

House Bill 1407 (COMMITTEE SUBSTITUTE)

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 revise the dispute resolution process; to revise  
5 provisions related to sanctions; to require and limit the promulgation of certain rules and  
6 regulations; to provide for related matters; to provide for an effective date; to repeal  
7 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:

H. B. 1407 (SUB)

## 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. If  
50 the county does not initiate such process within the 30 day period, any municipality in the  
51 county may initiate the process.

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

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

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

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

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

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

69 36-70-22.1.

70 (a) Within 60 days of the initiation of the process for developing a local government  
 71 service delivery strategy, all local governments that received the written notice provided  
 72 for in Code Section 36-70-22 shall provide all other local governments identified in such  
 73 written notice with a written proposal of a local government service delivery strategy  
 74 containing the components required by Code Section 36-70-23, and in compliance with the  
 75 criteria required by Code Section 36-70-24 together with all such factual information, data,  
 76 and evidence supporting such proposal.

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

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

84 36-70-23.

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

86 (1) An identification of all local government services presently provided or primarily  
 87 funded by each general purpose local government and each authority within the county,

88 or providing services within the county, and a description of the geographic area in which  
89 the identified services are provided by each jurisdiction;

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

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

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

102 36-70-24.

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

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

111 (2)(A) The strategy shall provide that water or sewer fees charged to customers located  
112 outside the geographic boundaries of a service provider shall not be arbitrarily higher

113 than the fees charged to customers receiving such service which are located within the  
114 geographic boundaries of the service provider.

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

122 (3)(A) The strategy shall ensure that the cost of any service which a county provides  
123 primarily for the benefit of the unincorporated area of the county shall be borne by the  
124 unincorporated area residents, individuals, and property owners who receive the  
125 service. Further, when the county and one or more municipalities jointly fund a  
126 county-wide service, the county share of such funding shall be borne by the  
127 unincorporated residents, individuals, and property owners that receive the service.

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

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

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

138 36-70-25.

139 (a) ~~Approval of the local government service delivery strategy shall be accomplished as~~  
140 ~~provided for in this Code section.~~

141 (b) The county and each municipality within the county shall participate in the  
142 development of the strategy.

143 (b) Approval of ~~the~~ a local government service delivery strategy shall be accomplished by  
144 adoption of a resolution:

145 (1) By the county governing authority;

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

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

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

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

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

161 36-70-25.1.

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

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

172 (c) ~~If a county and the affected municipalities in the county are unable to reach an~~  
173 ~~agreement on the strategy prior to the imposition of the sanctions provided in Code~~  
174 ~~Section 36-70-27, a means for facilitating an agreement through some form of alternative~~  
175 ~~dispute resolution shall be employed. Where the alternative dispute resolution action is~~  
176 ~~unsuccessful, the neutral party or parties shall prepare a report which shall be provided to~~  
177 ~~each governing authority and made a public record. The cost of alternative dispute~~  
178 ~~resolution authorized by this subsection shall be shared by the parties to the dispute pro rata~~  
179 ~~based on each party's population according to the most recent United States decennial~~  
180 ~~census. The county's share shall be based upon~~ The costs of the mediation process  
181 undergone pursuant to this Code section shall be shared by the parties to the mediation pro  
182 rata based on each party's population according to the most recent United States decennial  
183 census with the county's population including only the unincorporated population of the  
184 county.

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



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

193 ~~(B) The visiting or senior judge shall appoint a mediator within 30 days of receipt of~~  
194 ~~the petition. Mediation shall commence within 30 days of the appointment of a~~  
195 ~~mediator. The mandatory mediation process shall be completed within 60 days~~  
196 ~~following the appointment of the mediator. A majority of the members of the~~  
197 ~~governing body of the county and each affected municipality shall attend the initial~~  
198 ~~mediation. Following the initial meeting, the mediation shall proceed in the manner~~  
199 ~~established at the initial meeting. If there is no agreement on how the mediation should~~  
200 ~~proceed, a majority of the members of the governing body of the county and each~~  
201 ~~affected municipality shall be required to attend each mediation session unless another~~  
202 ~~process is agreed upon. Unless otherwise provided in accordance with paragraph (2)~~  
203 ~~of this subsection, the cost of alternative dispute resolution authorized by this~~  
204 ~~subsection shall be shared by the parties to the dispute pro rata based on each party's~~  
205 ~~population according to the most recent United States decennial census.~~

