

House Bill 1407

By: Representatives LaHood of the 175<sup>th</sup>, Burchett of the 176<sup>th</sup>, Corbett of the 174<sup>th</sup>,  
Anderson of the 10<sup>th</sup>, and Prince of the 132<sup>nd</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 70 of Title 36 of the Official Code of Georgia Annotated, relating to  
2 coordinated and comprehensive planning and service delivery by counties and municipalities,  
3 so as to revise provisions for establishing, negotiating, reviewing, revising, and filing local  
4 government service delivery strategies; to require the development of state-wide mapping  
5 standards; to revise the dispute resolution process; to revise provisions related to sanctions;  
6 to require and limit the promulgation of certain rules and regulations; to provide for related  
7 matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 70 of Title 36 of the Official Code of Georgia Annotated, relating to coordinated and  
11 comprehensive planning and service delivery by counties and municipalities, is amended by  
12 revising Article 2, relating to service delivery, as follows:

## 13 "ARTICLE 2

14 36-70-20.

15 The intent of this article is to provide a flexible framework within which local governments  
16 in each county can develop a service delivery system that is both efficient and responsive  
17 to citizens in their county. The General Assembly recognizes that the unique  
18 characteristics of each county throughout the state preclude a mandated legislative outcome  
19 for the delivery of services in every county. The process provided by this article is  
20 intended to minimize inefficiencies resulting from duplication of services and competition  
21 between local governments and to provide a mechanism to resolve disputes over local  
22 government service delivery, funding equity, and land use. The local government service  
23 delivery process should result in the minimization of ~~noncompatible~~ incompatible  
24 municipal and county land use plans and in a simple, concise agreement describing which  
25 local governments will provide which service in specified areas within a county and how  
26 provision of such services will be funded.

27 36-70-21.

28 (a) Each county and municipality shall execute an agreement for the implementation of a  
29 local government service delivery strategy as set forth in this article by July 1, 1999;

30 (1) By December 31st of each year following the year in which the county's ten-year  
31 comprehensive plan update is due in accordance with the rules promulgated by the  
32 department pursuant to this chapter or Article 1 of Chapter 8 of Title 50; and

33 (2) Within 180 days of the occurrence of an event requiring review and revision pursuant  
34 to subsection (b) of Code Section 36-70-28.

35 (b) For municipalities located within multiple counties, the review and deadline for an  
36 agreement for the implementation of a local government service delivery strategy shall be

37 applicable for the portion of the municipality that lies within a given county in conjunction  
38 with such county's review and deadline.

39 (c) The provisions of this article shall not apply to any consolidated government in which  
40 no other municipal corporation exists within the county.

41 36-70-22.

42 (a)(1) Each county shall initiate the process for developing a local government service  
43 delivery strategy after July 1, 1997, but no later than January 1, 1998 required by  
44 paragraph (1) of subsection (a) of Code Section 36-70-21 no earlier than April 1st and no  
45 later than July 1st of the year following any year in which the county's ten-year  
46 comprehensive plan update is due.

47 (2) Each county shall initiate the process for developing a local government service  
48 delivery strategy required by a triggering event under paragraph (2) of subsection (a) of  
49 Code Section 36-70-21 no later than 30 days following the occurrence of the event.

50 (3) Any municipality affected by a change in service delivery or revenue distribution  
51 arrangements as described in subsection (b.1) of Code Section 36-70-28 may initiate the  
52 process of amending a local government service delivery strategy pursuant to  
53 subsection (b.1) of Code Section 36-70-28.

54 (b) Initiation of the strategy shall be accomplished by the provision of a written notice  
55 from the county to the governing bodies of all municipalities located wholly or partially  
56 within the county or providing services within the county and to other counties providing  
57 services within the county. Such notice shall:

58 (1) State state the date, time, and place for a joint meeting at which designated  
59 representatives of all local governing bodies shall assemble for the purpose of  
60 commencing deliberations on the service delivery strategy. ~~The notice shall be;~~

61 (2) Be sent not more than 45 and not less than 15 days prior to the meeting date; and

62 (3) Identify all local governments to which the notice will be delivered.

63 (c) In the event the county governing authority fails to initiate the process by January 1,  
64 1998 July 1 of the year following any year in which the county's ten-year comprehensive  
65 plan update is due, any municipality within the county may do so by sending a written  
66 notice, containing the required information, to the county and all other municipalities.

67 36-70-22.1.

68 (a) Within 60 days of the initiation of the process for developing a local government  
69 service delivery strategy, all local governments that received the written notice provided  
70 for in Code Section 36-70-22 shall provide all other local governments identified in such  
71 written notice with a written proposal of a local government service delivery strategy  
72 containing the components required by Code Section 36-70-23, together with all such  
73 factual information, data, and evidence supporting such proposal.

