

House Bill 558

By: Representatives Hamilton of the 23rd and Rynders of the 152nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 36 of Title 36 of the Official Code of Georgia Annotated, relating to
2 annexation of territory, so as to repeal certain provisions relating to authority, procedures,
3 identification, and status of lands relative to deannexation; to provide for deannexation of
4 property pursuant to application of landowners thereof; to provide for procedures, conditions,
5 and limitations; to provide for facilities and services; to provide for other matters relative to
6 the foregoing; to provide for bonded indebtedness in the event of a deannexation of property
7 from a municipality; to provide for the assessment and collection of taxes; to provide for the
8 resolution of disputes relating to zoning and land use arising from a deannexation; to provide
9 for notice; to provide for notice of objection; to provide for an objection to zoning; to provide
10 for a period for mitigation of objections; to provide for mediation; to provide for a citizen
11 review panel; to provide for review and a recommendation; to provide for the filing for a
12 petition in the superior court for sanctions; to provide for judicial review; to provide for the
13 effective date of a zoning decision; to provide for additional procedures; to provide for other
14 objections to a deannexation; to provide an effective date; to repeal conflicting laws; and for
15 other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 **SECTION 1.**

18 Chapter 36 of Title 36 of the Official Code of Georgia Annotated, relating to annexation of
19 territory, is amended by revising Code Section 36-36-22, relating to deannexation, as
20 follows:

21 "36-36-22.

22 ~~Authority is granted to the governing bodies of the several municipal corporations of this~~
23 ~~state to deannex an area or areas of the existing corporate limits thereof, in accordance with~~
24 ~~the procedures provided in this article and in Article 1 of this chapter, upon the written and~~
25 ~~signed applications of all of the owners of all of the land, except the owners of any public~~
26 ~~street, road, highway, or right of way, proposed to be deannexed, containing a complete~~

27 ~~description of the lands to be deannexed and the adoption of a resolution by the governing~~
 28 ~~authority of the county in which such property is located consenting to such deannexation.~~
 29 ~~Lands to be deannexed at any one time shall be treated as one body, regardless of the~~
 30 ~~number of owners, and all parts shall be considered as adjoining the limits of the municipal~~
 31 ~~corporation when any one part of the entire body abuts such limits. When such application~~
 32 ~~is acted upon by the municipal authorities and the land is, by ordinance, deannexed from~~
 33 ~~the municipal corporation, an identification of the property so deannexed shall be filed with~~
 34 ~~the Department of Community Affairs and with the governing authority of the county in~~
 35 ~~which the property is located in accordance with Code Section 36-36-3. When so~~
 36 ~~deannexed, such lands shall cease to constitute a part of the lands within the corporate~~
 37 ~~limits of the municipal corporation as completely and fully as if the limits had been marked~~
 38 ~~and defined by local Act of the General Assembly Reserved.~~"

39 **SECTION 2.**

40 Said chapter is further amended by adding new articles to read as follows:

41 "ARTICLE 8

42 36-36-130.

43 The procedures of this article shall apply to all deannexations pursuant to this chapter but
 44 shall not apply to deannexations by local Acts of the General Assembly.

45 36-36-131.

46 (a) An area or areas within the existing corporate limits of a municipality that are
 47 contiguous to the unincorporated area of the county within which the municipality is
 48 located may be deannexed in accordance with the procedures provided in this Code section.
 49 Such deannexation shall only occur upon the written and signed application of all of the
 50 owners of all of the lands, except the owners of any public street, road, highway, or right
 51 of way, proposed to be deannexed.

52 (b) The application required by subsection (a) of this Code section shall contain a complete
 53 description of the lands to be deannexed. In addition, a copy of a resolution by the
 54 governing authority of the county in which such property is located consenting to such
 55 deannexation shall also be included in the application.

56 (c)(1) Subject to the provisions of Code Sections 36-36-133 through 36-36-135, when
 57 a complete application is submitted to the municipal corporation, the land shall be
 58 deannexed from the municipal corporation effective for ad valorem tax purposes on
 59 December 31 of the year during which such application is submitted and for all other

60 purposes on the first day of the next calendar quarter which begins at least one month
61 after the month during which the requirements of this article have been met.

62 (2) Unless otherwise agreed to in writing by a county governing authority and the
63 municipal governing authority, where property zoned and used for commercial purposes
64 is deannexed from a municipality with an independent school system, the effective date
65 for the purposes of ad valorem taxes levied for educational purposes shall be
66 December 31 of the year after the year in which the requirements of this article have been
67 met.

