ of the county in which the proposed township would
80 be located. The ballot shall have written or printed thereon express language concerning
81 whether the local Act creating the township shall be approved and language setting forth
82 the taxing mechanism and rate of taxation of the proposed township and its powers. All
83 persons desiring to vote for approval of the Act shall vote "Yes," and all persons desiring
84 to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on
85 such question are for the approval of the Act, the Act shall become of full force and effect
86 on the first day of the second full month immediately following such election. If the Act
87 is not approved or if the election is not conducted as provided in this Code section, the Act
88 shall not become effective and such local Act shall be automatically repealed on the first
89 day of January immediately following that election date. The expense of such election
90 shall be borne by the county. It shall be the duty of the election superintendent conducting
91 the referendum to certify the results thereof to the Secretary of State.

92 36-94-3.

93 (a) The activities of a township created pursuant to this chapter shall be governed by a
94 township council. Persons elected to the township council shall be at least 18 years of age.

95 residents of the township for a period of at least one year immediately prior to their
96 election, and qualified electors of the township. No person who holds any other elected
97 public office shall be eligible for election or to serve as a member of a township council.

98 (b) A township shall exercise only those powers expressly provided in this chapter. A
99 township shall not have nor exercise the power of eminent domain. A township shall not
100 be a participant in service delivery agreements and shall not share in the distribution of
101 local sales and use taxes authorized by Chapter 8 of Title 48.

102 (c) The township council may have some or all of the following authority, powers, and
103 duties related to exercising or necessary to exercising the power of zoning and the
104 regulation of land use and development within the boundaries of the township, which
105 authority, powers, and duties shall be specified in the local Act creating the township:

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

112 (2) To adopt, amend, modify, and repeal ordinances relating to the authority, powers, and
113 duties of the township as provided in this chapter;

114 (3) To establish a budget and make appropriations for the support of the township, to
115 authorize the expenditure of money for any purposes authorized by this chapter, and to
116 provide for the payment of expenses of the township;

117 (4) To provide for the appointment, qualification, and selection of officers of the
118 township council in addition to the chairperson and vice chairperson and provide for the
119 duties of such officers;

120 (5) To adopt, amend, and abolish bylaws and internal operating procedures that are not
121 in conflict with the provisions of this chapter for the governance of the township council
122 in carrying out its authority, powers, duties, and functions;

123 (6) To employ and establish the compensation of persons to provide administrative,
124 managerial, legal, accounting, financial, and other such services related to the carrying
125 out of the authority, powers, duties, and functions of the township council as the township
126 council deems appropriate;

127 (7) To review the performance of, promote, discipline, and terminate the employment
128 of any employee of the township;

129 (8) To establish and provide health insurance, retirement, and other employment benefits
130 for employees of the township;

- 131 (9) To create, alter, or abolish departments, offices, and agencies of the township and to
132 confer upon such agencies the necessary and appropriate authority for carrying out all the
133 powers conferred upon or delegated to the same;
- 134 (10) To regulate the erection and construction of buildings and all other structures not
135 inconsistent with general law; to adopt and enforce building, housing, plumbing,
136 electrical, gas, and heating and air-conditioning codes and such other codes as allowed
137 by general law; and to regulate all housing and building trades except as otherwise
138 prohibited by general law;
- 139 (11) To establish, amend, repeal, and collect fees for the services of the township from
140 the users of such services, including, but not expressly limited to, fees for filing rezoning
141 and land use applications, issuing building permits, and other licenses;
- 142 (12) To enter into contracts and agreements with other governments and entities and with
143 private persons, firms, and corporations, including contracts for the privatization of its
144 services and functions, contracts for security services, and contracts for the creation,
145 maintenance, and updating of the Internet website required by Code Section 36-94-12;
- 146 (13) To accept or refuse gifts, donations, bequests, or grants from any source for any
147 purpose related to the powers and duties of the township or of its citizens on such terms
148 and conditions as the donor or grantor may impose;
- 149 (14) To appropriate and borrow money for the payment of debts of the township on such
150 terms as the township council deems appropriate; provided, however, that the township
151 shall not have the power to issue bonds or incur bonded indebtedness;
- 152 (15) To acquire, dispose of, and hold in trust or otherwise any real, personal, or mixed
153 property, in fee simple or lesser interest, inside the limits of the township;
- 154 (16) To provide for the preservation and protection of property and equipment of the
155 township and the administration and use of same by the public;
- 156 (17) To purchase policies of workers' compensation and liability insurance in such
157 amounts and under such terms as the township council deems appropriate; and
- 158 (18) To provide for keeping a journal of its proceedings which shall be a public record.
- 159 (d) The township council shall hold regular meetings at such times and places as
160 prescribed by ordinance. Special meetings of the township council may be held on the call
161 of the chairperson or a majority of the members of the township council. Notice of such
162 special meeting shall be served on all other members personally, or by telephone
163 personally, at least 48 hours in advance of the meeting. Such notice to members of the
164 township council shall not be required if all members are present when the special meeting
165 is called. Such notice of any special meeting may be waived by a member in writing
166 before or after such a meeting, and attendance at the meeting shall also constitute a waiver

