

The Senate Committee on Ethics offered the following substitute to HB 980:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to
2 elections and primaries generally, so as change and provide for procedures, conditions, and
3 limitations regarding municipal elections; to revise the qualifying times for municipal
4 elections; to provide for the reopening of qualifications in municipal elections under certain
5 conditions; to require a special election to approve the incorporation of municipalities; to
6 provide minimum standards and procedures as a condition of holding a special election to
7 approve the incorporation of municipalities; to provide for related matters; to repeal
8 conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

10 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to elections and
11 primaries generally, is amended in Code Section 21-2-132, relating to filing notice of
12 candidacy, nomination petition, and affidavit, payment of qualifying fee, pauper's affidavit
13 and qualifying petition for exemption from qualifying fee, and military service, by revising
14 paragraph (3) of subsection (c) and paragraph (3) of subsection (d) as follows:

15 "~~(3)~~(A) Each candidate for a nonpartisan municipal office or a designee shall file a
16 notice of candidacy in the office of the municipal superintendent of such candidate's
17 municipality during the municipality's nonpartisan qualifying period. Each municipal
18 superintendent shall designate the days of such qualifying period, which shall be no less
19 than three days and no more than five days. The days of the qualifying period shall be
20 consecutive days. Nonpartisan qualifying periods shall commence no earlier than
21 8:30 A.M. on the last third Monday in August immediately preceding the general
22 election and shall end no later than 4:30 P.M. on the following Friday; and, in the case
23 of a special election, the municipal nonpartisan qualifying period shall commence no
24 earlier than the date of the call and shall end no later than 25 days prior to the election;
25 and
26 and.

27 (B) In any case in which no individual has filed a notice of candidacy and paid the
 28 prescribed qualifying fee to fill a particular office in a nonpartisan municipal election,
 29 the governing authority of the municipality shall be authorized to reopen qualifying for
 30 candidates at 9:00 A.M. on the Monday next following the close of the preceding
 31 qualifying period and cease such qualifying at 5:00 P.M. on the Tuesday immediately
 32 following such Monday notwithstanding the fact that such days may be legal holidays;
 33 and"

34 "(3) Each candidate for municipal office or a designee shall file a notice of candidacy in
 35 the office of the municipal superintendent of such candidate's municipality during the
 36 municipality's qualifying period. Each municipal superintendent shall designate the days
 37 of the qualifying period, which shall be no less than three days and no more than five
 38 days. The days of the qualifying period shall be consecutive days. Qualifying periods
 39 shall commence no earlier than 8:30 A.M. on the ~~last~~ third Monday in August
 40 immediately preceding the general election and shall end no later than 4:30 P.M. on the
 41 following Friday; and, in the case of a special election, the municipal qualifying period
 42 shall commence no earlier than the date of the call and shall end no later than 25 days
 43 prior to the election; and"

44 SECTION 2.

45 Said chapter is further amended by adding two new Code sections to read as follows:

46 "21-2-541.3.

47 (a) On and after January 1, 2017, no local bill of the General Assembly proposing
 48 incorporation of a municipal corporation shall become law unless it includes a requirement
 49 for referendum approval of the new incorporation under such terms and conditions as
 50 specified in such local bill.

51 (b) It shall be the duty of the election superintendent to hold and conduct the referendum
 52 and certify the result thereof to the Secretary of State. Notwithstanding any provision of
 53 paragraph (2) of subsection (c) of Code Section 21-2-540 to the contrary, any special
 54 election to present the question of approval of incorporation of a new municipality to the
 55 voters shall be held exclusively at the time of a general election.

56 21-2-541.4.

57 (a) On and after January 1, 2017, as a condition of holding a special election pursuant to
 58 Code Section 21-2-541.3 any local bill to incorporate a new municipal corporation in any
 59 county and any local bill for reorganization of local government authorized by Paragraph II
 60 of Section III of Article IX of the Constitution, or by any general law adopted pursuant to

61 such Paragraph, shall be introduced in the General Assembly during the first year of the
62 term of office.

