

The House Committee on Intragovernmental Coordination offers the following substitute to HB 558:

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 provide for deannexation by application of landowners and  
3 residents who were previously subject to annexation into a municipal corporation more than  
4 two years and less than five years prior to filing the application for deannexation; to provide  
5 for procedures, conditions, and limitations; to provide for facilities and services; to provide  
6 for bonded indebtedness in the event of a deannexation of property from a municipality; to  
7 provide for the assessment and collection of taxes; to provide for notice; to provide for public  
8 hearing and review and a recommendation; to provide for related matters; to provide an  
9 effective date; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Chapter 36 of Title 36 of the Official Code of Georgia Annotated, relating to annexation of  
13 territory, is amended by inserting new Code sections to read as follows:

14 "36-36-22.1.

15 (a) In addition to other methods of deannexation provided for by law, where lands have  
16 been annexed into a municipal corporation not less than two calander years nor more than  
17 five calander years from the date such annexation was final, the county governing authority  
18 shall have authority to deannex such lands by filing an application within such time period  
19 as provided in this Code Section using one of the following methods:

20 (1) Upon the written and signed application of all of the owners of all of the lands  
21 previously annexed and who are now requesting to be deannexed, except the owners of  
22 any public street, road, highway, or right of way; or

23 (2) Upon the written and signed application of not less than 60 percent of the electors  
24 residing in the previously annexed area included in any such application and of the

25 owners of not less than 60 percent of the previously annexed land area, by acreage,  
26 included in such application.

27 The procedures and limitations of this Code section shall apply to all deannexations  
28 pursuant to this Code section but shall not apply to deannexations by local Acts of the  
29 General Assembly or deannexations otherwise provided by law. No lands that have been  
30 annexed for five years or more shall be eligible for deannexation pursuant to this Code  
31 section.

32 (b) Applications for deannexation shall contain a complete description of the lands to be  
33 deannexed. In addition, a copy of a resolution by the governing authority of the county in  
34 which such property is located consenting to such deannexation shall also be included in  
35 the application.

36 (c) Deannexation pursuant to this Code section shall not result in the creation of an  
37 unincorporated island prohibited by Code Section 36-36-4 nor shall any deannexation  
38 result in a separation of the existing municipality such that a separate incorporated island  
39 is created. Deannexation shall only be permitted for contiguous areas as such term is  
40 defined in Code Section 36-36-20. Lands to be deannexed at any one time shall be treated  
41 as one body, regardless of the number of owners, and all parts shall be considered as  
42 adjoining the limits of the municipal corporation when any one part of the entire body abuts  
43 such limits. No deannexation may occur under this Code section which would result in the  
44 division of an existing designated subdivision without the consent of the municipal  
45 governing authority. For purposes of this subsection, 'subdivision' shall have the same  
46 meaning as provided in Code Section 44-3-2.

47 (d) Property that is included within the municipal boundaries of a newly incorporated  
48 municipality shall not be eligible for deannexation pursuant to this Code section.

49 (e) Where deannexation is conducted in accordance with paragraph (2) of subsection (a)  
50 of this Code section, the following additional procedures shall apply:

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

54 (2) For the purpose of determining the percentage of electors signing such application,  
55 the county governing authority shall obtain a list of electors residing in such area from  
56 the board of registrars of the municipal corporation, county, or counties in which the area  
57 lies. The list shall be compiled by the board of registrars and provided to the county  
58 governing authority in accordance with Code Section 21-2-227. The county governing  
59 authority shall bear the expense of the preparation of the list in the manner prescribed by  
60 such Code section;

61 (3) For the purpose of determining ownership of the property included within such  
62 application, the record titleholder of the fee simple title or his or her legal representative  
63 shall be considered the owner of the property. Signatures of owners of public roads and  
64 other public land within the area to be deannexed shall not be required to satisfy the  
65 requirements of paragraph (2) of subsection (a) of this Code section, and the acreage of  
66 such public properties shall be excluded from acreage calculations pertaining to the  
67 landowner approval;

68 (4) The necessary number of signatures of landowners and electors shall be obtained  
69 within one calendar year following the date of the first signature obtained. Failure to  
70 collect the required number within the one-year period shall invalidate previously  
71 collected signatures. Nothing in this paragraph shall prohibit collection of signatures  
72 from the same persons on subsequent applications for deannexation. If it is determined  
73 that the application does comply with this paragraph, the county governing authority shall  
74 proceed to act on the application;

75 (5) A county exercising authority under paragraph (2) of subsection (a) of this Code  
76 section shall make plans for the extension of services to the area proposed to be  
77 deannexed and, prior to the public hearing provided for in this subsection, shall prepare  
78 a report setting forth its plans to provide services to the area. The report shall be made  
79 available to the public at least 14 days prior to the public hearing required by this  
80 subsection. The report required by this paragraph shall include:

81 (A) A map or maps of the county and adjacent territory, showing the present and  
82 proposed boundaries of the county, the present major trunk water mains and sewer  
83 interceptors and outfalls, and the proposed extensions of such mains and outfalls, if any;  
84 and

85 (B) A statement setting forth the plans of the county for extending to the area to be  
86 deannexed each major county service performed within the county at the time of  
87 deannexation.

