

The House Committee on Governmental Affairs offers the following substitute to HB 855:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 70 of Title 36 of the Official Code of Georgia Annotated,
2 relating to service delivery by counties and municipalities, so as to revise the procedures for
3 the implementation of a local government service delivery strategy; to provide for conditions,
4 limitation, and sanctions; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Article 2 of Chapter 70 of Title 36 of the Official Code of Georgia Annotated, relating to
8 service delivery by counties and municipalities, is amended by revising Code Section
9 36-70-21, relating to the deadline for implementation agreement, as follows:

10 "36-70-21.

11 Each county and municipality shall execute an agreement for the implementation of a local
12 government service delivery strategy as set forth in this article ~~by July 1, 1999.~~"

13 **SECTION 2.**

14 Said article is further amended by revising Code Section 36-70-22, relating to the date for
15 process initiation, as follows:

16 "36-70-22.

17 ~~Each county shall initiate the process for developing a local government service delivery~~
18 ~~strategy after July 1, 1997, but no later than January 1, 1998. Initiation of the A call to~~
19 ~~review and revise as necessary a local government service delivery strategy shall be~~
20 ~~accomplished by the provision of a written notice from the county or affected municipality~~
21 ~~to the other governing bodies of the county and all municipalities located wholly or~~
22 ~~partially within the county or providing services within the county and to other counties~~
23 ~~providing services within the county. Such notice shall state the date, time, and place for~~
24 ~~a joint meeting at which designated representatives of all local governing bodies shall~~
25 ~~assemble for the purpose of commencing deliberations on the service delivery strategy.~~

26 The notice shall be sent not more than 45 and not less than 15 days prior to the meeting
 27 date. ~~In the event the county governing authority fails to initiate the process by January 1,~~
 28 ~~1998, any municipality within the county may do so by sending a written notice, containing~~
 29 ~~the required information, to the county and all other municipalities."~~

30 SECTION 3.

31 Said article is further amended by adding a new Code section to read as follows:

32 "36-70-22.1.

33 (a) Any county or affected municipality shall call for a review, revise as necessary, and
 34 submit to the department an approved service delivery strategy upon the occurrence of any
 35 of the following events:

36 (1) Whenever there is a change to service delivery or revenue distribution arrangements;

37 (2) January 1 of the third year following the year of the decennial census;

38 (3) In the event of the creation, abolition, or consolidation of local governments;

39 (4) When the existing service delivery strategy agreement expires; or

40 (5) Whenever the county and affected municipalities agree to revise the strategy.

41 (b) In the event that a county or an affected municipality located within the county refuses
 42 to review, revise as necessary, and submit a strategy in accordance with this Code section,
 43 then any of the parties may use the procedures set forth in subsection (c) of Code Section
 44 36-70-25.1."

45 SECTION 4.

46 Said article is further amended by revising Code Section 36-70-25.1, relating to dispute
 47 resolution procedures, as follows:

48 "36-70-25.1.

49 (a) As used in this Code section article, the term 'affected municipality' means each
 50 municipality required to adopt a resolution approving the local government service delivery
 51 strategy pursuant to subsection (b) of Code Section 36-70-25.

52 (b) If a county and the affected municipalities in the county do not reach an agreement on
 53 a service delivery strategy, the provisions of this Code section shall be followed as the
 54 process to resolve the dispute.

55 ~~(c) If a county and the affected municipalities in the county are unable to reach an~~
 56 ~~agreement on the strategy prior to the imposition of the sanctions provided in Code Section~~
 57 ~~36-70-27, a means for facilitating an agreement through some form of alternative dispute~~
 58 ~~resolution shall be employed. Where the alternative dispute resolution action is~~
 59 ~~unsuccessful, the neutral party or parties shall prepare a report which shall be provided to~~
 60 ~~each governing authority and made a public record. The cost of alternative dispute~~

61 resolution authorized by this subsection shall be shared by the parties to the dispute pro rata
 62 based on each party's population according to the most recent United States decennial
 63 census. The county's share shall be based upon the unincorporated population of the
 64 county.

