

House Bill 155

By: Representatives Anderson of the 10th, LaHood of the 175th, Cannon of the 172nd, Thomas of the 21st, Cox of the 28th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 7 of Chapter 36 of Title 36 of the Official Code of Georgia Annotated,
2 relating to procedure for resolving annexation disputes, so as to revise procedures for the
3 selection and objection to arbitrators; to revise how arbitration panels report their findings
4 and recommendations; to revise provisions relating to compensation of arbitrators; to provide
5 for related matters; to provide an effective date; to repeal conflicting laws; and for other
6 purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 7 of Chapter 36 of Title 36 of the Official Code of Georgia Annotated, relating to
10 procedure for resolving annexation disputes, is amended by revising Code Section
11 36-36-114, relating to arbitration panel, composition and membership, assistance in
12 formulating record, and regulation, as follows:

13 "36-36-114.

14 (a) Not later than the ~~fifteenth calendar~~ twentieth business day following the date that the
15 department ~~received the first~~ receives an objection of a proposed annexation as provided
16 for in Code Section 36-36-113, ~~an arbitration~~ a panel of five arbitrators shall be appointed

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17 by the department using the selection process detailed as provided in subsection (c) of this
 18 Code section.

19 ~~(b)(1) The arbitration panel shall be composed of five members to be selected as~~
 20 ~~provided in this subsection.~~ The department shall develop and maintain three pools of
 21 potential arbitrators, comprised as follows:

22 (A) ~~One~~ one pool which consists of persons who are currently or within the previous
 23 six years have been municipal elected officials, managers, or administrators;

24 (B) ~~One~~ one pool which consists of persons who are currently or within the previous
 25 six years have been county elected officials, managers, or administrators; and

26 (C) ~~One~~ one pool which consists of persons with a master's degree or higher in public
 27 administration or planning and who are currently employed by an institution of higher
 28 learning in this state, other than the Carl Vinson Institute of Government of the
 29 University of Georgia.

30 (2) ~~Each~~ The pool shall be sufficiently large to ensure as nearly as practicable that no
 31 person shall be required to serve on more than four panels in any one calendar year and
 32 serve on no more than one panel in any given county in any one calendar year.

33 (3) The department is authorized to coordinate with the Georgia Municipal Association,
 34 the Association County Commissioners of Georgia, ~~the Council of Local Governments,~~
 35 and similar organizations in developing and maintaining such pools.

36 (c)(1) Within 15 business days of the date that the department first receives an objection
 37 of a proposed annexation as provided for in Code Section 36-36-113, Upon receiving
 38 ~~notice of a disputed annexation,~~ the department shall:

39 (A) Randomly select ~~choose at random~~ four names from the pool of municipal
 40 officials, four names from the pool of county officials, and three names from the pool
 41 of academics; provided, however, that none of such selections shall include a person
 42 who is a resident of the county which has interposed the objection or any municipal
 43 corporation located wholly or partially in such county, and further provided that none

44 of such selections shall include a person who has already served on four other
45 arbitration panels in the then-current calendar year; and

46 (B) Submit such names to the county and municipal corporation for review.

47 (2) Until noon on the twentieth business day following the date that the department
48 receives the notice of disputed annexation:

49 (A) The municipal corporation shall be permitted to strike or excuse up to two of the
50 names chosen four arbitrators that were randomly selected by the department from the
51 county officials pool by submitting written notice of any such strikes or excusals to the
52 department;

53 (B) The the county shall be permitted to strike or excuse up to two of the names chosen
54 four arbitrators that were randomly selected by the department from the municipal
55 officials pool by submitting written notice of any such strikes or excusals to the
56 department; and

57 (C) The the county and municipal corporation shall each be permitted to strike or
58 excuse one of the names chosen three arbitrators that were randomly selected by the
59 department from the academic pool by submitting written notice of any such strikes or
60 excusals to the department.

61 (3) At the close of the period for permitted strikes as allowed in paragraph (2) of this
62 subsection, the department shall finalize the arbitration panel for the given annexation
63 dispute by appointing:

64 (A) Two arbitrators from the municipal officials subset identified in subparagraph (A)
65 of paragraph (2) of this subsection who were neither stricken nor excused;

66 (B) Two arbitrators from the county officials subset identified in subparagraph (B) of
67 paragraph (2) of this subsection who were neither stricken nor excused; and

68 (C) One arbitrator from the academic subset identified in subparagraph (C) of
69 paragraph (2) of this subsection who was neither stricken nor excused.

70 (4) In the event that more than the required number of arbitrators remains within any
71 given subset, the department shall randomly appoint the number of arbitrators needed for
72 such subset from among those arbitrators remaining within that subset.

73 (d) Prior to being eligible to serve on any of the three pools, persons interested in serving
74 on such panels shall receive joint training in alternative dispute resolution together with
75 zoning and land use training, which may be designed and overseen by the Carl Vinson
76 Institute of Government of the University of Georgia in conjunction with the Association
77 County Commissioners of Georgia and the Georgia Municipal Association, provided such
78 training is available. Provided that the General Assembly appropriates sufficient funds in
79 an applicable fiscal year, the Carl Vinson Institute of Government of the University of
80 Georgia shall provide at least one training program per year to train new potential panel
81 members.