167 of notice on any business transacted in such member's presence. Only the business stated
 168 in the call may be transacted at the special meeting.

169 (e) Townships shall be subject to the provisions of Chapter 14 of Title 50, relating to open
 170 meetings, and Article 4 of Chapter 18 of Title 50, relating to open records. All meetings
 171 of the township council and all documents in the custody of the township shall be public
 172 and available, respectively, to the extent required by Chapter 14 of Title 50, Article 4 of
 173 Chapter 18 of Title 50, and other applicable law, and notice to the public of special
 174 meetings shall be given as required by law.

175 36-94-4.

176 A township and its township council and employees shall be entitled to the same privileges
 177 and immunities under law as municipalities and their governing authorities and employees.

178 36-94-5.

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

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

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

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

188 (e) Except for the initial terms of office in a newly created township, each member of the
 189 township council shall serve a four-year term of office. The initial terms of members of
 190 the township council for a newly created township shall be as specified in the local Act
 191 creating the township.

192 36-94-6.

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

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

198 (2) Engage in or accept private employment or render services for private interests when
 199 such employment or service is incompatible with the proper discharge of official duties

200 or would tend to impair the independence of his or her judgment or action in the
201 performance of official duties;

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

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

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

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

214 (b) Any elected official, appointed officer, or employee of the township who has any
215 private financial interest, directly or indirectly, in any contract or matter pending before or
216 within any department of the township shall disclose such private interest to the township
217 council. Any member of the township council who has a private interest in any matter
218 pending before the township council shall disclose such private interest and such disclosure
219 shall be entered on the records of the township council, and he or she shall disqualify
220 himself or herself from participating in any decision or vote relating thereto. Any elected
221 official, appointed officer, or employee of the township who shall have any private
222 financial interest, directly or indirectly, in any contract or matter pending before or within
223 the township council shall disclose such private interest to the township council.

224 (c) No elected official, appointed officer, or employee of the township shall use property
225 owned by the township for personal benefit, convenience, or profit, except in accordance
226 with policies promulgated by the township council.

227 (d) Any violation of this Code section which occurs with the knowledge, express or
228 implied, of a party to a contract or sale shall render said contract or sale voidable at the
229 option of the township council.

230 (e) Except as authorized by law and specifically including subsection (a) of Code Section
231 36-94-3, no member of the township council shall hold any other elective public office or
232 other township employment during the term for which elected.

233 36-94-7.

234 There shall be an annual independent audit of all township accounts, funds, and financial
235 transactions by a certified public accountant selected by the township council. The audit

236 shall be conducted according to generally accepted government auditing standards and in
 237 accordance with the provisions of Chapter 81 of this title. Copies of all audit reports shall
 238 be available at printing cost to the public. A copy of each audit report shall be transmitted
 239 to the commissioner of community affairs within 30 days following the completion of such
 240 report.

241 36-94-8.

242 Except for the purposes expressly set forth in this chapter or where jurisdiction to provide
 243 a service is identified in the applicable service delivery strategy or otherwise authorized by
 244 law, the property within the boundaries of a township shall remain subject to all other
 245 provisions of law and the jurisdiction of the governing authority of the county in which it
 246 is located as if such area were a part of the unincorporated area of the county in which such
 247 property is located, and the governing authority of the county in which such property is
 248 located shall continue to provide government services to the area encompassed by the
 249 township to such property in the same manner and at the same level that such services
 250 would have been provided if the township had not been created, with the exception of
 251 zoning, land use planning, code enforcement, and issuing building permits to the extent that
 252 the local Act creating the township authorizes the township to provide such services.