65 ~~(d)~~(c) In the event that the county and the affected municipalities in the county fail to reach
 66 an agreement after the imposition of sanctions provided in Code Section 36-70-27 approve
 67 and submit a strategy to the department within 60 days after the call for review under Code
 68 Section 36-70-22, then the following process is available to the parties:

69 (1)(A) The county or any affected municipality located within the county may file a
 70 petition in superior court of the county seeking mandatory mediation. Such petition
 71 shall be assigned to a judge, pursuant to Code Section 15-1-9.1 or 15-6-13, who is not
 72 a judge in the circuit in which the county is located. The judge selected may also be a
 73 senior judge pursuant to Code Section 15-1-9.2 who resides in another circuit.

74 (B) The visiting or senior judge shall appoint a mediator within 30 days of receipt of
 75 the petition. Mediation shall commence within 30 days of the appointment of a
 76 mediator. The mandatory mediation process shall be completed within 60 days
 77 following the appointment of the mediator. A majority of the members of the
 78 governing body of the county and each affected municipality shall attend the initial
 79 mediation. Following the initial meeting, the mediation shall proceed in the manner
 80 established at the initial meeting. If there is no agreement on how the mediation should
 81 proceed, a majority of the members of the governing body of the county and each
 82 affected municipality shall be required to attend each mediation session unless another
 83 process is agreed upon. Unless otherwise provided in accordance with paragraph ~~(2)~~
 84 (3) of this subsection, the cost of alternative dispute resolution authorized by this
 85 subsection shall be shared by the parties to the dispute pro rata based on each party's
 86 population according to the most recent United States decennial census. The judge may
 87 order that the county's share be based upon the unincorporated population of the county
 88 that the county asserts it serves;

89 ~~(C) During the mediation process described in this subsection, the sanctions imposed~~
 90 ~~pursuant to Code Section 36-70-27 may, by order of the court, not be held in abeyance~~
 91 ~~by the judge against any or all of the parties participating in such mediation process.~~

92 ~~(D) The judge may, by order of the court, substitute any mediation entered into~~
 93 ~~pursuant to subsection (c) of this Code section for the mediation required pursuant to~~
 94 ~~this subsection; and~~

95 (2) If no service delivery strategy has been submitted for verification to the Department
 96 of Community Affairs at the conclusion of the mediation, any aggrieved party may
 97 petition the superior court and seek resolution of the items remaining in dispute. The

98 visiting or senior judge shall conduct an evidentiary hearing or hearings as such judge
 99 deems necessary and ~~render a decision with regard to the disputed items. In rendering~~
 100 ~~the decision, the judge shall consider the required elements of a service delivery strategy~~
 101 make findings of fact as to the criteria under Code Section 36-70-24 with a goal of
 102 achieving the intent of this article as specified in Code Section 36-70-20. It shall be in
 103 the discretion of the judge to hold the sanctions specified in Code Section 36-70-27
 104 against one or more of the parties in abeyance pending the disposition of the action. The
 105 court is authorized to utilize its contempt powers to obtain compliance with its decision
 106 relating to the disputed items under review. The judge shall be authorized to impose
 107 mediation costs and court costs against any party upon a finding of bad faith. The court
 108 shall cause the prompt submission of its findings to the parties and the commissioner of
 109 community affairs; and

110 (3) During the process described in this subsection, the sanctions imposed pursuant to
 111 Code Section 36-70-27 may not be held in abeyance. The judge shall be authorized to
 112 impose mediation costs and court costs against any party upon a finding of bad faith.

113 ~~(e)(d)~~ The court shall notify, or cause to be notified, the Department of Community Affairs
 114 in the event that penalties are abated during the pendency of mediation or litigation held
 115 pursuant to subsection (d) of this Code section. A notice shall also be sent in the event
 116 penalties become applicable to the parties. The commissioner of community affairs shall
 117 impose or continue to impose sanctions under Code Section 36-70-27 until the
 118 commissioner, in accordance with rules made consistent with this article, issues a written
 119 verification to all parties that the submitted strategy is consistent with the findings of the
 120 judge and meets the requirements of Code Section 36-70-26. The commissioner shall have
 121 no longer than 30 days from the submission of the judge's findings to render a verification
 122 determination.