68 (d) An identification of the property so deannexed shall be filed with the Department of
69 Community Affairs and with the governing authority of the municipal corporation.

70 (e) When deannexed pursuant to this Code section, such lands shall cease to constitute a
71 part of the lands within the corporate limits of the municipal corporation as completely and
72 fully as if the limits had been marked and defined by local Act of the General Assembly.

73 (f) Lands to be deannexed at any one time shall be treated as one body, regardless of the
74 number of owners, and all parts shall be considered as adjoining the limits of the municipal
75 corporation when any one part of the entire body abuts such limits.

76 (g) For the purposes of this Code section, property shall be considered contiguous to the
77 unincorporated area of a county if at least one-eighth of the aggregate external boundary
78 or 50 feet of the area proposed for deannexation either abuts directly on an unincorporated
79 area or would directly abut on the unincorporated area if it were not otherwise separated
80 from the municipal boundary by lands owned by a municipal corporation, the county, or
81 some other political subdivision; lands owned by this state; the definite width of any street
82 or street right of way; any creek or river; or any right of way of a railroad or other public
83 service corporation. If, as a result of deannexation, some portion of a municipality no
84 longer directly abuts the remainder of the municipal territory, nothing in this article shall
85 be construed to imply that the area no longer abutting the municipality is no longer within
86 the incorporated area of the municipality from which the property was deannexed.

87 (h) Property that has been annexed to a municipal corporation shall not be deannexed
88 pursuant to the provisions of this article until at least two calendar years after the date the
89 annexation of said property became effective. Such property shall only be eligible for
90 deannexation pursuant to this article for a period not to exceed five years after the date the
91 annexation of said property became effective.

92 (i) Property that is included within the municipal boundaries of a newly incorporated
93 municipality shall not be subject to deannexation pursuant to the provisions of this article
94 until at least two calendar years after the date the incorporation became effective. Such
95 property shall only be eligible for deannexation pursuant to this article for a period not to
96 exceed five years after the date the incorporation of said property became effective.

97 (j) Property that has been deannexed from a municipal corporation pursuant to the
98 provisions of this article shall not be annexed again until at least two calendar years after
99 the date the deannexation of said property became effective, unless such annexation is
100 accomplished by local Act of the General Assembly.

101 36-36-132.

102 Whenever land is deannexed from a municipal corporation pursuant to this article, any
103 bonded indebtedness of the municipality which is outstanding as of the effective date of the
104 deannexation shall become the debt and obligation of a special tax district. The special tax
105 district shall correspond to and be conterminous with the corporate limits of the
106 municipality as of the effective date of the deannexation. The county shall provide for the
107 assessment and collection of taxes within the special tax district in the same manner and
108 to the same extent that such taxes were previously imposed by the municipality in
109 accordance with the terms of the obligations of any bonded indebtedness of the
110 municipality which is outstanding on the effective date of the deannexation.

111 36-36-133.

112 Upon receipt of a petition of deannexation, a county shall notify the municipal corporation
113 in which the territory to be deannexed is located by certified mail or by statutory overnight
114 delivery. Such notice shall include a copy of the deannexation petition which shall include
115 the proposed zoning and land use for such area. The governing authority of the county
116 shall take no final action on such deannexation except as otherwise provided in this article.

117 36-36-134.

118 If no objection is received as provided in Code Section 36-36-135, the deannexation may
119 proceed as otherwise provided by law; provided, however, that, as a condition of the
120 deannexation, the governing authority of the county shall not change the zoning or land use
121 plan relating to the deannexed property to a more intense density than that stated in the
122 notice provided for in Code Section 36-36-133 for one year after the effective date of the
123 deannexation unless such change is made in the service delivery agreement or
124 comprehensive plan and is adopted by the affected city and county and all required parties.

125 36-36-135.

