

House Bill 815

By: Representatives Davis of the 87<sup>th</sup>, Scott of the 76<sup>th</sup>, and Schofield of the 63<sup>rd</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 for minimum service delivery  
3 requirements for new municipal corporations; to require petitions in support of proposed  
4 incorporations; to provide procedures for such petition; to require short- and long-term  
5 studies analyzing the feasibility and impact of a proposed municipal corporation; to provide  
6 for distribution of copies of such studies; to provide that local Acts proposing new municipal  
7 corporations are introduced in the first year of a biennium; to provide that such local Acts  
8 cannot be considered by the General Assembly until the second year of a biennium; to  
9 provide that local Acts proposing new municipal corporations must be approved by the  
10 voters of the proposed city voting in a referendum; to provide for the retirement of certain  
11 pension obligations; to provide for definitions; to provide for the creation of special districts  
12 under certain circumstances for a limited period of time; to provide for procedures,  
13 conditions, and limitations; to provide for certain taxation in connection with the retirement  
14 of such obligations to provide for related matters; to repeal conflicting laws; and for other  
15 purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

H. B. 815

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17 **SECTION 1.**

18 Chapter 31 of Title 36 of the Official Code of Georgia Annotated, relating to incorporation  
19 of municipal corporations, is amended by revising Code Section 36-31-3, relating to  
20 minimum population standards for proposed municipal corporation, as follows:

21 "36-31-3.

22 To be eligible for original incorporation as a municipal corporation, the minimum  
23 population and service delivery standards of the area embraced within the proposed  
24 municipal boundary shall be as follows, as determined by the most recent United States  
25 decennial census:

26 (1) For a proposed municipal corporation with a total resident population of at least  
27 between 200 and 49,999 persons, the direct provisions of three or more services  
28 enumerated under Article IX, Section II, Paragraph III(a) of the Constitution of Georgia;  
29 and

30 (2) For a proposed municipal corporation with a total resident population of  
31 between 50,000 and 99,999 persons, the direct provisions of five or more services  
32 enumerated under Article IX, Section II, Paragraph III(a) of the Constitution of Georgia;  
33 and An average resident population of at least 200 persons per square mile for the total  
34 area.

35 (3) For a proposed municipal corporation with a total resident population of 100,000 or  
36 more persons, the direct provisions of all of the services enumerated under Article IX,  
37 Section II, Paragraph III(a) of the Constitution of Georgia."

38 **SECTION 2.**

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

42 "36-31-5.

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

53 (b) The certification required by subsection (a) of this Code section shall also state that at  
54 least 60 percent of the electors registered to vote in the area of the proposed municipal  
55 corporation have signed a petition requesting the incorporation of the proposed new  
56 municipal corporation. Such petition shall specifically set forth the boundaries of and the  
57 services to be provided by the proposed municipal corporation. Except for the time  
58 limitation provided for in subsection (a) of Code Section 21-4-5, such petition processes  
59 shall use the same process for the administration, signature collection, and certification as  
60 outlined in Chapter 4 of Title 21, the 'Recall Act of 1989.'

61 (c) The certification required by subsection (a) of this Code section shall also be supported  
62 by a comprehensive feasibility and impact study conducted by a public institution affiliated  
63 with the University System of Georgia, regarding the feasibility of the proposed municipal  
64 corporation using the boundaries as set forth in the bill. The results of such study shall  
65 have been released within the five years prior to such certification. Such study shall also  
66 analyze the impact the establishment of the proposed municipal corporation will have on  
67 the fiscal affairs and delivery of public services by the county or counties wherein the  
68 proposed municipality will be located. Such study shall also analyze the short-term

69 immediate feasibility and impact of the municipal corporation, as well as the feasibility and  
70 impact of the municipality for periods of five and ten years following incorporation of such  
71 municipality. Copies of such feasibility and impact study shall be provided by the author  
72 of the bill to the relevant committees of the General Assembly considering such bill, the  
73 governing authority of the county or counties where the proposed municipal corporation  
74 will be located, and the office of the clerk of the superior court of the county or counties  
75 where the proposed municipal corporation will be located for the purpose of examination  
76 and inspection by the public."

