

Senate Bill 375

By: Senators Gooch of the 51st, Albers of the 56th, Williams of the 27th, Parent of the 42nd,
Jones of the 10th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 31 of Title 36 of the Official Code of Georgia Annotated, relating to
2 incorporation of municipal corporations, so as to provide certain requirements and standards
3 for the incorporation of new municipal corporations; to require a financial viability, fiscal
4 impact, and service delivery study; to prohibit the creation of unincorporated islands; to
5 provide for special districts to amortize obligations; to require referendum approval; to repeal
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 31 of Title 36 of the Official Code of Georgia Annotated, relating to incorporation
10 of municipal corporations, is amended by adding new Code sections to read as follows:

11 "36-31-13.

12 (a) On and after January 1, 2017, any bill to incorporate a new municipal corporation in
13 any county may be introduced in the General Assembly during the regular session which
14 is held during either the first year of the term of office of members of the General
15 Assembly or during the regular session which is held during the second year of the term
16 of office of members of the General Assembly.

17 (b) During the interim between the first and second sessions of the General Assembly, a
18 financial viability, fiscal impact, and service delivery study shall be prepared by a public
19 academic research institution regarding the incorporation of the proposed municipal
20 corporation. Such study shall be based on the interim service delivery strategy required by
21 subsection (c) of this Code section and shall include, but not be limited to, the following
22 issues:

23 (1) The economic viability of the proposed municipal corporation and the amount of
24 taxes and fees necessary to sustain the appropriate levels of services contemplated to be
25 provided by the new municipal corporation in the first year of its corporate existence and

26 the amount of taxes and fees necessary to sustain the appropriate levels of services
 27 projected for the subsequent five- and ten-year periods;

28 (2) The financial impact of the incorporation of the municipal corporation on the
 29 remaining unincorporated area of the county and the amount of taxes and fees necessary
 30 to sustain the appropriate levels of services provided by the county to the unincorporated
 31 area after the incorporation, including, to the extent the study projects that the new
 32 municipal corporation will receive fees or tax revenues for the granting of franchises or
 33 contracts pursuant to paragraph (7) of Code Section 36-34-2, the financial impact on
 34 utility bills of unincorporated customers as a result of such fees or tax revenues being
 35 collected by the new municipal corporation;

36 (3) The financial impact of the incorporation of the municipal corporation on the county
 37 in which such municipal corporation is located and the amount of taxes and fees
 38 necessary to sustain the appropriate levels of services provided by the county on a
 39 county-wide basis after the incorporation; and

40 (4) An estimate of the financial impact of any pension obligations directly attributable
 41 to the provision of local government services by the county in the unincorporated area of
 42 the county proposed for incorporation which may be left unfunded as a result of the
 43 incorporation.

44 (c) Notwithstanding the provisions of paragraph (1) of subsection (e) of Code Section
 45 36-31-8, during the interim between the first and second sessions of the General Assembly
 46 a proposed service delivery strategy summary shall be prepared by the proponents of the
 47 new municipal corporation in cooperation with the county governing authority. The
 48 service delivery strategy summary shall generally follow the requirements of Article 2 of
 49 Chapter 70 of this title, but shall specifically address the following components:

50 (1) An identification of all local government services proposed to be provided or
 51 primarily funded by the new municipal corporation and any change in services to be
 52 provided by the county as a result of the new incorporation;

53 (2) A description of the source of the proposed funding for each service identified
 54 pursuant to paragraph (1) of this subsection; and

55 (3) An identification of the mechanisms, as that term is defined in paragraph (5.3) of
 56 Code Section 36-70-2, to be utilized to facilitate the implementation of the services and
 57 funding responsibilities identified pursuant to paragraphs (1) and (2) of this subsection.

58 (d) The corporate limits of a new municipal corporation shall not create unincorporated
 59 islands. As used in this subsection, the term 'unincorporated island' means an
 60 unincorporated area:

61 (1) With its aggregate external boundaries abutting the new municipal corporation;

62 (2) With its aggregate external boundaries abutting any combination of the new
63 municipal corporation and one or more other existing municipalities or counties,
64 including areas separated by the width of an interstate highway from the boundaries of
65 the new municipal corporation; or

66 (3) To which the county would have no reasonable means of physical access for the
67 provision of services otherwise provided by the county governing authority solely to the
68 unincorporated area of the county.

69 36-31-14.

70 (a) On or after January 1, 2017, Acts of the General Assembly proposing incorporation of
71 a municipal corporation shall include a requirement for referendum approval of the new
72 incorporation under such terms and conditions as specified in such Acts.

73 (b) It shall be the duty of the election superintendent to hold and conduct the referendum
74 and certify the result thereof to the Secretary of State. The initial expense of such election
75 shall be borne by the county within which the election is held. If the proposed
76 incorporation is successful, within two years after the election in which the municipal
77 corporation is approved, the municipal corporation shall reimburse the county for the actual
78 cost of printing and personnel services for the election.

79 36-31-15.

80 (a) If the fiscal impact and service delivery study required by subsection (b) of Code
81 Section 36-31-13 determines that there may be a financial impact on the county resulting
82 from pension obligations left unfunded as a result of the creation of a new municipal
83 corporation, the county, notwithstanding the provisions of Code Section 36-31-11, may
84 establish a special district pursuant to the authority granted in Article IX, Section II,
85 Paragraph VI of the Constitution of Georgia that shall correspond to and be conterminous
86 with the incorporated area of any municipal corporation created on or after January 1,
87 2017.

88 (b) Upon establishing a special district authorized by subsection (a) of this Code section,
89 the county shall actuarially verify the pension obligations directly attributable to such
90 special district whereupon such obligations shall become a debt and obligation of the
91 special district. The county shall be authorized to levy and impose ad valorem taxes in the
92 geographic area of the special district to generate an annual amount sufficient to amortize
93 the pension obligation over 30 years at an interest rate of 7.75 percent annually. Following
94 verification by an actuary of such full satisfaction, the ad valorem tax authorized by this
95 Code section shall terminate and the special district shall cease to exist. Nothing in this

96 Code section shall create any obligation on the part of the municipal corporation within
97 which the special district is located."

98 **SECTION 2.**

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