

ADOPTED SENATE**SENATE SUBSTITUTE TO HB 905**

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 8 of Chapter 36 of Title 36 of the Official Code of Georgia Annotated,
2 relating to municipal deannexation, so as to provide for municipal deannexation of property
3 by application of 100 percent of property owners in certain circumstances; to provide for
4 procedures, conditions, and limitations; to provide for automatic repeal; to amend Chapter
5 66 of Title 36 of the Official Code of Georgia Annotated, relating to zoning procedures as
6 pertaining to counties and municipal corporations, so as to repeal provisions authorizing
7 administrative officers to exercise zoning powers; to repeal provisions authorizing
8 quasi-judicial boards and agencies to hear and render decisions on applications for special
9 administrative permits; to revise definitions; to provide for related matters; to provide for an
10 effective date and applicability; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Article 8 of Chapter 36 of Title 36 of the Official Code of Georgia Annotated, relating to
14 municipal deannexation, is amended by adding a new Code section to read as follows:

15 "36-36-135.

16 (a) Authority is granted to the governing authority of any municipality initially chartered
17 on or after January 1, 2016, and before July 1, 2017, to deannex an area of the existing
18 corporate limits thereof, in accordance with the procedures provided in this Code section
19 and in Article 1 of this chapter, upon the written and signed applications of the owners of
20 all of the land, except the owners of any public street, road, highway, or right of way,
21 proposed to be deannexed, containing a complete description of the lands to be deannexed;
22 provided, however, that no more than one parcel of property may be deannexed in one
23 action. If the proposed deannexation conforms with the requirements of this Code section,
24 the governing authority of the municipality shall approve such deannexation within 90 days
25 of the submission of the application unless it finds by a preponderance of the evidence that
26 the deannexation would be detrimental to the health and safety of the area remaining within
27 the municipality. In addition, the governing authority of the municipality may deny such
28 deannexation within 90 days of the submission of the application upon a finding that the
29 deannexation would be detrimental to any outstanding bonds issued by the municipality or
30 that the municipality could by law issue.

31 (b) To be eligible for deannexation under the provisions of this Code section, the
32 application provided for by subsection (a) of this Code section shall show that the
33 following conditions have been met:

34 (1) The parcel does not exceed ten acres in area;

35 (2) The boundaries of such parcel abut the boundaries of an adjacent municipality, and
36 if the parcel exceeds two acres in size, more than 50 percent of the boundaries of such
37 parcel abut the boundaries of an adjacent municipality. A parcel shall be deemed to abut
38 the municipal boundary if it is otherwise separated from the municipal boundary by the
39 definite width of:

40 (A) Any street or right of way;

41 (B) Any creek or river; or

- 42 (C) Any right of way of a railroad or other public service corporation;
 43 (3) The parcel is proposed or utilized for commercial development as a portion of a
 44 commercial development of which not less than 75 percent of the area is located or
 45 proposed to be located within the adjacent municipality and which adjoins such parcel;
 46 (4) The parcel does not provide access from the area proposed or utilized for commercial
 47 development to a public street or road; and
 48 (5) The governing authority of the adjacent municipality has adopted an ordinance or
 49 resolution annexing such parcel conditioned upon and effective immediately upon the
 50 deannexation of such parcel by the municipality in which it is located.
 51 (c) Deannexation under the provisions of this Code section shall be permitted for one year
 52 following the adoption of the conditional ordinance or resolution provided for in
 53 paragraph (5) of subsection (b) of this Code section. If such deannexation is not completed
 54 within one year of such adoption, such conditional ordinance or resolution shall be null and
 55 void and such deannexation under the provisions of this Code section shall require adoption
 56 of another such ordinance or resolution by the adjacent municipality.
 57 (d) This Code section shall stand repealed on December 31, 2027."

58 **SECTION 2.**

59 Chapter 66 of Title 36 of the Official Code of Georgia Annotated, relating to zoning
 60 procedures as pertaining to counties and municipal corporations, is amended by revising
 61 subsection (b) of Code Section 36-66-2, relating to legislative purpose and local government
 62 zoning powers, as follows:

63 "(b) Consistent with the minimum procedures required by this chapter, local governments
 64 may:

- 65 (1) Provide by ordinance or resolution for such administrative ~~officers~~, boards, or
 66 agencies as may be expedient for the efficient exercise of delegated, quasi-judicial zoning
 67 powers and to establish procedures and notice requirements for hearings before such

68 quasi-judicial ~~officers~~, boards; or agencies that are consistent with the minimum
 69 procedures provided for in this chapter to assure due process is afforded the general
 70 public; and

71 (2) Provide by ordinance or resolution for procedures and requirements in addition to or
 72 supplemental to those required by this chapter and, where so adopted, thereby establish
 73 the minimum procedures for such local government's exercise of zoning powers."

