

House Bill 371

By: Representatives Fleming of the 121st, Willard of the 51st, Jackson of the 128th, Welch of the 110th, and Powell of the 171st

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 33 of Title 36 of the Official Code of Georgia Annotated, relating to
2 liability of municipal corporations for acts or omissions, so as to revise provisions relating
3 to immunity of municipal corporations; to provide for exceptions; to provide for liability
4 involving joint undertakings; to provide for related matters; to provide for an effective date
5 and applicability; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 33 of Title 36 of the Official Code of Georgia Annotated, relating to liability of
9 municipal corporations for acts or omissions, is amended by revising Code Section 36-33-1,
10 relating to immunity from liability for damages, waiver of immunity by purchase of liability
11 insurance, and liability for acts or omissions generally, as follows:

12 "36-33-1.

13 (a) Pursuant to Article I, Section II, Paragraph IX and Article IX, Section II, Paragraph IX
14 of the Constitution of the State of Georgia, the General Assembly, except as provided in
15 this Code section and in Chapter 92 of this title, declares it is the public policy of the State
16 of Georgia that there is no waiver of the sovereign immunity of municipal corporations of
17 the state, and such municipal corporations shall be immune from liability for damages to
18 the same extent that counties are immune. A municipal corporation shall not waive its
19 immunity by the purchase of liability insurance, except as provided in Code Section
20 33-24-51 or 36-92-2, or unless the policy of insurance issued covers an occurrence for
21 which the defense of sovereign immunity is available, and then only to the extent of the
22 limits of such insurance policy. ~~This subsection shall not be construed to affect any~~
23 ~~litigation pending on July 1, 1986.~~

24 (b) Municipal corporations shall not be liable for failure to perform or for errors in
25 performing their legislative or judicial powers. For neglect to perform or improper or
26 unskillful performance of their ministerial duties, ~~they~~ municipal corporations shall be

27 liable to the same extent that counties are liable, and municipal corporations shall be
28 immune to the same extent that counties are immune.
29 (c) When there is a joint undertaking for a project, facility, service, or other activity
30 between one or more municipal corporations with one or more counties, there shall be no
31 waiver of sovereign immunity by the purchase of liability insurance by any party if any
32 party to the joint undertaking has not waived sovereign immunity.
33 (d) Code Section 36-33-5 shall apply to this Code section."

34 **SECTION 2.**

35 This Act shall become effective on July 1, 2017, and shall apply only to causes of action
36 arising on or after that date.

37 **SECTION 3.**

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