126 (a) The municipal corporation may by majority vote object to the deannexation because
127 of a material increase in burden upon the municipal corporation directly related to any one
128 or more of the following:

129 (1) The proposed change in zoning or land use;

- 130 (2) Proposed increase in density; and
- 131 (3) Infrastructure demands related to the proposed change in zoning or land use.
- 132 (b) Delivery of services may not be a basis for a valid objection but may be used in support
 133 of a valid objection if directly related to one or more of the subjects enumerated in
 134 paragraphs (1), (2), and (3) of subsection (a) of this Code section.
- 135 (c) The objection provided for in subsection (a) of this Code section shall document the
 136 nature of the objection specifically providing evidence of any financial impact forming the
 137 basis of the objection and shall be delivered to the governing authority of the county by
 138 certified mail or statutory overnight delivery to be received not later than the end of the
 139 thirtieth calendar day following receipt of the notice provided for in Code Section
 140 36-36-133.
- 141 (d) In order for an objection pursuant to this Code section to be valid, the proposed change
 142 in zoning or land use must:
- 143 (1) Result in:
- 144 (A) A substantial change in the intensity of the allowable use of the property or a
 145 change to a significantly different allowable use; or
- 146 (B) A use which significantly increases the net cost of infrastructure or significantly
 147 diminishes the value or useful life of a capital outlay project, as such term is defined in
 148 Code Section 48-8-110, which is furnished by the municipal corporation to the area to
 149 be deannexed; and
- 150 (2) Differ substantially from the existing uses suggested for the property by the
 151 municipal corporation's comprehensive land use plan or permitted for the property
 152 pursuant to the municipal corporation's zoning ordinance or its land use ordinances.

153 ARTICLE 9

- 154 36-36-150.
- 155 (a) As used in this article, the term 'contiguous area' means any area of which at least
 156 one-eighth of the aggregate external boundary or 50 feet of the area proposed for
 157 deannexation, at the time deannexation procedures are initiated, directly abuts the
 158 municipal boundary. Any area shall also be a 'contiguous area' if at least one-eighth of its
 159 aggregate external boundary or 50 feet of the area proposed for deannexation would
 160 directly abut the county boundary if not otherwise separated, in whole or in part, from the
 161 county boundary by lands owned by the municipal corporation, by lands owned by a
 162 county, or by lands owned by this state or by the definite width of any street or street right
 163 of way, any creek or river, or any right of way of a railroad or other public service
 164 corporation.

165 (b) For purposes of determining an area's aggregate external boundary, all real property
166 which, at the time deannexation procedures are initiated, is owned by the same person who
167 owns real property in the area to be deannexed, adjoins to any extent such owner's real
168 property in the area to be deannexed, is in the same municipal corporation as the real
169 property in the area to be deannexed, and is not included within the boundaries of any
170 county shall have its area included in determining the aggregate external boundary of the
171 area to be deannexed.

172 36-36-151.

173 (a) Authority is granted to the governing bodies of the several counties of this state to
174 deannex to the existing county limits thereof incorporated areas which are contiguous to
175 the existing county limits at the time of such deannexation, in accordance with the
176 procedures provided in this article, upon the written and signed application of not less than
177 60 percent of the electors resident in the area included in any such application and of the
178 owners of not less than 60 percent of the land area, by acreage, included in such
179 application. The authority granted in this Code section is in addition to existing authority
180 and is intended to provide a cumulative method of deannexing territory from municipal
181 corporations in addition to those methods provided by present law, including Article 8 of
182 this chapter.

183 (b) Each such application shall contain a complete description of the land proposed to be
184 deannexed. Lands to be deannexed at any one time shall be treated as one body, regardless
185 of the number of owners, and all parts shall be considered as adjoining the limits of the
186 county when any one part of the entire body abuts such limits.

187 (c) Each person signing an application for deannexation shall also print or type thereon his
188 or her name, address, and the date of signature. In addition, such person shall indicate
189 whether he or she is a landowner within the area to be deannexed, an elector, or both.

190 (d) For the purpose of determining the percentage of electors signing such application, the
191 county governing body shall obtain a list of electors residing in such area from the board
192 of registrars of the municipal corporation, county, or counties in which the area lies. The
193 list shall be compiled by the board of registrars and provided to the county governing body
194 in accordance with Code Section 21-2-227. The county governing body shall bear the
195 expense of the preparation of the list in the manner prescribed by such Code section.

196 (e) For the purpose of determining ownership of the property included within such
197 application, the record titleholder of the fee simple title or his or her legal representative
198 shall be considered the owner of the property.

199 (f) Signatures of owners of public roads and other public land within the area to be
200 deannexed shall not be required in satisfying the requirements of subsection (a) of this

201 Code section and the acreage of such public properties shall be excluded from acreage
202 calculations pertaining to the landowner approval required by subsection (a) of this Code
203 section. This subsection applies only where the public properties are included in the area
204 to be deannexed.

