

House Bill 813

By: Representative Anderson of the 10<sup>th</sup>

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 additional preconditions and  
3 procedures for the incorporation of new municipalities; to provide definitions; to prohibit  
4 creation of unincorporated islands in cityhood bills; to prohibit the creation of limited-service  
5 municipalities; to repeal provisions related to control over county parks and fire stations and  
6 other county obligations; to require the formation of and to provide requirements for  
7 cityhood initiative committees; to require petitions of support for new municipalities; to  
8 require fiscal and service delivery studies; to require cityhood bills be approved by the voters  
9 of proposed municipalities; to provide new requirements for on service levels provided by  
10 all municipalities; to provide for related matters; to repeal conflicting laws; and for other  
11 purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

14 Chapter 31 of Title 36 of the Official Code of Georgia Annotated, relating to incorporation  
15 of municipal corporations, is amended by adding a new Code section to read as follows:

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16 "36-31-1.1.

17 As used in this chapter, the term:

18 (1) 'Cityhood bill' means a local Act of the General Assembly granting an original  
19 municipal charter for a new municipality.

20 (2) 'Cityhood initiative committee' means any group, commission, alliance, exploratory  
21 committee, or other similar entity or organization promoting or leading the effort to  
22 provide for the original incorporation of a new municipality.

23 (3) 'Limited-service municipality' or 'city-lite,' means a municipality with a municipal  
24 charter of which attempts to:

25 (A) Restrict the municipality from providing more than a few listed services or fewer  
26 services than those otherwise authorized in the Georgia Constitution, without a voter  
27 referendum;

28 (B) Add requirements that must be met in order for the entity to exercise its statutory  
29 home rule power under Code Section 36-35-3 or other provisions of Chapter 35 of this  
30 title or other general laws; or

31 (C) Otherwise limit the constitutional powers under Article IX, Section II, Paragraph I  
32 of the Georgia Constitution, or general law powers available to all municipalities.

33 (4) 'Unincorporated island' means an unincorporated area:

34 (A) With its aggregate external boundaries abutting the new municipality;

35 (B) With its aggregate external boundaries abutting any combination of the new  
36 municipality and one or more other existing municipalities or counties, including areas  
37 separated by the width of an interstate highway from the boundaries of the new  
38 municipality; or

39 (C) To which the county would have no reasonable means of physical access for the  
40 provision of services otherwise provided by the county governing authority solely to  
41 the unincorporated area of the county."

42 **SECTION 2.**

43 Said chapter is further amended by revising Code Section 36-31-5, relating to certificate of  
44 existence of minimum standards, manner of determination, disposition and evidentiary effect  
45 of certificate, as follows:

46 "36-31-5.

47 (a) Every local law granting an original municipal charter shall have attached thereto a  
48 certificate by the author of the bill stating that the minimum standards required by this  
49 chapter exist as to the area embraced and that all preconditions required by this chapter  
50 have been met. Existence of the standards may be determined, as to population, by  
51 estimate based on the number of dwellings in the area multiplied by the average family size  
52 in the area, as determined by the last preceding federal census or by other reliable evidence  
53 acceptable to the author. As to development of the area, existence of the standards may be  
54 determined by estimate based on actual survey, county maps or records, aerial photographs,  
55 or some other reliable map acceptable to the author. The certificate shall be a permanent  
56 part of the charter and shall constitute conclusive evidence of the existence of the standards  
57 required by this chapter.

58 (b) The certification required by subsection (a) of this Code section may only be made by  
59 a member of the House of Representatives or Senate whose district is located wholly or  
60 partially within the area of the proposed municipality."

61 **SECTION 3.**

62 Said chapter is further amended by revising Code Section 36-31-6, which is reserved, as  
63 follows:

64 "36-31-6.

65 (a) The proposed corporate limits of new municipality provided for in a cityhood bill shall  
66 not create any unincorporated islands.

67 (b) On or after July 1, 2024, no cityhood bill shall be enacted which creates a  
68 limited-service municipality."

69 **SECTION 4.**

70 Said chapter is further amended by repealing and reserving Code Section 36-31-11.1, relating  
71 to municipality control over parks and fire stations and obligation of county.