77 **SECTION 3.**

78 Said chapter is further amended by revising Code Section 36-31-6, which is currently  
79 reserved, to read as follows:

80 "36-31-6.

81 (a) Local Acts of the General Assembly proposed to incorporate a new municipal  
82 corporation shall only be introduced in the first year of a biennium and shall not be subject  
83 to approval by either chamber of the General Assembly until the second year of such  
84 biennium.

85 (b) No local Act of the General Assembly proposing to incorporate a new municipal  
86 corporation shall become effective unless such Act is approved by 57 percent of the  
87 qualified voters of the proposed municipality voting in a referendum at a general election  
88 held in an even-numbered year at which members of the General Assembly are elected."

89 **SECTION 4.**

90 Said chapter is further amended by adding a new Code section to read as follows:

91 "36-31-13.

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

- 93 (1) 'Local government services' means one or more services enumerated under  
94 Article IX, Section II, Paragraph III(a) of the Constitution of Georgia.
- 95 (2) 'Pension obligation' means the amount of unfunded pension liability attributed to a  
96 portion of a formerly unincorporated area of a county that is included in the corporate  
97 limits of a municipality identified in subsection (c) of this Code section which:
- 98 (A) Has been established and verified by an independent actuarial study conducted  
99 pursuant to the direction of the board of trustees of the county pension board; and
- 100 (B) Is directly attributable to the provision of local government services in the formerly  
101 unincorporated area of the county, which local government services ceased to be  
102 provided in such area following the incorporation of a municipality identified in  
103 subsection (c) of this Code section.
- 104 (b) Pursuant to the authority granted by Article IX, Section II, Paragraph VI of the  
105 Constitution of Georgia, there is created in each county of this state a special district with  
106 boundaries that shall correspond with and be conterminous with the geographical area  
107 described by the governing authority of a county in which a pension obligation has been  
108 established and verified under paragraph (2) of subsection (a) of this Code section.
- 109 (c) When a pension obligation has been established and verified under paragraph (2) of  
110 subsection (a) of this Code section, the governing authority of the county shall be  
111 authorized to adopt an ordinance or resolution ratifying such pension obligation and  
112 describing the geographical area to which such pension obligation is directly attributable.  
113 Such area in the county shall correspond to and be conterminous with the incorporated area  
114 of a municipality created on or after July 1, 2023.
- 115 (d)(1) Following the adoption of the ordinance or resolution under subsection (c) of this  
116 Code section, the pension obligation directly attributable to that portion of the formerly  
117 unincorporated area of a county which is located in each special district created under this  
118 Code section which existed on the effective date of the local Act incorporating a  
119 municipality identified under subsection (c) of this Code section shall become the debt

120 and obligation of the special district. Such pension obligation shall be determined by  
121 calculating the percentage of the total decline in the unincorporated tax digest of the  
122 county as a result of the incorporation of the municipality as of the effective date of the  
123 local Act creating such municipality. Such percentage shall then be multiplied by the  
124 total unfunded pension liability existing on the effective date of the local Act creating  
125 such municipality. Such portion of such unfunded pension liability shall then be  
126 multiplied by a factor equal to the percentage of decline in the contribution to the pension  
127 funds by the area encompassed by the special district due to the cessation of the provision  
128 of all or some of the local government services within such special district as a result of  
129 the incorporation of such area to obtain the pension obligation of the special district.  
130 Such pension obligation shall then be amortized over 30 years at an interest rate of 7.75  
131 percent annually.

132 (2) An amount of ad valorem taxes shall be levied and imposed by the governing  
133 authority of the county in the geographic area of the special district to generate the annual  
134 amortized amount calculated pursuant to this subsection to retire such pension obligation  
135 in 30 years.

136 (3) The assumption of the pension obligation by the special district shall not create any  
137 additional obligation on the part of the special district or any right which did not exist  
138 prior to the creation of the special district.

139 (4) The assumption of the pension obligation by the special district shall not create any  
140 obligation on the part of the municipality within which the special district is located.

141 (e) Each special district created by this Code section shall continue in force and effect until  
142 the full satisfaction of the pension obligation as set forth in this Code section. Following  
143 verification by an actuary of such full satisfaction, the ad valorem tax under this Code  
144 section shall cease in a special district, and such special district shall cease to exist."

145

**SECTION 5.**

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