205 (g) The necessary number of signatures of landowners and electors shall be obtained
206 within one calendar year following the date of the first signature obtained. Failure to
207 collect the required number within the one-year period shall invalidate previously collected
208 signatures. Nothing in this subsection shall prohibit collection of signatures from the same
209 persons on subsequent applications for deannexation.

210 36-36-152.

211 (a) There shall be no deannexation across the boundary lines of a municipal corporation
212 under this article.

213 (b) Property that has been annexed to a municipal corporation shall not be deannexed
214 pursuant to the provisions of this article until at least two calendar years after the date the
215 annexation of said property became effective. Such property shall only be eligible for
216 deannexation pursuant to this article for a period not to exceed five years after the date the
217 annexation of said property became effective.

218 (c) Property that is included within the municipal boundaries of a newly incorporated
219 municipality shall not be subject to deannexation pursuant to the provisions of this article
220 until at least two calendar years after the date the incorporation became effective. Such
221 property shall only be eligible for deannexation pursuant to this article for a period not to
222 exceed five years after the date the incorporation of said property became effective.

223 (d) Property that has been deannexed from a municipal corporation pursuant to the
224 provisions of this article shall not be annexed again until at least two calendar years after
225 the date the deannexation of said property became effective, unless such annexation is
226 accomplished by local Act of the General Assembly.

227 36-36-153.

228 Whenever the governing body of a county receives an application pursuant to Code
229 Section 36-36-151, it shall, after investigation, determine whether such application
230 complies with the requirements of this article. If it is determined that the application does
231 not comply with this article, the governing body shall notify in writing the persons
232 presenting the application, stating wherein the application is deficient. If it is determined
233 that the application does comply with this article, the county governing body shall proceed
234 to act on the application in accordance with Code Section 36-36-154.

235 36-36-154.

236 (a) A county exercising authority under this article shall make plans for the extension of
237 services to the area proposed to be deannexed and, prior to the public hearing provided for
238 in Code Section 36-36-155, shall prepare a report setting forth its plans to provide services
239 to the area.

240 (b) The report required in subsection (a) of this Code section shall include:

241 (1) A map or maps of the county and adjacent territory, showing the present and
242 proposed boundaries of the county, the present major trunk water mains and sewer
243 interceptors and outfalls, and the proposed extensions of such mains and outfalls as
244 required in paragraph (2) of subsection (c) of this Code section; and

245 (2) A statement setting forth the plans of the county for extending to the area to be
246 deannexed each major county service performed within the county at the time of
247 deannexation.

248 (c) The plans required in subsection (a) of this Code section shall:

249 (1) Provide for extending police protection, fire protection, garbage collection, and street
250 maintenance services to the area to be deannexed, on the date of deannexation, on
251 substantially the same basis and in the same manner as such services are provided within
252 the rest of the county prior to deannexation, to the extent such services are provided by
253 the county; but, if a water distribution system is not available in the area to be deannexed,
254 the plans must call for reasonably effective fire protection services until such time as
255 water lines are made available in the area under existing county policies for the extension
256 of water lines; and

257 (2) Provide for extension of major trunk water mains and sewer outfall lines into the area
258 to be deannexed within 12 months of the effective date of deannexation, so that when
259 such lines are constructed property owners in the area to be deannexed will be able to
260 secure public water and sewer service, according to the policies in effect in such county
261 for extending water and sewer lines to individual lots or subdivisions.

262 (d) The report required in subsection (a) of this Code section shall be prepared and made
263 available to the public at least 14 days prior to the public hearing required by Code
264 Section 36-36-155.

265 36-36-155.

266 (a) The county governing body shall hold a public hearing on any application which has
267 been determined to meet the requirements of this article. The hearing shall be held not less
268 than 15 nor more than 45 days from the time the governing body makes a determination
269 that the petition is valid. Notice of the time and place of the hearing shall be given in
270 writing to the persons presenting the application and shall be advertised once a week for

271 two consecutive weeks immediately preceding the hearing in a newspaper of general
272 circulation in the county and in the area proposed for deannexation.

273 (b) At the public hearing all persons residing or owning property in the county or in the
274 area proposed for deannexation may be heard on the question of the deannexation of the
275 area by the county.