74 (b) Such written proposal for each local government may be modified periodically with  
75 written notice provided to all local governments that received the written notice provided  
76 for in Code Section 36-70-22; provided, however, that written proposals shall be finalized  
77 by each local government prior to an agreement to enter into optional nonbinding  
78 arbitration under Code Section 36-70-25.2.

79 (c) All such written proposals and supporting documentation shall be considered public  
80 records and subject to disclosure pursuant to Code Section 50-18-71.

81 36-70-23.

82 Each local government service delivery strategy shall include the following components:

83 (1) An identification of all local government services presently provided or primarily  
84 funded by each general purpose local government and each authority within the county,  
85 or providing services within the county, and a description of the geographic area in which  
86 the identified services are provided by each jurisdiction;

87 (2) An assignment of which local government or authority, pursuant to the requirements  
88 of this article, will provide each service, the geographic areas of the county in which such  
89 services are to be provided, and a description of any services to be provided by any local  
90 government to any geographic area outside its geographical boundaries. In the event two  
91 or more local governments within the county are assigned responsibility for providing  
92 identical services within the same geographic area, the strategy shall include an  
93 explanation of such arrangement;

94 (2.1) An assignment of each service which is not currently provided within an area to the  
95 municipality in which the area lies or, if the area lies in the unincorporated area, then to  
96 the county; provided, however, that the assignment of the service pursuant to this  
97 paragraph shall not obligate the assigned government to provide the service and shall not  
98 give any resident or property owner any right to, or guarantee of, the provision of the  
99 service;

100 (3) A description of the source of the funding for each service identified pursuant to  
101 paragraph (2) of this Code section; and

102 (4) An identification of the mechanisms to be utilized to facilitate the implementation of  
103 the services and funding responsibilities identified pursuant to paragraphs (2) and (3) of  
104 this Code section.

105 36-70-23.1.

106 (a) The department shall develop state-wide standards for the creation of maps for the  
107 identification of service areas for local government services within each county. Said  
108 mapping standards shall be used by local governments for the purposes provided in  
109 paragraphs (1), (2), and (2.1) of Code Section 36-70-23.

110 (b) Such standards shall be promulgated by rule or regulation and shall require mapping  
111 of service areas at the parcel and jurisdiction level.

112 (c) The department shall assist local governments in implementing the standards  
113 established under this Code section and shall enlist the aid of the regional commissions,  
114 whenever practicable.

115 36-70-24.

116 In the development of a service delivery strategy, the following criteria shall be met:

117 (1) The strategy shall promote the delivery of local government services in the most  
118 efficient, effective, and responsive manner. The strategy shall identify steps which will  
119 be taken to remediate or avoid overlapping and unnecessary competition and duplication  
120 of service delivery and shall identify the time frame in which such steps shall be taken.  
121 When a municipality provides a service at a higher level than the base level of service  
122 provided throughout the geographic area of the county by the county, such service shall  
123 not be considered a duplication of the county service;

124 (2)(A) The strategy shall provide that water or sewer fees charged to customers located  
125 outside the geographic boundaries of a service provider shall not be arbitrarily higher  
126 than the fees charged to customers receiving such service which are located within the  
127 geographic boundaries of the service provider.

128 (B) If a governing authority disputes the reasonableness of water and sewer rate  
129 differentials imposed within its jurisdiction by another governing authority, that  
130 disputing governing authority may hold a public hearing for the purpose of reviewing  
131 the rate differential. Following the preparation of a rate study by a qualified engineer,  
132 the governing authority may challenge the arbitrary rate differentials on behalf of its  
133 residents in a court of competent jurisdiction. Prior to such challenge, the dispute shall  
134 be submitted to some form of alternative dispute resolution;

135 (3)(A) The strategy shall ensure that the cost of any service which a county provides  
136 primarily for the benefit of the unincorporated area of the county shall be borne by the  
137 unincorporated area residents, individuals, and property owners who receive the

138 service. Further, when the county and one or more municipalities jointly fund a  
 139 county-wide service, the county share of such funding shall be borne by the  
 140 unincorporated residents, individuals, and property owners that receive the service.

141 (B) Such funding shall be derived from special service districts created by the county  
 142 in which property taxes, insurance premium taxes, assessments, or user fees are levied  
 143 or imposed or through such other mechanism agreed upon by the affected parties which  
 144 complies with the intent of subparagraph (A) of this paragraph; and

145 (4)(A) Local governments within the same county shall, if necessary, amend their land  
 146 use plans so that such plans are compatible and nonconflicting, or, as an alternative,  
 147 they shall adopt a single land use plan for the unincorporated and incorporated areas of  
 148 the county.

