

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

AS PASSED SENATE

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 require referendum approval; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

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

10 "36-31-13.

11 (a) On and after January 1, 2017, any bill to incorporate a new municipal corporation in
12 any county and any bill for reorganization of local government authorized by Paragraph
13 II of Section III of Article IX of the Constitution, or by any general law adopted pursuant
14 to such Paragraph, may be introduced in the General Assembly during the first year of the
15 term of office.

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

22 (1) The economic viability of the proposed municipal corporation and the amount of
23 taxes and fees necessary to sustain the services to be provided by the new municipal
24 corporation in the first year of its corporate existence and the estimated amount of taxes
25 and fees necessary to sustain the services projected for the subsequent five- and ten-year
26 periods;

27 (2) The financial impact of the incorporation of the municipal corporation on the
28 remaining unincorporated area of the county and existing municipal corporations within
29 the county, and the amount of taxes and fees necessary to sustain the services provided
30 by the county to the unincorporated area and existing municipal corporations after the
31 incorporation;

32 (3) The financial impact of the incorporation of the municipal corporation on the county
33 in which such municipal corporation is located and the amount of taxes and fees
34 necessary to sustain the services provided by the county on a county-wide basis after the
35 incorporation;

36 (4) An estimate of the financial impact of any pension obligations directly attributable
37 to the provision of local government services by the county in the unincorporated area of
38 the county proposed for incorporation which may be left unfunded as a result of the
39 incorporation. In order to calculate the estimate required by this paragraph, the county
40 shall provide a copy of the most recent actuarial valuation of the county pension fund to
41 the academic research institution preparing the study required by this subsection within
42 30 days of the request for the valuation being made to the county; and

43 (5) To the extent the study projects that the new municipal corporation will receive fees
44 or tax revenues for the granting of franchises or contracts pursuant to paragraph (7) of
45 Code Section 36-34-2, the study shall estimate the financial impact of such utility
46 franchise fees or taxes on utility bills of the utility customers within the proposed
47 municipality upon incorporation and an estimate of the increase in total cost to all utility
48 customers affected by changes in the rate base of the utility paying the franchise fees or
49 taxes to the proposed municipality upon incorporation.

50 (c) Notwithstanding the provisions of paragraph (1) of subsection (e) of Code Section
51 36-31-8, during the interim between the first and second sessions of the General Assembly,
52 a service delivery strategy proposal shall be prepared and submitted for the purpose of
53 identifying the information and assumptions required by paragraphs (2) and (3) of
54 subsection (b) of this Code section. The local delegation consisting of all members of the
55 General Assembly whose districts are wholly or partially within the county or counties in
56 which the new municipal corporation is proposed to be located may appoint an advisory
57 committee to assist with the preparation of the service delivery strategy proposal, and any
58 such advisory committee's assistance shall be advisory only in nature and shall not hinder
59 or delay the service delivery strategy proposal's preparation. The proposal shall be
60 prepared for advisory purposes only and shall not be binding on the governing authority
61 of the municipality upon incorporation. The interim service delivery strategy proposal
62 shall generally follow the requirements of Article 2 of Chapter 70 of this title, but shall
63 specifically address the following components:

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

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

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

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

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

76 (2) With its aggregate external boundaries abutting any combination of the new
 77 municipal corporation and one or more other existing municipalities or counties,
 78 including areas separated by the width of an interstate highway from the boundaries of
 79 the new municipal corporation.

80 36-31-14.

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

84 (b) It shall be the duty of the election superintendent to hold and conduct the referendum
 85 and certify the result thereof to the Secretary of State. Any special election to present the
 86 question of approval of incorporation of a new municipality to the voters shall be held
 87 exclusively at the time of a general election."

88 **SECTION 2.**

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