72 **SECTION 5.**

73 Said chapter is further amended by adding new Code sections to read as follows:

74 "36-31-13.

75 (a) On or after July 1, 2024, a cityhood bill may be introduced in the General Assembly  
76 during the regular session which is held during the first year of the term of office of  
77 members of the General Assembly; provided, however, that such bill shall not be approved  
78 during the session in which it was introduced.

79 (b) A cityhood bill shall only be introduced by a member of the House of Representatives  
80 or Senate whose district is located wholly or partially within the area of the proposed  
81 municipality.

82 (c)(1) As a condition precedent to the introduction of a cityhood bill, a cityhood initiative  
83 committee shall be officially created, with such committee being in the form of a  
84 nonprofit corporation as provided for in Chapter 3 of Title 14.

85 (2) Following incorporation of the cityhood initiative committee, the committee shall  
86 promptly assemble, appoint officers, and establish bylaws. The committee shall keep  
87 official minutes of every meeting of the committee.

88 (3) For all activities associated with the cityhood initiative, the cityhood initiative  
89 committee shall constitute an 'agency' for purposes of Chapter 14 of Title 50 and Article 4  
90 of Chapter 18 of Title 50.

91 (4) For all activities associated with the petition or referendum, as applicable, the  
92 cityhood initiative committee shall constitute a 'campaign committee' for purposes of  
93 Chapter 5 of Title 21. All persons or entities which contribute to the cityhood initiative  
94 or otherwise advancing and funding a cityhood ballot initiative shall be subject to all  
95 disclosure requirements of said chapter.

96 (5) For all activities associated with the cityhood initiative, such activities shall constitute  
97 'lobbying' for purposes of Chapter 5 of Title 21. For all expenditures associated with the  
98 cityhood initiative, such expenditures shall constitute 'lobbying expenditures' for purposes  
99 of Chapter 5 of Title 21. For all persons acting to further the cityhood initiative, such  
100 persons shall constitute a 'lobbyist' for purposes of Chapter 5 of Title 21.

101 (d)(1) Following the creation of the cityhood initiative committee and prior to the  
102 introduction of a cityhood bill, the cityhood initiative committee shall be required to  
103 collect and cause to be filed a petition of support for the cityhood initiative with the judge  
104 of the probate court of the county were the proposed municipality will be located. Such  
105 petition shall contain:

106 (A) For counties with a population of 5,000 or less, the signatures of at least 25 percent  
107 of the electors registered to vote in the last general election who reside in the area of the  
108 proposed new municipality;

109 (B) For counties with a population of more than 5,000 but not more than 50,000, at  
110 least 20 percent of the electors registered to vote in the last general election who reside  
111 in the area of the proposed new municipality; and

112 (C) For counties with a population of more than 50,000, at least 15 percent of the  
113 electors registered to vote in the last general election who reside in the area of the  
114 proposed new municipality.

115 (2) The judge of the probate court shall determine the validity of such petition within 60  
116 days of its being filed with the judge of the probate court. In the event the judge of the  
117 probate court determines that such petition is valid, it shall be his or her duty to certify

118 the results of the petition to the cityhood initiative committee and the member or  
119 members of the General Assembly that will sponsor the cityhood legislation as  
120 contemplated in subsection (a) of Code Section 36-31-5.

121 (3) In the event that the judge of the probate court determines that such petition was not  
122 valid, the judge of the probate court shall cause to be published in detail the reasons why  
123 such petition is not valid. Such publication shall be in the official organ of the county at  
124 the earliest available publication opportunity following the date on which such petition  
125 is declared to be not valid.