149 (B) The provision of extraterritorial water and sewer services by any jurisdiction shall  
 150 be consistent with all applicable land use plans and ordinances.

151 36-70-25.

152 (a) ~~Approval of the local government service delivery strategy shall be accomplished as~~  
 153 ~~provided for in this Code section:~~

154 ~~(b)~~ The county and each municipality within the county shall participate in the  
 155 development of the strategy.

156 (b) Approval of the a local government service delivery strategy shall be accomplished by  
 157 adoption of a resolution:

158 (1) By the county governing authority;

159 (2) By the governing authority of municipalities located within the county which have  
 160 a population of 9,000 or greater within the county;

161 (3) By the municipality which serves as the county site if not included in paragraph (2)  
 162 of this subsection; and

163 (4) By no less than 50 percent of the remaining municipalities within the county which  
164 contain at least 500 persons within the county if not included in paragraph (2) or (3) of  
165 this subsection.

166 (c) For the purpose of determining population for the purposes of this Code section, the  
167 population in the most recent United States decennial census shall be utilized.

168 ~~(d) The adoption of a service delivery strategy specified in Code Section 36-70-21 may  
169 be extended to a date certain no later than 120 days following the date otherwise specified  
170 in Code Section 36-70-21 upon written agreement of the local governments enumerated in  
171 subsection (b) of this Code section. In the event such an agreement is executed, the  
172 sanctions specified in Code Section 36-70-27 shall not apply until on and after such  
173 extended date.~~

174 36-70-25.1.

175 (a) As used in this Code section, the term 'affected municipality' means the county seat and  
176 each municipality of at least 500 persons required to adopt a resolution approving the local  
177 government service delivery strategy pursuant to subsection (b) of Code Section 36-70-25.

178 (b) If a county and the affected municipalities in the county ~~do not~~ are unable to reach an  
179 agreement on ~~a service delivery strategy~~, the provisions of this Code section shall be  
180 followed as the process to resolve the dispute all services within 90 days of initiation of the  
181 process provided for in Code Section 36-70-22, the county and all affected municipalities  
182 shall, by such 90th day, commence mediation in an attempt to reach a final agreement.  
183 Such mediation shall be limited to discussing only those services and geographic areas  
184 which remain to be agreed upon.

185 ~~(c) If a county and the affected municipalities in the county are unable to reach an~~  
186 ~~agreement on the strategy prior to the imposition of the sanctions provided in Code~~  
187 ~~Section 36-70-27, a means for facilitating an agreement through some form of alternative~~  
188 ~~dispute resolution shall be employed. Where the alternative dispute resolution action is~~



189 ~~unsuccessful, the neutral party or parties shall prepare a report which shall be provided to~~  
190 ~~each governing authority and made a public record. The cost of alternative dispute~~  
191 ~~resolution authorized by this subsection shall be shared by the parties to the dispute pro rata~~  
192 ~~based on each party's population according to the most recent United States decennial~~  
193 ~~census. The county's share shall be based upon The costs of the mediation process~~  
194 ~~undergone pursuant to this Code section shall be shared by the parties to the mediation pro~~  
195 ~~rata based on each party's population according to the most recent United States decennial~~  
196 ~~census with the county's population including only the unincorporated population of the~~  
197 ~~county.~~

198 ~~(d) In the event that the county and the affected municipalities in the county fail to reach~~  
199 ~~an agreement after the imposition of sanctions provided in Code Section 36-70-27, then the~~  
200 ~~following process is available to the parties:~~

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

206 ~~(B) The visiting or senior judge shall appoint a mediator within 30 days of receipt of~~  
207 ~~the petition. Mediation shall commence within 30 days of the appointment of a~~  
208 ~~mediator. The mandatory mediation process shall be completed within 60 days~~  
209 ~~following the appointment of the mediator. A majority of the members of the~~  
210 ~~governing body of the county and each affected municipality shall attend the initial~~  
211 ~~mediation. Following the initial meeting, the mediation shall proceed in the manner~~  
212 ~~established at the initial meeting. If there is no agreement on how the mediation should~~  
213 ~~proceed, a majority of the members of the governing body of the county and each~~  
214 ~~affected municipality shall be required to attend each mediation session unless another~~  
215 ~~process is agreed upon. Unless otherwise provided in accordance with paragraph (2)~~