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

89 (f) The department shall develop and maintain a list of court reporters and hearing officers
90 that may be employed by the department at the request of an arbitration panel to assist the
91 panel in formulating the record before the panel. An arbitration panel may by majority
92 vote of its members elect to employ court reporters and hearing officers from such list.
93 Any costs or charges related to the employment of court reporters and hearing officers
94 pursuant to this subsection shall be evenly divided between the city and the county.

95 (g) The department shall promulgate rules and regulations to provide for uniform
96 procedures and operations of arbitration panels established pursuant to this article.

97 Notwithstanding any provision of Chapter 13 of Title 50, the 'Georgia Administrative
98 Procedure Act,' to the contrary, such proposed rules and regulations shall be submitted to
99 the chairperson of the House Governmental Affairs Committee and the Senate Committee
100 on State and Local Government Operations."

101 **SECTION 2.**

102 Said article is further amended by revising Code Section 36-36-115, relating to meetings of
103 arbitration panel, duties, findings and recommendations, and compensation, as follows:

104 "36-36-115.

105 (a)(1)(A) The arbitration panel appointed pursuant to Code Section 36-36-114 shall
106 meet as soon after appointment as practicable and shall receive evidence and argument
107 from the municipal corporation, the county, and the applicant or property owner and
108 shall by majority vote render a decision which shall be binding on all parties to the
109 dispute as provided for in this article not later than 60 days following such appointment,
110 provided that the chairperson of the arbitration panel shall be authorized to extend such
111 deadline one time for a period of up to ten business days; provided, however, that
112 ~~Notwithstanding anything in this subparagraph to the contrary,~~ the municipal
113 corporation and county may by mutual agreement, postpone the arbitration procession
114 for a period of up to 180 days to negotiate a potential settlement, and such
115 postponement shall stay the 60 day deadline provided herein.

116 (B) Meetings of the panel may occur in person, virtually, or via teleconference. The
117 meetings of the panel in which evidence is submitted or arguments of the parties are
118 made, whether such meeting is in person, virtual, or via teleconference, shall be open
119 to the public pursuant to Chapter 14 of Title 50.

120 (C) The panel shall first determine the validity of the grounds for objection as specified
121 in the objection. If an objection involves the financial impact on the county as a result
122 of a change in zoning or land use or the provision of maintenance of infrastructure, the

123 panel shall quantify such impact in terms of cost. As to any objection which the panel
124 has determined to be valid, the panel, in its findings, may establish reasonable zoning,
125 land use, or density conditions applicable to the annexation and propose any reasonable
126 mitigating measures as to an objection pertaining to infrastructure demands.

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

128 (A) The existing comprehensive land use plans of both the county and city;

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

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

131 (D) Each jurisdiction's provision of infrastructure to the area of the subject property
132 and to the areas in the vicinity of the subject property;

133 (E) Whether the county has approved similar changes in intensity or allowable uses on
134 similar developments in other unincorporated areas of the county;

135 (F) Whether the county has approved similar developments in other unincorporated
136 areas of the county which have a similar impact on infrastructure as complained of by
137 the county in its objection; and

138 (G) Whether the infrastructure or capital outlay project which is claimed adversely
139 impacted by the county in its objection was funded by a county-wide tax.

140 (3) The county shall provide supporting evidence that its objection is consistent with its
141 land use plan and the pattern of existing land uses and zonings in the area of the subject
142 property, which may include, but not be limited to, adopted planning documents and
143 capital or infrastructure plans.

144 (4) The cost of the arbitration shall be equally divided between the city and the county;
145 provided, however, that if the panel determines that any party has advanced a position
146 that is not valid, the costs shall be borne by the party or parties that have advanced such
147 position.

148 (5) The reasonable costs of participation in the arbitration process of the property owner
149 or owners whose property is at issue shall be borne by the county and the city in the same
150 proportion as costs are apportioned under paragraph (4) of this subsection.

151 (6) The panel shall deliver its written findings and recommendations to the parties and
152 the department by verifiable delivery. The written findings and recommendations shall
153 include a signed statement for each panel member as to whether or not he or she voted
154 in support of or against such findings and recommendations. The department shall
155 maintain a data base and record of arbitration panel results and at least annually publish
156 a report on such decisions and make such report freely available on the department's
157 website.

158 (b) If the decision of the panel contains zoning, land use, or density conditions, the
159 findings and recommendations of the panel shall be recorded in the deed records of the
160 county with a caption describing the name of the current owner of the property, recording
161 reference of the current owner's acquisition deed and a general description of the property,
162 and plainly showing the expiration date of any restrictions or conditions.

163 (c) The arbitration panel shall be dissolved on the tenth day after it renders its findings and
164 recommendations but may be reconvened as provided in Code Section 36-36-116.

165 (d) Notwithstanding the provisions of subsection (b) of Code Section 45-7-21, the
166 members of the arbitration panel shall receive the same per diem, expenses, and allowances
167 for their service on the panel as authorized by law for members of the General Assembly
168 plus \$100.00 for serving on an arbitration panel.

169 (e) If the panel so agrees, any one or more additional annexation disputes which may arise
170 between the parties prior to the panel's initial meeting may be consolidated for the purpose
171 of judicial economy if there are similar issues of location or similar objections raised to
172 such other annexations or the property to be annexed in such other annexations is within
173 2,500 feet of the subject property."

174 **SECTION 3.**

175 This Act shall become effective on January 1, 2026.

176 **SECTION 4.**

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