253 36-94-9.

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

258 (b) An ordinance may be introduced by any member of the township council and be read
 259 at a regular or special meeting of the township council. Ordinances shall be considered and
 260 adopted or rejected by the township council in accordance with the rules which it shall
 261 establish. Upon introduction of any ordinance, the township council shall, as soon as
 262 possible, distribute a copy to each member of the township council and shall file a
 263 reasonable number of copies in its offices and at such other public places as the township
 264 council may designate.

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

268 36-94-10.

269 (a) At the first meeting of the township council in each calendar year, the members of the
270 township council shall select from among their number, other than the ex officio member
271 serving pursuant to paragraph (2) of subsection (a) of Code Section 36-94-3, a chairperson
272 and vice chairperson.

273 (b) The chairperson shall preside over all meetings of the township council and shall be
274 entitled to vote in all matters coming before the township council except matters in which
275 such chairperson has disqualified himself or herself as a result of a conflict of interest or
276 other cause.

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

279 36-94-11.

280 (a) Upon the certification of the vote approving the creation of a township pursuant to
281 subsection (b) of Code Section 34-94-2, no rezonings or changes in the land use plan for
282 the properties contained in the township shall be permitted until such time as the township
283 council adopts a comprehensive land use plan and zoning ordinance. The land use plan and
284 zoning of the county in which the township is located that is in existence at the time of the
285 creation of the township shall remain in effect until the township council adopts a
286 comprehensive land use plan and zoning ordinance for the township.

287 (b) A township shall carry liability insurance in such an amount that, in the opinion of the
288 township council, will cover all reasonably anticipated risks of the township.

289 (c) Within two years after the initial elections for the members of the township council,
290 the township shall reimburse the county for the actual cost of printing and personnel
291 services for the initial referendum and initial election of the members of the township
292 council. It shall be the duty of the county election superintendent to hold and conduct such
293 elections. It shall be his or her further duty to certify the results thereof to the Secretary of
294 State. Only for the purposes of holding and conducting the election of the initial township
295 council, the election superintendent of the county in which the township is located is vested
296 with the powers and duties of the election superintendent of the township and the township
297 council regarding elections.

298 36-94-12.

299 (a) A township shall maintain its documents and records, including those items specified
300 in subsection (b) of this Code section, in accordance with the provisions of Article 5 of
301 Chapter 18 of Title 50, the 'Georgia Records Act.'

302 (b) A township shall maintain an Internet website on which it shall post agendas for
303 meetings of the township council and any committees thereof, the minutes of meetings of
304 the township council or any committees thereof, current and proposed budgets of the
305 township, audits of the township, and any other documents mandated by this chapter.
306 Meeting agendas, meeting summaries, and minutes shall be made available on the website
307 on the same schedule for reporting for those documents specified in Code Section 50-14-1
308 except that minutes shall be posted on the website as approved within 48 hours following
309 the meeting at which the minutes were approved. Proposed budgets shall be made
310 available on the website at least one week prior to the meeting at which such proposed
311 budget will be considered. All other documents shall be made available on the website as
312 soon as practicable. Documents posted on the website shall remain accessible by the public
313 for not less than one year following their posting.

314 36-94-13.

315 Violations of township ordinances and other code violations as provided by law shall be
316 heard in the magistrate court of the county in which the township is located, and the
317 magistrate court shall have jurisdiction to handle such matters. In addition, a township
318 council may establish by ordinance a civil code enforcement board as authorized by
319 Chapter 74 of this title to hear such violations.

320 36-94-14.

321 (a) The local Act creating the township may authorize the imposition and levy of an ad
322 valorem tax for the purpose of raising revenues to defray the limited costs of discharging
323 the obligations of the township and of providing township services, for the repayment of
324 principal and interest on general obligations, and for any other public purpose within the
325 authority, powers, and duties of the township council. Such tax shall be limited to an
326 amount not to exceed .5 mill on all taxable real and personal property located within the
327 boundaries of the township that is subject to such taxation by the state and county.