126 (e) During the interim between the first and second sessions of the General Assembly, a  
127 fiscal impact and service delivery study shall be prepared by a public academic research  
128 institution regarding the incorporation of the proposed municipality. All costs of such  
129 study shall be paid for by the cityhood initiative committee. Such study shall be based on  
130 the interim service delivery strategy required by subsection (f) of this Code section and  
131 shall include, but not be limited to, the following issues:

132 (1) The financial impact to the county with regard to revenues which will be lost to the  
133 county as a result of incorporation of the new municipality;

134 (2) The financial impact to all other existing municipalities located wholly or partially  
135 within the county with regard to revenues which will be lost to such existing  
136 municipalities as a result of incorporation of the new municipality;

137 (3) The financial impact of the incorporation of the municipality on proposed capital  
138 outlay projects located wholly or partially within the area of the proposed municipality  
139 which are to be funded with proceeds from the special purpose local option sales and use  
140 tax under Part 1 of Article 3 of Chapter 8 of Title 48; and

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

145 (f) Notwithstanding the provisions of paragraph (1) of subsection (e) of Code  
146 Section 36-31-8, during the interim between the first and second sessions of the General  
147 Assembly a proposed service delivery strategy summary shall be prepared by the cityhood  
148 initiative committee. All costs of such study shall be paid for by the cityhood initiative  
149 committee. The proposed service delivery strategy summary shall generally follow the  
150 requirements of Article 2 of Chapter 70 of this title, but shall specifically address the  
151 following components:

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

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

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

160 (g) During the interim between the first and second sessions of the General Assembly, the  
161 county governing authority shall be authorized, but not required, to prepare and submit to  
162 the General Assembly its own fiscal impact or service delivery study incorporating the  
163 elements set forth in subsections (e) and (f) of this Code section.

164 36-31-14.

165 (a) On or after July 1, 2024, any cityhood bill enacted by the General Assembly must be  
166 approved by at least 55 percent of the qualified voters of the proposed municipality;  
167 provided, however, that a high percentage of voter approval may be provided for in such  
168 bill.

169 (b) It shall be the duty of the election superintendent to hold and conduct the referendum  
170 and certify the result thereof to the Secretary of State. The initial expense of such election

171 shall be borne by the county within which the election is held. If the proposed  
172 incorporation is successful, within two years after the election in which the municipality  
173 is approved, the municipality shall reimburse the county for the actual cost of printing and  
174 personnel services for the election.

175 36-31-15.

176 (a) If the fiscal impact study required by subsection (e) of Code Section 36-31-13  
177 determines that there may be a financial impact on the county resulting from pension  
178 obligations left unfunded as a result of the creation of a new municipality, the county,  
179 notwithstanding the provisions of Code Section 36-31-11, may establish a special district  
180 pursuant to the authority granted in Article IX, Section II, Paragraph VI of the Georgia  
181 Constitution that shall correspond to and be conterminous with the incorporated area of any  
182 municipality created on or after July 1, 2024.

183 (b) Upon establishing a special district authorized by subsection (a) of this Code section,  
184 the county shall actuarially verify the pension obligations directly attributable to such  
185 special district whereupon such obligations shall become a debt and obligation of the  
186 special district. The county shall be authorized to levy and impose ad valorem taxes in the  
187 geographic area of the special district to generate an annual amount sufficient to amortize  
188 the pension obligation over 30 years at an interest rate of 7.75 percent annually. Following  
189 verification by an actuary of such full satisfaction, the ad valorem tax authorized by this  
190 Code section shall terminate and the special district shall cease to exist. Nothing in this  
191 Code section shall create any obligation on the part of the municipality within which the  
192 special district is located.



193 36-31-16.

194 In addition to and not in lieu of any other requirements regarding the minimum number of  
195 services required to be active municipalities, all existing municipalities and all newly  
196 created municipalities shall be subject to the following:

197 (1) To qualify as a bona fide municipal service, such service must be provided at a level  
198 that exceeds the level of such service as would be provided by the county;

199 (2) To qualify as a bona fide municipal service, each service claimed must be provided  
200 and enforced in fact, and must be certified annually by the governing authority of the  
201 municipality;

202 (3) In order for an intergovernmental contract with a county to count toward the  
203 minimum number of municipal services, the intergovernmental contract must:

204 (A) Be for a service, or level of service, not otherwise provided by the county to county  
205 residents generally; and

206 (B) Require that a valid and enforceable contract be in place for each municipal service  
207 that is claimed. Each such contract shall:

208 (i) Include measurable consideration approximating the cost/value of the service  
209 provided by the contracting party to the municipality; and

210 (ii) Be in writing and be entered on the minutes of the municipality and of any other  
211 public entity if it is providing the service."

212 **SECTION 6.**

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