123 (e) If the verified strategy is not implemented in whole or in part within 180 days after
 124 verification or such other time as agreed by the parties affected by the change to the
 125 strategy, or if any party fails to comply with the strategy during its effective period, the
 126 county, any affected municipality, or any taxpayer thereof may petition the judge for a
 127 hearing. After a hearing, the judge shall enter findings of fact with respect to each party's
 128 respective compliance or noncompliance with the verified strategy. The judge shall ensure
 129 that such findings are promptly submitted to the commissioner of community affairs and
 130 the parties. Upon receipt of any finding of noncompliance, the commissioner shall enter
 131 an order imposing the sanctions under Code Section 36-70-27 against the party or parties
 132 who have failed to comply with the strategy. Such sanctions shall remain in effect until the
 133 judge, after a hearing, determines the party to be in compliance and the commissioner,
 134 based on such finding, issues a written verification of compliance.

135 (f) Any service delivery agreement implemented as a result of the process set forth in this
 136 Code section shall remain in effect until revised pursuant to ~~Code Section 36-70-28~~ this
 137 article."

138 **SECTION 5.**

139 Said article is further amended by revising Code Section 36-70-27, relating to sanctions for
 140 funding of projects inconsistent with strategy delivery, as follows:

141 "36-70-27.

142 (a)(1) For any local government which is required under this article to submit a service
 143 delivery strategy to the commissioner of community affairs and fails to do so within 180
 144 days of the call for review under Code Section 36-70-22, the commissioner is authorized
 145 and shall cause to be implemented in the appropriate agencies the following sanctions:

146 (A) No state administered financial assistance or grant, loan, certification, or permit
 147 shall be issued to any local government or authority which is not included in a
 148 department verified strategy or for any project which is inconsistent with such strategy;
 149 provided, however, that a municipality or authority located or operating in more than
 150 one county shall be included in a department verified strategy for each county wherein
 151 the municipality or authority is located or operating; and

152 (B) Ten percent of all revenues collected by the Department of Revenue for
 153 distribution to any local government which does not have a verified strategy as required
 154 by this article shall be temporarily retained on a monthly basis by the Department of
 155 Revenue and shall only be paid to such county or municipality upon verification of an
 156 approved strategy.

157 (2) Paragraph (1) of this subsection shall not apply to any drinking water project of the
 158 Georgia Environmental Finance Authority or of any local government or authority if such
 159 project is a proposed drinking water supply reservoir or any water withdrawal, treatment,
 160 distribution, or other potable water facility associated with such reservoir and the project
 161 shall furnish potable water to wholesale users in incorporated areas in one or more
 162 counties. Within one year after such proposed drinking water supply reservoir becomes
 163 operational, the local governments and authorities in the affected county or counties shall
 164 update their service delivery strategy or strategies to be consistent with water supply
 165 arrangements resulting from the operation of such reservoir.

166 (b)(1) ~~If a municipality containing fewer than 500 persons within the county fails to~~
 167 ~~establish a process to resolve disputes as required by subparagraph (C) of paragraph (4) of~~
 168 ~~Code Section 36-70-24, the sanctions specified in subsection (a) of this Code section shall~~
 169 ~~not be imposed upon:~~

170 (A) ~~The county within which any such municipality or portion of any such~~
 171 ~~municipality is located; or~~

172 ~~(B) Any other municipality located in such county.~~
173 ~~(2) The provisions of this subsection shall apply only if a process to resolve disputes~~
174 ~~required by subparagraph (C) of paragraph (4) of Code Section 36-70-24 has been~~
175 ~~established between the county and each municipality containing 500 or more persons~~
176 ~~within the county.~~
177 ~~(c) Any local government or authority which is subject to the sanctions specified in~~
178 ~~subsection (a) of this Code section shall become eligible for state administered financial~~
179 ~~assistance or grants, loans, or permits on the first day of the month following verification~~
180 ~~by the department that the requirements of Code Section 36-70-26 have been met. The~~
181 ~~sanctions specified in subsection (a) of this Code section shall cease on the first day of the~~
182 ~~month following verification by the department that the requirements of Code Section~~
183 ~~36-70-26 have been met.~~"

184

SECTION 6.

185

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