276 (c) Any property owner or elector may withdraw his or her consent in writing postmarked
277 or received within three business days after the public hearing required by this Code
278 section.

279 36-36-156.

280 (a) If, after the public hearing, the governing body determines that the deannexation to the
281 county of the area proposed in the application would be in the best interest of the residents
282 and property owners of the area proposed for deannexation and of the citizens of the
283 county, the area may be deannexed to the county by the adoption of an deannexing
284 resolution.

285 (b) The deannexing resolution authorized by subsection (a) of this Code section shall be
286 adopted within 60 days following validation of the signature of the applicants.

287 (c) Upon adoption of a deannexing resolution, a county shall notify the municipal
288 corporation in which the territory to be deannexed is located by certified mail or by
289 statutory overnight delivery. Such notice shall include a copy of the deannexation petition
290 which shall include the proposed zoning and land use for such area. The governing
291 authority of the county shall take no final action on such deannexation except as otherwise
292 provided in this article.

293 36-36-157.

294 If no objection is received as provided in Code Section 36-36-158, the deannexation may
295 proceed as otherwise provided by law; provided, however, that as a condition of the
296 deannexation the governing authority of the county shall not change the zoning or land use
297 plan relating to the deannexed property to a more intense density than that stated in the
298 notice provided for in Code Section 36-36-156 for one year after the effective date of the
299 deannexation unless such change is made in the service delivery agreement or
300 comprehensive plan and is adopted by the affected city and county and all required parties.

301 36-36-158.

302 (a) The municipal corporation may by majority vote object to the deannexation because
303 of a material increase in burden upon the municipal corporation directly related to any one
304 or more of the following:

- 305 (1) The proposed change in zoning or land use;
 306 (2) Proposed increase in density; and
 307 (3) Infrastructure demands related to the proposed change in zoning or land use.
 308 (b) Delivery of services may not be a basis for a valid objection but may be used in support
 309 of a valid objection if directly related to one or more of the subjects enumerated in
 310 paragraphs (1), (2), and (3) of subsection (a) of this Code section.
 311 (c) The objection provided for in subsection (a) of this Code section shall document the
 312 nature of the objection specifically providing evidence of any financial impact forming the
 313 basis of the objection and shall be delivered to the governing authority of the county by
 314 certified mail or statutory overnight delivery to be received not later than the end of the
 315 thirtieth calendar day following receipt of the notice provided for in Code Section
 316 36-36-156.
 317 (d) In order for an objection pursuant to this Code section to be valid, the proposed change
 318 in zoning or land use must:
 319 (1) Result in:
 320 (A) A substantial change in the intensity of the allowable use of the property or a
 321 change to a significantly different allowable use; or
 322 (B) A use which significantly increases the net cost of infrastructure or significantly
 323 diminishes the value or useful life of a capital outlay project, as such term is defined in
 324 Code Section 48-8-110, which is furnished by the municipal corporation to the area to
 325 be deannexed; and
 326 (2) Differ substantially from the existing uses suggested for the property by the
 327 municipal corporation's comprehensive land use plan or permitted for the property
 328 pursuant to the municipal corporation's zoning ordinance or its land use ordinances.
 329 36-36-159.
 330 (a) When an application pursuant to Code Section 36-36-156 is acted upon by the county
 331 and the land, by ordinance, is deannexed to the county, an identification of the deannexed
 332 property shall be filed with the Department of Community Affairs and the governing
 333 authority of the municipal corporation.
 334 (b)(1) The land shall be deannexed from the municipal corporation effective for ad
 335 valorem tax purposes on December 31 of the year during which the requirements of this
 336 article have been met and for all other purposes on the first day of the next calendar
 337 quarter which begins at least one month after the month during which the requirements
 338 of this article have been met.
 339 (2) Unless otherwise agreed in writing by a county governing authority and the
 340 municipal governing authority, where property zoned and used for commercial purposes

341 is deannexed from a municipality with an independent school system, the effective date
 342 for the purposes of ad valorem taxes levied for educational purposes shall be
 343 December 31 of the year after the year in which the requirements of this article have been
 344 met.

345 (c) When deannexed, such lands shall constitute a part of the lands within the limits of the
 346 county as completely and fully as if the limits had been marked and defined by local Act
 347 of the General Assembly.

348 36-36-160.