328 (b) Such millage limitation may be increased to a higher level upon approval by a majority
329 of the electors of the township voting in a referendum when such a referendum is
330 authorized by majority vote of the township council, provided that such resolution calling
331 for such referendum expressly states the need and the purpose for such increase in the
332 millage limitation. In addition, the question submitted to the electors at such referendum
333 shall also specify succinctly the need and purpose for such increase.

334 (c) Such tax shall be included by the tax commissioner or tax collector of the county in
335 which such property is located on county tax bills for such property and shall be collected
336 in the same manner as county taxes by such county tax commissioner or tax collector, shall

337 be deposited and maintained in a separate account for such purpose including any interest
 338 received thereon, and shall be promptly remitted to the township with the exception of an
 339 amount that may be withheld by the county to cover the direct actual costs to the county
 340 of collecting and remitting such tax for the township which shall not exceed the direct
 341 actual costs thereof.

342 (d) The General Assembly by local Act consistent with Article VII, Section II,
 343 Paragraph II of the Constitution may provide for homestead exemptions from township ad
 344 valorem taxes.

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

346 36-94-15.

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

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

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

353 (b) The boundaries of a township shall not be altered or amended except by local Act of
 354 the General Assembly or in accordance with the procedures contained in this Code section.

355 (c) Except as provided in subsection (d) of this Code section, the area within the boundary
 356 of a township shall not be subject to annexation by any municipality without the approval
 357 of a majority of the members of the township council and approval by the electors of the
 358 township in a referendum; provided, however, that areas within the boundaries of a
 359 township that are contiguous to an existing municipality as defined in Code
 360 Section 36-36-20 may be annexed by such municipality pursuant to Article 2 of Chapter 36
 361 of this title.

362 (d) Provided that such areas abut the limits of the township, that such deannexation will
 363 not create unincorporated islands, and that such deannexation will not result in the
 364 township falling below the minimum standards for townships contained in paragraph (2)
 365 of subsection (a) of Code Section 36-94-2, a township may deannex an area or areas of the
 366 existing limits of the township upon the written and signed applications containing a
 367 complete description of the lands to be deannexed of all of the owners, except the owners
 368 of any public street, road, highway, or right of way, of all of the land proposed to be
 369 deannexed. Lands to be deannexed at any one time shall be treated as one body, regardless
 370 of the number of owners, and all parts shall be considered as abutting the limits of the
 371 township when any one part of the entire body abuts such limits. When such application
 372 is acted upon by the township and the land is, by ordinance, deannexed from the township,

373 an identification of the property so deannexed shall be filed with the Department of
 374 Community Affairs and with the governing authority of the county in which the property
 375 is located in accordance with Code Section 36-36-3. When so deannexed, such lands shall
 376 cease to constitute a part of the lands within the corporate limits of the township as
 377 completely and fully as if the limits had been marked and defined by local Act of the
 378 General Assembly and shall be subject to annexation by any municipal corporation in
 379 accordance with the provisions of Chapter 36 of Title 36.

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

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

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

388 (ii) Any creek or river; or

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

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

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

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

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

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

405 (3) A township may annex to its existing limits unincorporated areas within the same
 406 county and which are contiguous to the existing township limits at the time of such
 407 annexation upon the written and signed applications containing a complete description
 408 of the lands to be annexed of all of the owners, except the owners of any public street,
 409 road, highway, or right of way, of all of the land proposed to be annexed; provided,

410 however, that such annexation shall not create an unincorporated island. Lands to be
 411 annexed at any one time shall be treated as one body, regardless of the number of owners,
 412 and all parts shall be considered as abutting the limits of the township when any one part
 413 of the entire body abuts such limits. When such application is acted upon by the
 414 township and the land is, by ordinance, annexed to the township, an identification of the
 415 property so annexed shall be filed with the Department of Community Affairs and with
 416 the governing authority of the county in which the property is located in accordance with
 417 Code Section 36-36-3. When so annexed, such lands shall constitute a part of the lands
 418 within the corporate limits of the township as completely and fully as if the limits had
 419 been marked and defined by local Act of the General Assembly. Except as provided in
 420 subsection (c) of Code Section 36-36-20, nothing in this article shall be construed to
 421 authorize annexation of the length of any public right of way except to the extent that
 422 such right of way adjoins private property otherwise annexed by the township."

