

House Bill 924

By: Representatives Oliver of the 82<sup>nd</sup>, Martin of the 49<sup>th</sup>, McLaurin of the 51<sup>st</sup>, Dreyer of the 59<sup>th</sup>, and Roberts of the 52<sup>nd</sup>

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 allow local governments  
3 financially impacted by financial incentives offered or granted in connection with an  
4 annexation to participate in the annexation dispute resolution process; to provide definitions;  
5 to provide for additional grounds to object to proposed annexations; to provide for additional  
6 remedies in the dispute resolution process; to revise provisions related to the cost of said  
7 dispute resolution process; to amend Chapter 62 of Title 36 of the Official Code of Georgia  
8 Annotated, relating to development authorities, so as to provide that development authorities  
9 and local governments provide notice of proposed financial incentives to other affected local  
10 governments; to provide for definitions; to amend Article 3 of Chapter 82 of Title 36 of the  
11 Official Code of Georgia Annotated, relating to revenue bonds, so as to provide that local  
12 school systems, counties, and municipal governing authorities can become parties to bond  
13 validation hearings; to provide definitions; to provide for related matters; to repeal  
14 conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

H. B. 924

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16 **SECTION 1.**

17 Article 7 of Chapter 36 of Title 36 of the Official Code of Georgia Annotated, relating to  
18 procedure for resolving annexation disputes, is amended by adding a new Code section to  
19 read as follows:

20 "36-36-110.1.

21 As used in this article, the term:

22 (1) 'Affected local government' means a county, consolidated government, municipality,  
23 or county or independent school system that is reasonably expected to be financially  
24 impacted by financial incentives offered or granted to or for the benefit of a private entity  
25 by a county, consolidated government, municipality, or local government authority whose  
26 area of operation lies, in whole or in part, within the same territory of the affected local  
27 government.

28 (2) 'Financial incentives' means tax abatements, rebates, revenue bonds or other revenue  
29 obligations, and private activity bonds."

30 **SECTION 2.**

31 Said article is further amended by revising Code Section 36-36-111, relating to notice of  
32 annexation, as follows:

33 "36-36-111.

34 Upon receipt of a petition of annexation, a municipal corporation shall notify the governing  
35 authority of the county and the governing authority or board of any affected local  
36 government in which the territory to be annexed is located by certified mail or by statutory  
37 overnight delivery. Such notice shall include a copy of the annexation petition which shall  
38 include the proposed zoning and land use for such area. The municipal corporation shall  
39 take no final action on such annexation except as otherwise provided in this article."

40 **SECTION 3.**

41 Said article is further amended by revising Code Section 36-36-113, relating to objection to  
42 annexation and grounds and procedures, as follows:

43 "36-36-113.

44 (a) The county governing authority or the governing authority or board of any local  
45 government affected by an annexation may by majority vote object to the annexation  
46 because of a material increase in burden upon the county or the affected local government  
47 directly related to any one or more of the following:

48 (1) The proposed change in zoning or land use;

49 (2) Proposed increase in density; ~~and~~

50 (3) Infrastructure demands related to the proposed change in zoning or land use; and;

51 (4) Financial incentives associated with the annexation.

52 (b) Delivery of services may not be a basis for a valid objection but may be used in support  
53 of a valid objection if directly related to one or more of the subjects enumerated in  
54 paragraphs (1), (2), ~~and (3), and (4)~~ of subsection (a) of this Code section.

55 (c) The objection provided for in subsection (a) of this Code section shall document the  
56 nature of the objection specifically providing evidence of any financial impact forming the  
57 basis of the objection and shall be delivered to the municipal governing authority by  
58 certified mail or statutory overnight delivery to be received not later than the end of the  
59 thirtieth calendar day following receipt of the notice provided for in Code  
60 Section 36-36-111.

61 (d) In order for an objection pursuant to paragraph (1), (2), or (3) of subsection (a) of this  
62 Code section to be valid, the proposed change in zoning or land use must:

63 (1) Result in:

64 (A) A substantial change in the intensity of the allowable use of the property or a  
65 change to a significantly different allowable use; ~~or~~

66 (B) A use which significantly increases the net cost of infrastructure or significantly  
67 diminishes the value or useful life of a capital outlay project, as such term is defined in  
68 Code Section 48-8-110, which is furnished by the county to the area to be annexed; and  
69 (2) Differ substantially from the existing uses suggested for the property by the county's  
70 comprehensive land use plan or permitted for the property pursuant to the county's zoning  
71 ordinance or its land use ordinances."