349 Nothing within this article shall prohibit the county from requiring the residents of the
 350 newly deannexed area to use utilities owned by the county when they are available.

351 ARTICLE 10

352 36-36-190.

353 (a) Not later than the fifteenth calendar day following the date the county received the first
 354 objection provided for in Code Section 36-36-135 or Code Section 36-36-158, an
 355 arbitration panel shall be appointed as provided in this Code section.

356 (b) The arbitration panel shall be composed of five members to be selected as provided in
 357 this subsection. The Department of Community Affairs shall develop three pools of
 358 arbitrators, one pool which consists of persons who are currently or within the previous six
 359 years have been municipal elected officials, one pool which consists of persons who are
 360 currently or within the previous six years have been county elected officials, and one pool
 361 which consists of persons with a master's degree or higher in public administration or
 362 planning and who are currently employed by an institution of higher learning in this state.
 363 The pool shall be sufficiently large to ensure as nearly as practicable that no person shall
 364 be required to serve on more than two panels in any one calendar year and serve on no
 365 more than one panel in any given county in any one calendar year. The department is
 366 authorized to coordinate with the Georgia Municipal Association, the Association County
 367 Commissioners of Georgia, the Council of Local Governments, and similar organizations
 368 in developing and maintaining such pools.

369 (c) Upon receiving notice of a disputed deannexation, the department shall choose at
 370 random four names from the pool of municipal officials, four names from the pool of
 371 county officials, and three names from the pool of academics; provided, however, that none
 372 of such selections shall include a person who is a resident of the municipal corporation
 373 which has interposed the objection or any county located wholly or partially in such
 374 municipal corporation. The municipal corporation shall be permitted to strike or excuse

375 two of the names chosen from the county officials pool; the county shall be permitted to
 376 strike or excuse two of the names chosen from the municipal officials pool; and the county
 377 and municipal corporation shall each be permitted to strike or excuse one of the names
 378 chosen from the academic pool.

379 (d) Prior to being eligible to serve on any of the three pools, persons interested in serving
 380 on such panels shall receive joint training in alternative dispute resolution together with
 381 zoning and land use training, which may be designed and overseen by the Carl Vinson
 382 Institute of Government in conjunction with the Association County Commissioners of
 383 Georgia and the Georgia Municipal Association, provided such training is available.

384 (e) At the time any person is selected to serve on a panel for any particular deannexation
 385 dispute, he or she shall sign the following oath: 'I do solemnly swear or affirm that I will
 386 faithfully perform my duties as an arbitrator in a fair and impartial manner without favor
 387 or affection to any party, and that I have not and will not have any ex parte communication
 388 regarding the facts and circumstances of the matters to be determined, other than
 389 communications with my fellow arbitrators, and will only consider, in making my
 390 determination, those matters which may lawfully come before me.'

391 36-36-191.

392 (a)(1) The arbitration panel appointed pursuant to Code Section 36-36-190 shall meet as
 393 soon after appointment as practicable and shall receive evidence and argument from the
 394 municipal corporation, the county, and the applicant or property owner and shall by
 395 majority vote render a decision which shall be binding on all parties to the dispute as
 396 provided for in this article not later than the sixtieth day following such appointment.
 397 The meetings of the panel in which evidence is submitted or arguments of the parties are
 398 made shall be open to the public pursuant to Chapter 14 of Title 50. The panel shall first
 399 determine the validity of the grounds for objection as specified in the objection. If an
 400 objection involves the financial impact on the municipal corporation as a result of a
 401 change in zoning or land use or the provision of maintenance of infrastructure, the panel
 402 shall quantify such impact in terms of cost. If the panel finds any objection to be valid,
 403 the panel, in its findings, may establish reasonable zoning, land use, or density conditions
 404 applicable to the deannexation and propose any reasonable mitigating measures for
 405 infrastructure demands.