74 **SECTION 3.**

75 Said chapter is further amended by revising paragraphs (1.1) and (4) of Code
 76 Section 36-66-3, relating to definitions, as follows:

77 "(1.1) 'Quasi-judicial ~~officers~~, boards; or agencies' means ~~an officer~~, a board; or agency
 78 appointed by a local government to exercise delegated, quasi-judicial zoning powers,
 79 including hearing and rendering decisions on appeals of administrative decisions, ~~by such~~
 80 ~~officers, boards, or agencies and hearing and rendering decisions on~~ applications for
 81 variances, ~~special administrative permits~~, special exceptions, conditional use permits, or
 82 other similar permits not enumerated herein as a zoning decision, pursuant to standards
 83 for the exercise of such quasi-judicial authority adopted by a local government."

84 "(4) 'Zoning decision' means final legislative action by a local government which results
 85 in:

- 86 (A) The adoption or repeal of a zoning ordinance;
- 87 (B) The adoption of an amendment to a zoning ordinance which changes the text of the
 88 zoning ordinance;
- 89 (C) The adoption or denial of an amendment to a zoning ordinance to rezone property
 90 from one zoning classification to another;
- 91 (D) The adoption or denial of an amendment to a zoning ordinance by a municipal
 92 local government to zone property to be annexed into the municipality;
- 93 (E) The grant or denial of a permit relating to a special use of property; or

94 (F) The grant or denial of a variance or conditions concurrent and in conjunction with
95 a decision pursuant to subparagraph (C) or (E) of this paragraph."

96 **SECTION 4.**

97 Said chapter is further amended by revising subsection (g) of Code Section 36-66-4, relating
98 to hearings on proposed zoning decisions, notice of hearing, nongovernmental initiated
99 actions, reconsideration of defeated actions, and procedure on zoning, as follows:

100 "(g) A local government delegating decision-making power to a quasi-judicial officer,
101 board; or agency shall provide for a hearing on each proposed action described in
102 paragraph (1.1) of Code Section 36-66-3. Notice of such hearing shall be provided at
103 least 30 days prior to the quasi-judicial hearing, with such notice being made as provided
104 for in subsection (a) of this Code section and with additional notice being mailed to the
105 owner of the property that is the subject of the proposed action."

106 **SECTION 5.**

107 Said chapter is further amended by revising subsection (b.1) of Code Section 36-66-5,
108 relating to adoption of hearing policies and procedures and standards for exercise of zoning
109 power, as follows:

110 "(b.1) In addition to policies and procedures required by subsection (a) of this Code
111 section, each local government providing for a quasi-judicial officer's, board's; or agency's
112 grant, denial, or review of a quasi-judicial matter may adopt specific standards and criteria
113 governing the exercise of such quasi-judicial decision-making authority, and such standards
114 shall include the factors by which the local government directs the evaluation of a
115 quasi-judicial matter. Such standards shall be printed and copies thereof made available
116 for distribution to the general public."

117

SECTION 6.

118 Said chapter is further amended by revising subsection (d) of Code Section 36-66-5.1,
119 relating to judicial review and procedures, as follows:

120 "(d) An appeal or challenge by an opponent filed pursuant to this chapter shall stay all
121 legal proceedings in furtherance of the action appealed from or challenged, unless the local
122 government, ~~officer~~, board, or agency from which ~~or from whom~~ the appeal or challenge
123 is taken certifies that, by reason of the facts stated in the certificate, a stay would cause
124 imminent peril to life or property. In such actions, the applicant for the zoning decision or
125 the quasi-judicial decision shall be a necessary party and shall be named as a defendant in
126 the action and served in accordance with the requirements of Title 5 or Title 9, as
127 appropriate."

128

SECTION 7.

129 This Act shall become effective July 1, 2024, and Sections 2 through 6 of this Act shall apply
130 to all zoning and quasi-judicial decisions occurring on and after that date; however, no
131 zoning or quasi-judicial decision prior to July 1, 2025, shall be rendered invalid or void
132 because of a local government's failure to implement language in their ordinances
133 accomplishing the provisions of Code Section 36-66-5.1.

134

SECTION 8.

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