216 ~~of this subsection, the cost of alternative dispute resolution authorized by this~~  
217 ~~subsection shall be shared by the parties to the dispute pro rata based on each party's~~  
218 ~~population according to the most recent United States decennial census.~~

219 ~~(C) During the mediation process described in this subsection, the sanctions imposed~~  
220 ~~pursuant to Code Section 36-70-27 may, by order of the court, be held in abeyance by~~  
221 ~~the judge against any or all of the parties participating in such mediation process.~~

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

225 ~~(2) If no service delivery strategy has been submitted for verification to the Department~~  
226 ~~of Community Affairs at the conclusion of the mediation, any aggrieved party may~~  
227 ~~petition the superior court and seek resolution of the items remaining in dispute. The~~  
228 ~~visiting or senior judge shall conduct an evidentiary hearing or hearings as such judge~~  
229 ~~deems necessary and render a decision with regard to the disputed items. In rendering~~  
230 ~~the decision, the judge shall consider the required elements of a service delivery strategy~~  
231 ~~with a goal of achieving the intent of this article as specified in Code Section 36-70-20.~~  
232 ~~It shall be in the discretion of the judge to hold the sanctions specified in Code~~  
233 ~~Section 36-70-27 against one or more of the parties in abeyance pending the disposition~~  
234 ~~of the action. The court is authorized to utilize its contempt powers to obtain compliance~~  
235 ~~with its decision relating to the disputed items under review. The judge shall be~~  
236 ~~authorized to impose mediation costs and court costs against any party upon a finding of~~  
237 ~~bad faith.~~

238 ~~(e) The court shall notify, or cause to be notified, the Department of Community Affairs~~  
239 ~~in the event that penalties are abated during the pendency of mediation or litigation held~~  
240 ~~pursuant to subsection (d) of this Code section. A notice shall also be sent in the event~~  
241 ~~penalties become applicable to the parties.~~

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

244 36-70-25.2.

245 (a) As used in this Code section, the term 'affected municipality' means the county seat  
246 and each municipality of at least 500 persons.

247 (b)(1) After completing the mediation process required by Code Section 36-70-25.1, but  
248 prior to the 180th day following the initiation of the process under this article, the county  
249 and any affected municipalities with outstanding disagreements related to the service  
250 delivery strategy may elect to begin nonbinding arbitration in an attempt to resolve only  
251 such outstanding disagreements.

252 (2) Evidence presented as part of any such nonbinding arbitration shall be limited to  
253 information included in the written proposals required by Code Section 36-70-22.1 and  
254 any written documentation associated with the required mediation conducted pursuant to  
255 Code Section 36-70-25.1.

256 (c)(1) The costs of the arbitration process undergone pursuant to this Code section shall  
257 be shared by the parties to the arbitration pro rata based on each party's population  
258 according to the most recent United States decennial census with the county's population  
259 including only the unincorporated population of the county.

260 (2) Notwithstanding the provisions of paragraph (1) of this subsection, if the arbitrator  
261 issues a written determination that any party or parties advanced a position that lacked  
262 substantial justification, which shall mean substantially frivolous, substantially  
263 groundless, or substantially vexatious, the costs shall be borne by such party or parties  
264 that advanced such position.

265 36-70-26.

266 (a) Each county shall file the agreement for the implementation of strategy required by  
267 Code Section 36-70-21 with the department after the agreement has been adopted by  
268 resolution as provided for in Code Section 36-70-25.

269 (b) The department shall, within 30 days of receipt, verify that the strategy includes the  
270 components enumerated in Code Section 36-70-23 and the minimum criteria enumerated  
271 in Code Section 36-70-24. The department, however, shall neither approve nor disapprove  
272 the specific elements or outcomes of the strategy.

273 (c) In the event that no agreement is properly filed by a county by December 31 of the year  
274 following the year in which the county's ten-year comprehensive plan update is due or  
275 within 180 days of the triggering event under paragraph (2) of subsection (a) of Code  
276 Section 36-70-21, the department shall notify the affected local governments and all  
277 relevant state agencies that the jurisdictions are out of compliance with the laws regarding  
278 service delivery strategies, and the sanctions provided for in Code Section 36-70-27 shall  
279 apply; provided, however, that, in the event the local governments are participating in a  
280 nonbinding arbitration pursuant to Code Section 36-70-25.2, the deadline shall not be  
281 extended for more than 180 days.

282 (d) The department shall promulgate rules and regulations only to the extent necessary to  
283 implement the provisions of this Code section.

284 36-70-27.

