

The House Committee on Governmental Affairs offers the following substitute to HB 813:

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 for the retirement of certain pension obligations; to
10 provide for the creation of special districts under certain circumstances for a limited period
11 of time; to provide for certain taxation in connection with the retirement of such obligations;
12 to provide new requirements for on service levels provided by all municipalities; to provide
13 for related matters; to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

H. B 813 (SUB)

SECTION 1.

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

"36-31-1.1.

As used in this chapter, the term:

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

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

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

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

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

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

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

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

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

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

43 **SECTION 2.**

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

47 "36-31-5.

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

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

62 **SECTION 3.**

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

65 "36-31-6.

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

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

70 **SECTION 4.**

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

73 **SECTION 5.**

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

75 "36-31-13.

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

80 (2) In the event that a cityhood bill is introduced in the second year of the term of office
81 of the members of the General Assembly, such bill may be reintroduced during the first
82 year of the next General Assembly in the same form as originally introduced and may be
83 approved during either year of such next General Assembly. For the purposes of this
84 paragraph, data, sponsor, and nonsubstantive scrivener changes shall not qualify as
85 changes in form of reintroduced cityhood bills.

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

- 89 (c)(1) As a condition precedent to the introduction of a cityhood bill, a cityhood initiative
90 committee shall be officially created, with such committee being in the form of a
91 nonprofit corporation as provided for in Chapter 3 of Title 14.
- 92 (2) Following incorporation of the cityhood initiative committee, the committee shall
93 promptly assemble, appoint officers, and establish bylaws. The committee shall keep
94 official minutes of every meeting of the committee.
- 95 (3) For all activities associated with the cityhood initiative, the cityhood initiative
96 committee shall constitute an 'agency' for purposes of Chapter 14 of Title 50 and Article 4
97 of Chapter 18 of Title 50.
- 98 (4) For all activities associated with the petition or referendum, as applicable, the
99 cityhood initiative committee shall constitute a 'campaign committee' for purposes of
100 Chapter 5 of Title 21. All persons or entities which contribute to the cityhood initiative
101 or otherwise advancing and funding a cityhood ballot initiative shall be subject to all
102 disclosure requirements of said chapter.
- 103 (5) All activities associated with the cityhood initiative shall constitute 'lobbying' for
104 purposes of Chapter 5 of Title 21. All expenditures associated with the cityhood
105 initiative shall constitute 'lobbying expenditures' for purposes of Chapter 5 of Title 21.
106 All persons acting to further the cityhood initiative shall constitute a 'lobbyist' for
107 purposes of Chapter 5 of Title 21.
- 108 (d)(1) Following the creation of the cityhood initiative committee and prior to the
109 introduction of a cityhood bill, the cityhood initiative committee shall be required to
110 collect and cause to be filed a petition of support for the cityhood initiative with the
111 election superintendent of the county where the proposed municipality will be located.
112 Such petition shall contain:
- 113 (A) For counties with a population of 5,000 or less, the signatures of at least 25 percent
114 of the electors registered to vote in the last general election who reside in the area of the
115 proposed new municipality;

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

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

122 (2) The election superintendent shall determine the validity of such petition within 60
123 days of its being filed with the election superintendent. In the event the election
124 superintendent determines that such petition is valid, it shall be his or her duty to certify
125 the results of the petition to the cityhood initiative committee and the member or
126 members of the General Assembly that will sponsor the cityhood legislation as
127 contemplated in subsection (a) of Code Section 36-31-5.

128 (3) In the event that the election superintendent determines that such petition was not
129 valid, the election superintendent shall cause to be published in detail the reasons why
130 such petition is not valid. Such publication shall be in the official organ of the county at
131 the earliest available publication opportunity following the date on which such petition
132 is declared to be not valid.