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

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

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

215 ~~visiting or senior judge shall conduct an evidentiary hearing or hearings as such judge~~  
216 ~~deems necessary and render a decision with regard to the disputed items. In rendering~~  
217 ~~the decision, the judge shall consider the required elements of a service delivery strategy~~  
218 ~~with a goal of achieving the intent of this article as specified in Code Section 36-70-20.~~  
219 ~~It shall be in the discretion of the judge to hold the sanctions specified in Code~~  
220 ~~Section 36-70-27 against one or more of the parties in abeyance pending the disposition~~  
221 ~~of the action. The court is authorized to utilize its contempt powers to obtain compliance~~  
222 ~~with its decision relating to the disputed items under review. The judge shall be~~  
223 ~~authorized to impose mediation costs and court costs against any party upon a finding of~~  
224 ~~bad faith.~~

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

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

231 36-70-25.2.

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

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

239 (2) Evidence presented as part of any such nonbinding arbitration shall be limited to  
240 information included in the written proposals required by Code Section 36-70-22.1 and

241 any written documentation associated with the required mediation conducted pursuant to  
242 Code Section 36-70-25.1.

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

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

252 36-70-26.

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

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

260 (c) In the event that no agreement is properly filed by a county by December 31 of the year  
261 following the year in which the county's ten-year comprehensive plan update is due or  
262 within 180 days of the triggering event under paragraph (2) of subsection (a) of Code  
263 Section 36-70-21, the department shall notify the affected local governments and all  
264 relevant state agencies that the jurisdictions are out of compliance with the laws regarding  
265 service delivery strategies, and the sanctions provided for in Code Section 36-70-27 shall  
266 apply; provided, however, that, in the event the local governments are participating in a

267 nonbinding arbitration pursuant to Code Section 36-70-25.2, the deadline shall not be  
268 extended for more than 180 days.

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

271 36-70-27.

272 (a)(1) No state administered financial assistance or grant, loan, or permit shall be issued  
273 to any local government or authority which is not included in a ~~department verified~~  
274 strategy local government service delivery strategy that the department has verified as  
275 meeting the requirements of Code Section 36-70-26, or for any project which is  
276 inconsistent with such strategy; provided, however, that a municipality or authority  
277 located or operating in more than one county shall be included in a department verified  
278 strategy for each county wherein the municipality or authority is located or operating.

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

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

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

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

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

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

303 (c) The sanctions specified in subsection (a) of this Code section shall not apply to any  
 304 state administered financial assistance or grant, loan, or permit that is associated with or  
 305 intended to address any of the following:

306 (1) A state of emergency declared by any federal, state, or local emergency management  
 307 agency, official, or authority;

308 (2) A natural disaster;

309 (3) Any set of conditions or circumstances that pose a danger to the health, safety, or  
 310 welfare of any person or property; or

311 (4) The order of any federal or state agency or court.

312 36-70-28.

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

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

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

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

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

323 ~~(4)(2) In the event of the creation, abolition, or consolidation of local governments;~~

324 ~~(5)(3) When the existing service delivery strategy agreement expires; or and~~

325 ~~(6)(4) Whenever the county and affected municipalities agree to revise the strategy.~~

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

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

339 (c) In the event that a county or an affected municipality located within the county refuses  
 340 to review and revise; ~~if necessary;~~ a strategy in accordance with ~~paragraphs~~ paragraph (2)  
 341 ~~and (3)~~ of subsection (b) of this Code section, then any of the parties may use the  
 342 ~~alternative dispute resolution and appeal procedures set forth in subsection (d) of Code~~

343 ~~Section 36-70-25.1~~ mediation or nonbinding arbitration processes provided for in this  
344 article.

345 36-70-29.

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

348 **SECTION 2.**

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

350 **SECTION 3.**

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