406 (2) In arriving at its determination, the panel shall consider:

407 (A) The existing comprehensive land use plans of both the municipal corporation and
 408 county;

409 (B) The existing land use patterns in the area of the subject property;

410 (C) The existing zoning patterns in the area of the subject property;

- 411 (D) Each jurisdiction's provision of infrastructure to the area of the subject property;
412 (E) Whether the county has approved similar changes in intensity or allowable uses
413 on similar developments in other unincorporated areas of the county;
414 (F) Whether the municipal corporation has approved similar developments in other
415 areas of the municipal corporation which have a similar impact on infrastructure as
416 complained of by the municipal corporation in its objection; and
417 (G) Whether the infrastructure or capital outlay project which is claimed adversely
418 impacted by the municipal corporation in its objection was funded by a municipal
419 corporation-wide tax.
- 420 (3) The municipal corporation shall provide supporting evidence that its objection is
421 consistent with its land use plan and the pattern of existing land uses and zoning in the
422 area of the subject property.
- 423 (4) The municipal corporation shall bear at least 75 percent of the cost of the arbitration.
424 The panel shall apportion the remaining 25 percent of the cost of the arbitration equitably
425 between the county and the municipal corporation as the facts of the appeal warrant;
426 provided, however, that if the panel determines that any party has advanced a position
427 that is substantially frivolous, the costs shall be borne by the party that has advanced such
428 position.
- 429 (5) The reasonable costs of participation in the arbitration process of the property owner
430 or owners whose property is at issue shall be borne by the municipal corporation and the
431 county in the same proportion as costs are apportioned under paragraph (4) of this
432 subsection.
- 433 (6) The panel shall deliver its findings and recommendations to the parties by certified
434 mail or statutory overnight delivery.
- 435 (b) If the decision of the panel contains zoning, land use, or density conditions, the
436 findings and recommendations of the panel shall be recorded in the deed records of the
437 county with a caption describing the name of the current owner of the property, recording
438 reference of the current owner's acquisition deed and a general description of the property,
439 and plainly showing the expiration date of any restrictions or conditions.
- 440 (c) The arbitration panel shall be dissolved on the tenth day after it renders its findings and
441 recommendations but may be reconvened as provided in Code Section 36-36-192.
- 442 (d) The members of the arbitration panel shall receive the same per diem, expenses, and
443 allowances for their service on the committee as is authorized by law for members of
444 interim legislative study committees.
- 445 (e) If the panel so agrees, any one or more additional deannexation disputes which may
446 arise between the parties prior to the panel's initial meeting may be consolidated for the
447 purpose of judicial economy if there are similar issues of location or similar objections

448 raised to such other deannexations or the property to be deannexed in such other
449 deannexations is within 2,500 feet of the subject property.

450 36-36-192.

451 The municipal or county governing authority or an applicant for deannexation may appeal
452 the decision of the arbitration panel by filing an action in the superior court of the county
453 within ten calendar days from receipt of the panel's findings and recommendations. The
454 only grounds for appeal shall be to correct errors of fact or of law, the bias or misconduct
455 of an arbitrator, or the panel's abuse of discretion. The superior court shall schedule an
456 expedited appeal and shall render a decision within 20 days from the date of filing. If the
457 court finds that an error of fact or law has been made, that an arbitrator was biased or
458 engaged in misconduct, or that the panel has abused its discretion, the court shall issue such
459 orders governing the proposed deannexation as the circumstances may require, including
460 remand to the panel. Any unappealed order shall be binding upon the parties. The appeal
461 shall be assigned to a judge who is not a judge in the circuit in which the county is located.

462 36-36-193.

463 If at any time during the proceedings the county or applicant abandons the proposed
464 deannexation, the municipal corporation shall not change the zoning, land use, or density
465 affecting the property for a period of one year unless such change is made in the service
466 delivery agreement or comprehensive plan and adopted by the affected city and county and
467 all required parties. A violation of the conditions set forth in this Code section may be
468 enforced thereafter at law or in equity until such period has expired. After final resolution
469 of any objection, whether by agreement of the parties, act of the panel, or any appeal from
470 the panel's decision, the terms of a decision to deannex shall remain valid for the one-year
471 period and such deannexation may proceed at any time during the one year without any
472 further action or without any further right of objection by the municipal corporation.

473 36-36-194.

474 The county, the municipal corporation, and the property owner or owners shall negotiate
475 in good faith throughout the deannexation proceedings provided by this article and may at
476 any time enter into a written agreement governing the deannexation. If such agreement is
477 reached after the arbitration panel has been appointed and before its dissolution, such
478 agreement shall be adopted by the panel as its findings and recommendations. If such
479 agreement is reached after an appeal is filed in the superior court and before the court
480 issues an order, such agreement shall be made a part of the court's order. Any agreement

481 reached as provided in this Code section shall be recorded as provided in Code Section
482 36-36-191."

483 **SECTION 3.**

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

486 **SECTION 4.**

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