

House Bill 155 (COMMITTEE SUBSTITUTE)

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 ~~choose at random four names~~
 39 submit to the county and municipal corporations a list of 11 potential arbitrators
 40 consisting of four potential arbitrators randomly selected by the department from the pool
 41 of municipal officials, four ~~names~~ potential arbitrators randomly selected by the
 42 department from the pool of county officials, and three ~~names~~ potential arbitrators

43 randomly selected by the department from the pool of academics; provided, however, that
 44 the department shall ensure that none of such selections shall include a person who:

45 (A) Is is a resident of the county which has interposed the objection or any municipal
 46 corporation located wholly or partially in such county;;

47 (B) Actively seeks employment in the county which has interposed the objection or
 48 any municipal corporation located wholly or partially in such county;

49 (C) Is or has been employed within the preceding six years by the county which has
 50 interposed the objection or any municipal corporation located wholly or partially in
 51 such county; or

52 (D) Has ~~and further provided that none of such selections shall include a person who~~
 53 ~~has already served on four other arbitration panels in the then-current calendar year.~~

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

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

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

62 (C) The ~~the~~ county and municipal corporation corporations shall each be permitted to
 63 strike or excuse one of the names chosen three arbitrators that were randomly selected
 64 by the department from the academic pool by submitting written notice of any such
 65 strikes to the department.

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

- 69 (A) Two arbitrators among from the county officials subset identified in
70 subparagraph (A) of paragraph (2) of this subsection who were not stricken;
71 (B) Two arbitrators from the municipal officials subset identified in subparagraph (B)
72 of paragraph (2) of this subsection who were not stricken; and
73 (C) One arbitrator from the academic subset identified in subparagraph (C) of
74 paragraph (2) of this subsection who was not stricken.
- 75 (4) In the event that more than the required number of arbitrators remains within any
76 given subset, the department shall randomly appoint the number of arbitrators needed for
77 such subset from among those arbitrators remaining within such subset.
- 78 (5) In the event that an arbitrator refuses or becomes unable to serve on a given panel to
79 which he or she has been appointed pursuant to paragraph (3) of this subsection, the
80 department shall randomly appoint a new arbitrator to such panel by randomly selecting
81 an eligible arbitrator from the specific pool of arbitrators from which the original
82 arbitrator was randomly selected under paragraph (1) of this subsection; provided,
83 however, that such new arbitrator shall not have been previously stricken by the county
84 or municipality.
- 85 (d) Prior to being eligible to serve on any of the three pools, persons interested in serving
86 on such panels shall receive joint training in alternative dispute resolution together with
87 zoning and land use training, which may be designed and overseen by the Carl Vinson
88 Institute of Government of the University of Georgia in conjunction with the Association
89 County Commissioners of Georgia and the Georgia Municipal Association, provided such
90 training is available. Provided that the General Assembly appropriates sufficient funds in
91 an applicable fiscal year, the Carl Vinson Institute of Government of the University of
92 Georgia shall provide at least one training program per year to train new potential panel
93 members.
- 94 (e) At the time any person is selected to serve on a panel for any particular annexation
95 dispute, he or she shall sign the following oath: 'I do solemnly swear or affirm that I will

96 faithfully perform my duties as an arbitrator in a fair and impartial manner without favor
97 or affection to any party, and that I have not and will not have any ex parte communication
98 regarding the facts and circumstances of the matters to be determined, other than
99 communications with my fellow arbitrators, and will only consider, in making my
100 determination, those matters which may lawfully come before me.'

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

107 (g) The department shall promulgate rules and regulations to provide for uniform
108 procedures and operations of arbitration panels established pursuant to this article.
109 Notwithstanding any provision of Chapter 13 of Title 50, the 'Georgia Administrative
110 Procedure Act,' to the contrary, such proposed rules and regulations shall be submitted to
111 the chairperson of the House Governmental Affairs Committee and the Senate Committee
112 on State and Local Government Operations."

113 **SECTION 2.**

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

116 "36-36-115.

117 (a)(1)(A) The arbitration panel appointed pursuant to Code Section 36-36-114 shall
118 meet as soon after appointment as practicable and shall receive evidence and argument
119 from the municipal corporation, the county, and the applicant or property owner and
120 shall by majority vote render a decision which shall be binding on all parties to the
121 dispute as provided for in this article not later than 60 days following such appointment,

122 provided that the chairperson of the arbitration panel shall be authorized to extend such
123 deadline one time for a period of up to ten business days; provided, however, that
124 ~~Notwithstanding anything in this subparagraph to the contrary,~~ the municipal
125 corporation and county may by mutual agreement, postpone the arbitration procession
126 for a period of up to 180 days to negotiate a potential settlement, and such
127 postponement shall stay the 60 day deadline provided herein.

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

132 (C) The panel shall first determine the validity of the grounds for objection as specified
133 in the objection. If an objection involves the financial impact on the county as a result
134 of a change in zoning or land use or the provision of maintenance of infrastructure, the
135 panel shall quantify such impact in terms of cost. As to any objection which the panel
136 has determined to be valid, the panel, in its findings, may establish reasonable zoning,
137 land use, or density conditions applicable to the annexation and propose any reasonable
138 mitigating measures as to an objection pertaining to infrastructure demands.

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

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

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

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

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

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

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

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

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

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

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

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

170 (b) If the decision of the panel contains zoning, land use, or density conditions, the
171 findings and recommendations of the panel shall be recorded in the deed records of the
172 county with a caption describing the name of the current owner of the property, recording

173 reference of the current owner's acquisition deed and a general description of the property,
174 and plainly showing the expiration date of any restrictions or conditions.

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

177 (d) Notwithstanding the provisions of subsection (b) of Code Section 45-7-21, the
178 members of the arbitration panel shall receive the same per diem, expenses, and allowances
179 for their service on the panel as authorized by law for members of the General Assembly
180 plus \$100.00 in total for all days of service for serving on an arbitration panel.

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

186 **SECTION 3.**

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

188 **SECTION 4.**

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