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LOCAL GOVERNMENT Reorganization: General Assembly

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LOCAL GOVERNMENT

Reorganization: General Assembly Authority

CODE SECTIONS:	O.C.G.A. §§ 36-68-1 (new), 36-68-2 (new) and 36-68-3 (new)
BILL NUMBER:	HB 1572
ACT NUMBER:	1547
SUMMARY:	The Act authorizes the General Assembly to provide by local law for the repeal of the charter of a municipality as a part of achieving a governmental reorganization, with the county in which the municipality is located succeeding to the corporate powers, functions, rights, assets and liabilities of the municipality.
EFFECTIVE DATE:	April 7, 1986

History

The Georgia Constitution of 1983 authorizes the reorganization of local governments either by consolidating a municipal government with that of the county or counties in which it is located[1] or by some alternative to consolidation, such as establishing a single governing body or redistributing powers between municipal and county governments.[2] These provisions allow a city and a county which provide urban service systems operating side by side to merge their separate systems.

Under the constitutional provision for consolidating city and county governments, a merger may be authorized by either local or general law.[3] Any consolidation proposal would be subject to separate approval of a majority of the voters of the county and of the municipality.[4] A new charter would be drafted for the remodeled political subdivision which would be "neither city nor county in a strict sense, but [would be] a new type of political entity."[5] This new entity could be structured to streamline urban services while retaining the characteristics of the prior county and city

1. GA. CONST. art. IX, § III, ¶ II(a) (1983).
2. *Id.* ¶ II(b).
3. *Id.* ¶ II(a). *See* 1984 Op. Att'y Gen. No. U84-1. No general enabling law has been enacted previously pursuant to the authority granted in GA. CONST. art. IX, § III, ¶ II(b).
4. GA. CONST. art. IX, § III, ¶ II(a).
5. 1971 Op. Att'y Gen. No. U71-35.

governments to the extent necessary to continue essential relationships with state and federal governments without disruption.[6]

Achieving city/county consolidation has proved to be very difficult in Georgia. Since 1960, city/county consolidation has been rejected by the voters one or more times in Athens/Clarke County, Augusta/Richmond County, Brunswick/Glynn County, Macon/Bibb County, Savannah/Chatham County, and Tifton/Tift County.[7] To date, the only city/county consolidation achieved in Georgia is that of Columbus/Muscogee County which became effective on January 1, 1971.[8] Although many reasons might be offered for the difficulty of achieving city/county consolidation, tension between the competing interests of the city and county is probably the underlying reason for the many rejections of this form of local government reorganization.[9] The difficulty of achieving city/county consolidation is the primary reason that the 1983 Constitution provides authority for other forms of local government reorganization.

HB 1572

House Bill 1572 was enacted pursuant to the authority granted in paragraph II(b) of article IX, § III of the 1983 Georgia Constitution,[10] and is an alternative to the city/county consolidation method of restructuring

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6. *See* 1971 Op. Att'y Gen. No. 71-169. An example of implementation of this consolidation procedure is the merger of the government of Muscogee County with the City of Columbus. See 1971 Ga. Laws Ex. Sess. 2007 for the consolidated government charter. This city/county consolidation was based on a local constitutional amendment, 1986 Ga. Laws 1508, which was implemented by a 1969 local law, 1969 Ga. Laws 3571. That consolidation, though still not complete, is regarded as successful for Columbus. *See* Jones, *Consolidation a Boon for Columbus*, Atlanta J. & Const., Oct. 13, 1985, at 4D, col. 1.

7. *See infra* note 9 and accompanying text.

8. 1971 Ga. Laws Ex. Sess. § 9-101 (Charter of Columbus).

9. In the proposed Athens/Clarke County consolidation, the county resisted what it feared to be an attempt by the City of Athens to take over government. Telephone interview with James V. Burgess, Executive Director, Georgia Municipal Ass'n (Apr. 11, 1986).