423 **SECTION 3.**

424 Said title is further amended by revising paragraphs (1) and (4) of Code Section 36-66-3,
 425 relating to definitions regarding zoning procedures, as follows:

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

428 "(4) 'Zoning decision' means final legislative action by a local government which results
 429 in:

430 (A) The adoption of a zoning ordinance;

431 (B) The adoption of an amendment to a zoning ordinance which changes the text of the
 432 zoning ordinance;

433 (C) The adoption of an amendment to a zoning ordinance which rezones property from
 434 one zoning classification to another;

435 (D) The adoption of an amendment to a zoning ordinance by a municipal local
 436 government which zones property to be annexed into the municipality; ~~or~~

437 (E) The grant of a permit relating to a special use of property; or

438 (F) With regard to townships, a decision pursuant to subparagraphs (A), (B), (C), or (E)
 439 of this paragraph."

440 **SECTION 4.**

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

443 "36-66A-1.

444 As used in this chapter, the term:

445 (1) 'Development rights' means the development that would be allowed on the sending
 446 property under any comprehensive or specific plan or local zoning ordinance of a
 447 municipality, township, or county in effect on the date the municipality, township, or
 448 county adopts an ordinance pursuant to this chapter. Development rights may be
 449 calculated and allocated in accordance with factors including dwelling units, area, floor
 450 area, floor area ratio, height limitations, traffic generation, or any other criteria that will
 451 quantify a value for the development rights in a manner that will carry out the objectives
 452 of this Code section.

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

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

457 (4) 'Receiving property' means a lot or parcel within which development rights are
 458 increased pursuant to a transfer of development rights. Receiving property shall be
 459 appropriate and suitable for development and shall be sufficient to accommodate the
 460 transferable development rights of the sending property without substantial adverse
 461 environmental, economic, or social impact to the receiving property or to neighboring
 462 property.

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

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

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

472 (8) 'Transfer ratio' means the ratio of the number of development rights that may be
 473 allocated to and transferred from a lot or parcel in a sending area to the number of
 474 development credits that may be allocated to and used upon a lot or parcel in a receiving
 475 area."

476 **SECTION 5.**

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

479 "36-66A-2.

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

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

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

488 (1) The issuance and recordation of the instruments necessary to sever development
489 rights from the sending property and to affix development rights to the receiving
490 property. These instruments shall be executed by the affected property owners and
491 lienholders and recorded in the county superior court clerk's office and in a separate
492 registry maintained by the municipal, township, or county governing authority;

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

496 (3) The severance of transferable development rights from the sending property and the
497 delayed transfer of development rights to a receiving property, which may include the
498 transfer of development rights in accordance with any transfer ratio established by the
499 local government for sending areas, receiving areas, or both;

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

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

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

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

508 (8) Development rights made transferable pursuant to this Code section shall be interests
509 in real property and shall be considered as such for purposes of conveyancing and
510 taxation. Once a deed of transferable development rights created pursuant to this Code
511 section has been sold, conveyed, or otherwise transferred by the owner of the parcel from
512 which the development rights were derived, the transfer of development rights shall vest
513 in the grantee and become freely alienable. For the purposes of ad valorem real property
514 taxation, the value of a transferable development right shall be deemed appurtenant to the
515 sending property until the transferable development right is registered as a distinct

516 interest in real property with the appropriate tax assessor or the transferable development
517 right is used at a receiving property and becomes appurtenant thereto;

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

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

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

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

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

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

542 **SECTION 6.**

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

545 "36-67-1.

546 This article shall apply only to those counties which have a population of 625,000 or more
547 according to the United States decennial census of 2000 or any future such census and to
548 those municipalities and townships wholly or partially located within such counties which
549 have a population of 100,000 or more according to the United States decennial census of
550 1980 or any future such census. As used in this article, the term 'local government' means

551 those counties, townships, and municipalities subject to this article; and the term 'governing
552 authority' means the governing authority of each such county, township, and municipality."

553 **SECTION 7.**

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

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

557 **SECTION 8.**

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

560 "ARTICLE 1

561 36-70-1.