72

#### SECTION 4.

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

75 "36-36-115.

76 (a)(1) The arbitration panel appointed pursuant to Code Section 36-36-114 shall meet as  
77 soon after appointment as practicable and shall receive evidence and argument from the  
78 municipal corporation, the county, any participating affected local government, and the  
79 applicant or property owner and shall by majority vote render a decision which shall be  
80 binding on all parties to the dispute as provided for in this article not later than the  
81 sixtieth day following such appointment. The meetings of the panel in which evidence  
82 is submitted or arguments of the parties are made shall be open to the public pursuant to  
83 Chapter 14 of Title 50. The panel shall first determine the validity of the grounds for  
84 objection as specified in the objection. If an objection involves the financial impact on  
85 the county or an affected local government as a result of a change in zoning or land use  
86 or the provision of maintenance of infrastructure, the panel shall quantify such impact in  
87 terms of cost. As to any objection which the panel has determined to be valid, the panel,  
88 in its findings, may establish reasonable zoning, land use, or density conditions applicable  
89 to the annexation and may propose any reasonable mitigating measures as to an objection  
90 pertaining to infrastructure demands or financial incentives.

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

- 92 (A) The existing comprehensive land use plans of both the county and city;
- 93 (B) The existing land use patterns in the area of the subject property;
- 94 (C) The existing zoning patterns in the area of the subject property;
- 95 (D) Each jurisdiction's provision of infrastructure to the area of the subject property;
- 96 (E) Whether the county has approved similar changes in intensity or allowable uses on
- 97 similar developments in other unincorporated areas of the county;
- 98 (F) Whether the county has approved similar developments in other unincorporated
- 99 areas of the county which have a similar impact on infrastructure as complained of by
- 100 the county in its objection; ~~and~~
- 101 (G) Whether the infrastructure or capital outlay project which is claimed adversely
- 102 impacted by the county in its objection was funded by a county-wide tax; and
- 103 (H) The impact that proposed financial incentives has on the budgetary and fiscal
- 104 affairs of the county and affected local governments.
- 105 (3) The county shall provide supporting evidence that its objection is consistent with its
- 106 land use plan and the pattern of existing land uses and zonings in the area of the subject
- 107 property.
- 108 (4) The county shall bear at least 75 percent of the cost of the arbitration. The panel shall
- 109 apportion the remaining 25 percent of the cost of the arbitration equitably between the
- 110 city, any participating affected local government, and the county as the facts of the appeal
- 111 warrant; provided, however, that if the panel determines that any party has advanced a
- 112 position that is substantially frivolous, the costs shall be borne by the party that has
- 113 advanced such position. In the event that the county does not object to an annexation, but
- 114 one or more affected local governments do object, then such local government shall bear
- 115 at least 75 percent of the costs of the arbitration and the remainder of costs shall be
- 116 apportioned as provided in this paragraph.
- 117 (5) The reasonable costs of participation in the arbitration process of the property owner
- 118 or owners whose property is at issue shall be borne by the county, an affected local

119 government, and the city in the same proportion as costs are apportioned under  
120 paragraph (4) of this subsection.

121 (6) The panel shall deliver its findings and recommendations to the parties by certified  
122 mail or statutory overnight delivery.

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

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

130 (d) The members of the arbitration panel shall receive the same per diem, expenses, and  
131 allowances for their service on the committee as is authorized by law for members of  
132 interim legislative study committees.

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

138 **SECTION 5.**

139 Said article is further amended by revising Code Section 36-36-116, relating to appeal, as  
140 follows:

141 "36-36-116.