63 (b) During the interim between the first and second regular sessions of the General
64 Assembly, a financial viability, fiscal impact, and service delivery study shall be prepared
65 by a public academic research institution regarding the incorporation of the proposed
66 municipal corporation. Such study shall be based on the interim service delivery strategy
67 required by subsection (c) of this Code section and shall include, but not be limited to, the
68 following issues:

69 (1) The economic viability of the proposed municipal corporation and the amount of
70 taxes and fees necessary to sustain the services to be provided by the new municipal
71 corporation in the first year of its corporate existence and the estimated amount of taxes
72 and fees necessary to sustain the services projected for the subsequent five- and ten-year
73 periods;

74 (2) The financial impact of the incorporation of the municipal corporation on the
75 remaining unincorporated area of the county and existing municipal corporations within
76 the county, and the amount of taxes and fees necessary to sustain the services provided
77 by the county to the unincorporated area and existing municipal corporations after the
78 incorporation;

79 (3) The financial impact of the incorporation of the municipal corporation on the county
80 in which such municipal corporation is located and the amount of taxes and fees
81 necessary to sustain the services provided by the county on a county-wide basis after the
82 incorporation;

83 (4) An estimate of the financial impact of any pension obligations directly attributable
84 to the provision of local government services by the county in the unincorporated area of
85 the county proposed for incorporation which may be left unfunded as a result of the
86 incorporation. In order to calculate the estimate required by this paragraph, the county
87 shall provide a copy of the most recent actuarial valuation of the county pension fund to
88 the academic research institution preparing the study required by this subsection within
89 30 days of the request for the valuation being made to the county; and

90 (5) To the extent the study projects that the new municipal corporation will receive fees
91 or tax revenues for the granting of franchises or contracts pursuant to paragraph (7) of
92 Code Section 36-34-2, the study shall estimate the financial impact of such utility
93 franchise fees or taxes on utility bills of the utility customers within the proposed
94 municipality upon incorporation and an estimate of the increase in total cost to all utility
95 customers affected by changes in the rate base of the utility paying the franchise fees or
96 taxes to the proposed municipality upon incorporation.

97 (c) Notwithstanding the provisions of paragraph (1) of subsection (e) of Code
 98 Section 36-31-8, during the interim between the first and second regular sessions of the
 99 General Assembly, a service delivery strategy proposal shall be prepared and submitted for
 100 the purpose of identifying the information and assumptions required by paragraphs (2)
 101 and (3) of subsection (b) of this Code section. The local delegation consisting of all
 102 members of the General Assembly whose districts are wholly or partially within the county
 103 or counties in which the new municipal corporation is proposed to be located may appoint
 104 an advisory committee to assist with the preparation of the service delivery strategy
 105 proposal, and any such advisory committee's assistance shall be advisory only in nature and
 106 shall not hinder or delay the service delivery strategy proposal's preparation. The proposal
 107 shall be prepared for advisory purposes only and shall not be binding on the governing
 108 authority of the municipality upon incorporation. The interim service delivery strategy
 109 proposal shall generally follow the requirements of Article 2 of Chapter 70 of this title, but
 110 shall specifically address the following components:

111 (1) An identification of all local government services proposed to be provided or
 112 primarily funded by the new municipal corporation and any change in services to be
 113 provided by the county as a result of the new incorporation;

114 (2) A description of the source of the proposed funding for each service identified
 115 pursuant to paragraph (1) of this subsection; and

116 (3) An identification of the mechanisms, as that term is defined in paragraph (5.3) of
 117 Code Section 36-70-2, to be utilized to facilitate the implementation of the services and
 118 funding responsibilities identified pursuant to paragraphs (1) and (2) of this subsection.

119 (d) The corporate limits of a new municipal corporation shall not create unincorporated
 120 islands. As used in this subsection, the term 'unincorporated island' means an
 121 unincorporated area:

122 (1) With its aggregate external boundaries abutting the new municipal corporation; or

123 (2) With its aggregate external boundaries abutting any combination of the new
 124 municipal corporation and one or more other existing municipalities or counties,
 125 including areas separated by the width of an interstate highway from the boundaries of
 126 the new municipal corporation."

127 **SECTION 3.**

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