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

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

- 141 (2) The financial impact to all other existing municipalities located wholly or partially
142 within the county with regard to revenues which will be lost to such existing
143 municipalities as a result of incorporation of the new municipality;
- 144 (3) The financial impact of the incorporation of the municipality on proposed capital
145 outlay projects located wholly or partially within the area of the proposed municipality
146 which are to be funded with proceeds from the special purpose local option sales and use
147 tax under Part 1 of Article 3 of Chapter 8 of Title 48; and
- 148 (4) An estimate of the financial impact of any pension obligations directly attributable
149 to the provision of local government services by the county in the unincorporated area of
150 the county proposed for incorporation which may be left unfunded as a result of the
151 incorporation.
- 152 (f) Notwithstanding the provisions of paragraph (1) of subsection (e) of Code
153 Section 36-31-8, during the interim between the first and second sessions of the General
154 Assembly a proposed service delivery strategy summary shall be prepared by the cityhood
155 initiative committee. All costs of such study shall be paid for by the cityhood initiative
156 committee. The proposed service delivery strategy summary shall generally follow the
157 requirements of Article 2 of Chapter 70 of this title, but shall specifically address the
158 following components:
- 159 (1) An identification of all local government services proposed to be provided or
160 primarily funded by the new municipal corporation and any change in services to be
161 provided by the county as a result of the new incorporation;
- 162 (2) A description of the source of the proposed funding for each service identified
163 pursuant to paragraph (1) of this subsection; and
- 164 (3) An identification of the mechanisms, as that term is defined in paragraph (5.3) of
165 Code Section 36-70-2, to be utilized to facilitate the implementation of the services and
166 funding responsibilities identified pursuant to paragraphs (1) and (2) of this subsection.

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

171 (h) During the interim between the first and second sessions of the General Assembly, the
172 cityhood initiative committee shall have a digital shapefile of the proposed city's
173 boundaries prepared and shall provide a copy of such shapefile to the county, the
174 Department of Community Affairs, and the Legislative and Congressional
175 Reapportionment Office of the General Assembly, no later than the first day of the second
176 session of the General Assembly.

177 36-31-14.

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

182 (b) It shall be the duty of the election superintendent to hold and conduct the referendum
183 on the Tuesday following the first Monday in November immediately following the
184 enactment of a cityhood bill and certify the result thereof to the Secretary of State. The
185 initial expense of such election shall be borne by the county within which the election
186 is held. If the proposed incorporation is successful, within two years after the election in
187 which the municipality is approved, the municipality shall reimburse the county for the
188 actual cost of printing and personnel services for the election.

189 36-31-15.

190 (a) If the fiscal impact study required by subsection (e) of Code Section 36-31-13
191 determines that there may be a financial impact on the county resulting from pension

192 obligations left unfunded as a result of the creation of a new municipality, the county,
193 notwithstanding the provisions of Code Section 36-31-11, may establish a special district
194 pursuant to the authority granted in Article IX, Section II, Paragraph VI of the Georgia
195 Constitution that shall correspond to and be conterminous with the incorporated area of any
196 municipality created on or after July 1, 2024.

197 (b) Upon establishing a special district authorized by subsection (a) of this Code section,
198 the county shall actuarially verify the pension obligations directly attributable to such
199 special district whereupon such obligations shall become a debt and obligation of the
200 special district. The county shall be authorized to levy and impose ad valorem taxes in the
201 geographic area of the special district to generate an annual amount sufficient to amortize
202 the pension obligation over 30 years at an interest rate of 7.75 percent annually. Following
203 verification by an actuary of such full satisfaction, the ad valorem tax authorized by this
204 Code section shall terminate and the special district shall cease to exist. Nothing in this
205 Code section shall create any obligation on the part of the municipality within which the
206 special district is located.

207 36-31-16.

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

211 (1) To qualify as a bona fide municipal service, each service claimed must be provided
212 and enforced in fact, and the governing authority of the municipality shall annually adopt
213 a resolution certifying that such services are provided at a level that exceeds the level of
214 such service as would be provided by the county; and

215 (2) In order for an intergovernmental contract with a county to count toward the
216 minimum number of municipal services, the intergovernmental contract must:

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

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

221 (i) Include measurable consideration approximating the cost of the service provided
222 by the contracting party to the municipality; and

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

225 **SECTION 6.**

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