88 The plans required by this paragraph shall, on the date of deannexation, provide for  
89 extending police protection, fire protection, garbage collection, and street maintenance  
90 services to the area to be deannexed on substantially the same basis and in the same  
91 manner as such services are provided within the rest of the county prior to deannexation  
92 to the extent such services are provided by the county; but, if a water distribution system  
93 is not available in the area to be deannexed, the plans shall call for reasonably effective  
94 fire protection services until such time as water lines are made available in the area under  
95 existing county policies for the extension of water lines; and

96 (6) The county governing body shall hold a public hearing on any application which has  
97 been determined to meet the requirements of this subsection. The hearing shall be held

98 not less than 15 nor more than 45 days from the time the governing body makes a  
99 determination that the petition is valid. Notice of the time and place of the hearing shall  
100 be given in writing to the persons presenting the application and shall be advertised once  
101 a week for two consecutive weeks immediately preceding the hearing in a newspaper of  
102 general circulation in the county and in the area proposed for deannexation. At the public  
103 hearing all persons residing or owning property in the county or in the area proposed for  
104 deannexation may be heard on the question of the deannexation of the area by the county.  
105 Any property owner or elector may withdraw his or her consent in writing postmarked  
106 or received by the county within three business days after the public hearing required by  
107 this paragraph. If, after the public hearing, the governing body determines that the  
108 deannexation to the county of the area proposed in the application would be in the best  
109 interest of the residents and property owners of the area proposed for deannexation and  
110 of the citizens of the county, the area may be deannexed to the county by the adoption of  
111 a deannexing resolution. The deannexing resolution shall be adopted within 60 days  
112 following validation of the signatures of the applicants.

113 (f) Upon receipt of an application of deannexation where deannexation is sought pursuant  
114 to paragraph (1) of subsection (a) of this Code section, or adoption of a deannexation  
115 resolution where deannexation is sought pursuant to paragraph (2) of subsection (a) of this  
116 Code section, a county shall notify the municipal corporation in which the territory to be  
117 deannexed is located by certified mail or by statutory overnight delivery. At the time such  
118 notice is made, the application for deannexation shall be considered filed for purposes of  
119 the time limitations set forth in subsection (a) of this Code section. Such notice shall  
120 include a copy of the deannexation petition and the proposed zoning and land use for such  
121 area. When a complete application is submitted to the municipal corporation, the land shall  
122 be deannexed from the municipal corporation effective for ad valorem tax purposes on  
123 December 31 of the year during which such application is submitted and for all other  
124 purposes on the first day of the next calendar quarter which begins at least one month after  
125 the month during which the requirements of this article have been met. Unless otherwise  
126 agreed to in writing by a county governing authority and the municipal governing  
127 authority, where property zoned and used for commercial purposes is deannexed from a  
128 municipality with an independent school system, the effective date for the purposes of ad  
129 valorem taxes levied for educational purposes shall be December 31 of the year after the  
130 year in which the requirements of this article have been met.

131 (g) An identification of the property so deannexed shall be filed with the Department of  
132 Community Affairs and with the governing authority of the municipal corporation. When  
133 deannexed pursuant to this Code section, such lands shall cease to constitute a part of the

134 lands within the corporate limits of the municipal corporation as completely and fully as  
 135 if the limits had been marked and defined by local Act of the General Assembly.

136 (h) Nothing within this Code section shall prohibit the county from requiring the residents  
 137 of the newly deannexed area to use utilities owned by the county when they are available.

138 (i) The governing authority of the county shall not change the zoning or land use plan of  
 139 the deannexed property to a more intense density for one year after the effective date of the  
 140 deannexation unless such change is made in a service delivery agreement or comprehensive  
 141 plan and is adopted by the affected city and county.

142 (j) Property that has been deannexed from a municipal corporation pursuant to the  
 143 provisions of this Code section shall not be annexed again until at least two calendar years  
 144 after the date the deannexation of said property became effective unless annexation is  
 145 conducted by local Act of the General Assembly or by mutual agreement of the municipal  
 146 and county governing authorities.

147 36-36-22.2.

148 Whenever land is deannexed from a municipal corporation pursuant to Code Section  
 149 36-36-22.1, any bonded indebtedness of the municipality which is outstanding as of the  
 150 effective date of the deannexation shall become the debt and obligation of a special tax  
 151 district. The special tax district shall correspond to and be conterminous with the corporate  
 152 limits of the municipality as of the effective date of the deannexation. The county shall  
 153 provide for the assessment and collection of taxes within the special tax district in the same  
 154 manner and to the same extent that such taxes were previously imposed by the municipality  
 155 in accordance with the terms of the obligations of any bonded indebtedness of the  
 156 municipality which is outstanding on the effective date of the deannexation."

157 **SECTION 2.**

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

160 **SECTION 3.**

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