562 The local governments of the State of Georgia are of vital importance to the state and its
563 citizens. The state has an essential public interest in promoting, developing, sustaining, and
564 assisting local governments. In addition, the natural resources, environment, and vital
565 areas of the state are of vital importance to the state and its citizens. The state has an
566 essential public interest in protecting and preserving the natural resources, the environment,
567 and the vital areas of the state. The purpose of this article is to provide for local
568 governments to serve these essential public interests of the state by authorizing and
569 promoting the establishment, implementation, and performance of coordinated and
570 comprehensive planning by township governments, municipal governments, and county
571 governments, and this article shall be construed liberally to achieve that end. This article
572 is enacted pursuant to the authority granted the General Assembly in the Constitution of
573 the State of Georgia, including, but not limited to, the authority provided in Article III,
574 Section VI, Paragraphs I and II(a)(1) and Article IX, Section II, Paragraphs III and IV.

575 36-70-2.

576 As used in this chapter, the term:

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

581 (2) 'Coordinated and comprehensive planning' means planning by counties, townships,
582 and municipalities undertaken in accordance with the minimum standards and procedures

583 for preparation of plans, for implementation of plans, and for participation in the
584 coordinated and comprehensive planning process, as established by the department.

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

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

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

591 (5.1) 'Inactive municipality' means any municipality which has not for a period of three
592 consecutive calendar years carried out any of the following activities:

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

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

596 (C) The holding of a municipal election.

597 (5.2) 'Local government' means any county as defined in paragraph (3) of this Code
598 section, any township as defined in paragraph (10) of this Code section, or any
599 municipality as defined in paragraph (7) of this Code section. The term does not include
600 any school district of this state nor any sheriff, clerk of the superior court, judge of the
601 probate court, or tax commissioner or the office, personnel, or services provided by such
602 elected officials.

603 (5.3) 'Mechanisms' includes, but is not limited to, intergovernmental agreements,
604 ordinances, resolutions, and local Acts of the General Assembly in effect on July 1, 1997,
605 or executed thereafter.

606 (6) 'Minimum standards and procedures' means the minimum standards and procedures
607 for preparation of comprehensive plans, for implementation of comprehensive plans, and
608 for participation in the coordinated and comprehensive planning process, as established
609 by the department, in accordance with Article 1 of Chapter 8 of Title 50. Minimum
610 standards and procedures shall include any standards and procedures for such purposes
611 prescribed by a regional commission for counties, townships, and municipalities within
612 its region and approved in advance by the department.

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

615 (8) 'Region' means the territorial area within the boundaries of operation for any regional
616 commission, as such boundaries shall be established from time to time by the board of
617 the department.

618 (9) 'Regional commission' means a regional commission established under Article 2 of
619 Chapter 8 of Title 50.

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

621 36-70-3.

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

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

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

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

631 (4) To employ personnel, or to enter into contracts with a regional commission or other
632 public or private entity, to assist the municipality, township, or county in developing,
633 establishing, and implementing its comprehensive plan;

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

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

641 36-70-4.

642 (a) Each municipality, township, and county shall automatically be a member of the
643 regional commission for the region which includes such municipality, township, or county,
644 as the case may be.

645 (b) Each municipality, township, and county shall pay, when and as they become due, the
646 annual dues required for membership in its regional commission.

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

650 36-70-5.

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

654 (b) Any municipality which is as of April 17, 1992, an inactive municipality shall not on
655 or after April 17, 1992, exercise any powers under this article or exercise any zoning
656 powers, until and unless the municipality is restored to active status by the enactment of
657 an appropriate new or amended charter by local Act of the General Assembly. Any
658 municipality which becomes an inactive municipality after April 17, 1992, shall not after
659 becoming inactive exercise powers under this article or exercise any zoning powers, until
660 and unless the municipality is restored to active status by the enactment of an appropriate
661 new or amended charter by local Act of the General Assembly.

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

666 **SECTION 9.**

667 This Act shall become effective on January 1, 2011, provided that an amendment to the
668 Constitution authorizing the General Assembly to create townships is passed in the 2009
669 session of the General Assembly and is ratified by the electors of the state at the 2010
670 November general election.

671 **SECTION 10.**

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