285 (a)(1) No state administered financial assistance or grant, loan, or permit shall be issued  
286 to any local government or authority which is not included in a ~~department verified~~  
287 strategy local government service delivery strategy that the department has verified as  
288 meeting the requirements of Code Section 36-70-26, or for any project which is  
289 inconsistent with such strategy; provided, however, that a municipality or authority

290 located or operating in more than one county shall be included in a department verified  
 291 strategy for each county wherein the municipality or authority is located or operating.

292 (2) Paragraph (1) of this subsection shall not apply to any permit necessary to maintain  
 293 or preserve immediate public health and safety or any drinking water project of the  
 294 Georgia Environmental Finance Authority or of any local government or authority if such  
 295 project is a proposed drinking water supply reservoir or any water withdrawal, treatment,  
 296 distribution, or other potable water facility associated with such reservoir and the project  
 297 shall furnish potable water to wholesale users in incorporated areas in one or more  
 298 counties. Within one year after such proposed drinking water supply reservoir becomes  
 299 operational, the local governments and authorities in the affected county or counties shall  
 300 update their service delivery strategy or strategies to be consistent with water supply  
 301 arrangements resulting from the operation of such reservoir.

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

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

308 ~~(B) Any other municipality located in such county.~~

309 ~~(2) The provisions of this subsection shall apply only if a process to resolve disputes~~  
 310 ~~required by subparagraph (C) of paragraph (4) of Code Section 36-70-24 has been~~  
 311 ~~established between the county and each municipality containing 500 or more persons~~  
 312 ~~within the county.~~

313 ~~(c)~~ Any local government or authority which is subject to the sanctions specified in  
 314 subsection (a) of this Code section shall become eligible for state administered financial  
 315 assistance or grants, loans, or permits on the first day of the month following verification  
 316 by the department that the requirements of Code Section 36-70-26 have been met.

317 36-70-28.

318 (a) As used in this Code section, the term 'affected municipality' means the county seat and  
 319 each municipality of at least 500 persons required to adopt a resolution approving the local  
 320 government service delivery strategy pursuant to subsection (b) of Code Section 36-70-25.

321 (b) In addition to the ten-year update required by paragraph (1) of subsection (a) of Code  
 322 Section 36-70-21, each Each county and affected municipality shall review; and revise if  
 323 necessary, the approved strategy:

324 (1) ~~In conjunction with updates of the comprehensive plan as required by Article 1 of~~  
 325 ~~this chapter;~~

326 (2) ~~Whenever necessary to change service delivery or revenue distribution arrangements;~~

327 (3) ~~Whenever necessary due to changes in revenue distribution arrangements;~~

328 (4) ~~(2) In the event of the creation, abolition, or consolidation of local governments;~~

329 (5) ~~(3) When the existing service delivery strategy agreement expires; or and~~

330 (6) ~~(4) Whenever the county and affected municipalities agree to revise the strategy.~~

331 (b.1)(1) In the event that a change in service delivery or revenue distribution  
 332 arrangements affects less than all of the local governments that are parties to the approved  
 333 strategy, an amendment to the strategy limited to such changed service or services or  
 334 revenue distribution arrangements between only those specific local governments may  
 335 be submitted solely by the affected local governments and without the approval of the  
 336 other nonimpacted county and affected municipalities in the county whose approval  
 337 would otherwise be required under subsection (b) of Code Section 36-70-25.

338 (2) Any amendments to the approved strategy or revenue distribution arrangement which  
 339 affect less than all of the local governments that are parties to the approved strategy shall  
 340 be subject to review and revision whenever the service delivery strategy affecting the  
 341 county and all municipalities within the county becomes subject to review and revision  
 342 under paragraph (1) of subsection (a) of Code Section 36-70-21 or subsection (b) of this  
 343 Code section.

344 (c) In the event that a county or an affected municipality located within the county refuses  
345 to review and revise, ~~if necessary,~~ a strategy in accordance with ~~paragraphs~~ paragraph (2)  
346 ~~and (3)~~ of subsection (b) of this Code section, then any of the parties may use the  
347 ~~alternative dispute resolution and appeal procedures set forth in subsection (d) of Code~~  
348 ~~Section 36-70-25.1~~ mediation or nonbinding arbitration processes provided for in this  
349 article.

350 (d) The commencement of a service by a local government in a geographic area for which  
351 that service had been provisionally assigned pursuant to paragraph (2.1) of Code  
352 Section 36-70-23 shall not require review and revision of the approved strategy, unless  
353 review and revision would separately be required by another provision of subsection (b)  
354 of this Code section.

355 36-70-29.

356 The department shall be prohibited from acting or promulgating rules or regulations  
357 regarding this article except to the extent explicitly provided for in this article."

358 **SECTION 2.**

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

360 **SECTION 3.**

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