142 The municipal or county governing authority, a participating affected local government,  
143 or an applicant for annexation may appeal the decision of the arbitration panel by filing an  
144 action in the superior court of the county within ten calendar days from receipt of the

145 panel's findings and recommendations. The sole grounds for appeal shall be to correct  
146 errors of fact or of law, the bias or misconduct of an arbitrator, or the panel's abuse of  
147 discretion. The superior court shall schedule an expedited appeal and shall render a  
148 decision within 20 days from the date of filing. If the court finds that an error of fact or law  
149 has been made, that an arbitrator was biased or engaged in misconduct, or that the panel  
150 has abused its discretion, the court shall issue such orders governing the proposed  
151 annexation as the circumstances may require, including remand to the panel. Any  
152 unappealed order shall be binding upon the parties. The appeal shall be assigned to a judge  
153 who is not a judge in the circuit in which the county is located."

154 **SECTION 6.**

155 Said article is further amended by revising Code Section 36-36-119, relating to good faith  
156 negotiations and written agreement governing terms of annexation, as follows:

157 "36-36-119.

158 The county, the affected local government, the municipal governing authorities, and the  
159 property owner or owners shall negotiate in good faith throughout the annexation  
160 proceedings provided by this article and may at any time enter into a written agreement  
161 governing the annexation. If such agreement is reached after the arbitration panel has been  
162 appointed and before its dissolution, such agreement shall be adopted by the panel as its  
163 findings and recommendations. If such agreement is reached after an appeal is filed in the  
164 superior court and before the court issues an order, such agreement shall be made a part of  
165 the court's order. Any agreement reached as provided in this Code section shall be  
166 recorded as provided in Code Section 36-36-115."

167 **SECTION 7.**

168 Chapter 62 of Title 36 of the Official Code of Georgia Annotated, relating to development  
169 authorities, is amended by adding a new Code section to read as follows:

170 "36-62-15.

171 (a) As used in this Code section, the term:

172 (1) 'Affected local government' means a county, consolidated government, municipality,  
173 or county or independent school system that is reasonably expected to be financially  
174 impacted by financial incentives offered or granted to or for the benefit of a private entity  
175 by a local government authority whose area of operation lies, in whole or in part, within  
176 the same county as the affected local government.

177 (2) 'Financial incentives' means tax abatements, rebates, revenue bonds or other revenue  
178 obligations, and private activity bonds.

179 (b)(1) No development authority, county, consolidated government, or municipality shall  
180 enter into any contract or agreement to provide financial incentives unless such authority  
181 or local government provides all affected local governments with a written notice of  
182 intent providing details on the proposed contract or agreement and financial incentives.

183 (2) The written notice described in paragraph (1) of this subsection shall be delivered to  
184 each affected local government at least seven days prior to the date on which the  
185 development authority, county, consolidated government, or municipality will consider  
186 approval of the contract, agreement, or financial incentives.

187 (3) Such written notice of intent shall include, but not be limited to, the following:

188 (A) An analysis of the project that is the subject of the contract, agreement, or financial  
189 incentives, including, but not limited to, information demonstrating that the project  
190 would not be feasible without the proposed financial incentives;

191 (B) Enumeration of the specific financial incentives that will be provided regarding the  
192 project; and

193 (C) An estimate of the direct financial impact upon each affected local government  
194 from such financial incentives."



195

**SECTION 8.**

196 Article 3 of Chapter 82 of Title 36 of the Official Code of Georgia Annotated, relating to  
197 revenue bonds, is amended in Code Section 36-82-77, relating to hearing and judgment on  
198 validation, parties to proceedings, right of appeal, and review of valuation of existing  
199 undertakings, by adding a new subsection to read as follows:

200 "(c)(1) As used in this subsection, the term:

201 (A) 'Affected local government' means a county, consolidated government,  
202 municipality, or county or independent school system that is reasonably expected to be  
203 financially impacted by financial incentives that are part of the bond validation process  
204 provided for in this article offered or granted to or for the benefit of a private entity by  
205 a local government or a local government authority whose area of operation lies, in  
206 whole or in part, within the same county as the affected local government.

207 (B) 'Financial incentives' means tax abatements, rebates, revenue bonds or other  
208 revenue obligations, and private activity bonds.

209 (2) Any affected local government covering the geographic area of the governmental  
210 body desiring to issue such bonds shall have the same standing as a citizen pursuant to  
211 subsection (a) of this Code section."

212

**SECTION 9.**

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