> Since Columbus and Muscogee County merged in 1971, no other city and county have been able to bring it off. Athens and Clarke County voters have rejected consolidation three times. The measure has been defeated in Tifton and Savannah once, three times in Augusta and four times in Macon.
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> 'It (consolidation) is not going to happen quickly. It's not going to happen in the near future and may never happen. It's just too volatile an issue . . . . Wars in history have been fought over less than is involved in a consolidation effort.'

Jones, *Consolidation a Boon for Columbus*, Atlanta J. & Const., Oct. 13, 1985, at 4D, col. 4 (quoting Mel Hill, Director of the Carl Vinson Institute of Government at the University of Georgia).

10. Paragraph II(b) authorizes enabling legislation in the form of a general law, rather than by local act.

local governments.[11] The approach taken by HB 1572 is to grant authority to achieve only one specific type of governmental reorganization. The Act provides for repeal of the charter of a municipality and succession of the county in which it is located "to the corporate powers, functions, rights, assets and liabilities" of the municipality.[12] A House Floor Amendment added that a local law shall provide for the creation of a special tax district within the boundaries of the municipality by the successor county in order to retire any outstanding bonded indebtedness of the municipality.[13]

The Act makes this reorganization contingent upon voter approval by separate referenda of the city and county,[14] and upon approval of the governing authorities of both city and county prior to these referenda.[15] The approvals are interdependent, and failure to obtain any required approval will defeat the proposed reorganization.[16]

As with consolidation, the end result of the reorganization is a political subdivision having characteristics of both a city and a county. The Act specifically empowers the General Assembly to provide by local law for the county to be treated as both types of government under the laws and Constitution of the State.[17] The Legislature may also provide that the

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11. HB 1572 was the direct result of the frustrated attempts by the City of Athens and Clarke County to consolidate under a new charter. Telephone interview with James V. Burgess, Executive Director, Georgia Municipal Ass'n (Apr. 11, 1986).

The Association County Commissioners of Georgia did not oppose the proposed legislation, which was of peripheral interest to that association. Telephone interview with John Silk, Director of Public Affairs, Association County Commissioners of Georgia (Apr. 11, 1986).

12. O.C.G.A. § 36-68-1 (Supp. 1986).

> This is historic legislation which was included as one of the objectives of the GMA 2000 Plan . . . . [It] is permissive and simply provides for a legal mechanism to transfer the powers, functions, assets, grants, etc., to the county when the charter of a city is repealed. It is a general law that is required under the 1983 Constitution to accomplish this type of local governmental reorganization.

3 GMA Legislative Alert 2 (Feb. 21, 1986).

13. O.C.G.A. § 36-68-3(a), (1) (Supp. 1986).

14. O.C.G.A. § 36-68-3(a)(3), (4) (Supp. 1986).

15. O.C.G.A. § 36-68-3(a)(2) (Supp. 1986). The requirement of approval by both governing authorities was not in HB 1572 as introduced, but was added by Senate Committee Substitute.

16. In order to be utilized, this Act would require the passage of two local laws — one repealing the city charter and the other reorganizing the county to accept the powers of the city. The effectiveness of both local laws are contingent upon their approval by the governing bodies of both the affected city and county. The voters in the city and the voters of the affected county must also approve. Also, both local laws are contingent upon the passage of each other. If one fails, but the other passes, they both fail. Both local laws must be approved.

3 GMA Legislative Alert 2 (Feb. 21, 1986).

17. O.C.G.A. § 36-68-2(a)(2) (Supp. 1986).

county be treated as both for purposes of entitlement to funds or grants which either the city or the county otherwise would be entitled to receive.[18]

Assumption of contractual obligations of the city by the county, transfer of city employees to the county, and transfer of assets of the city to the county are specifically provided for in the Act.[19] A final, broad provision authorizes local law addressing "any other matters reasonably necessary or convenient" to implement this type of government reorganization.[20]

The intent of the Act is to authorize a form of local government reorganization which is somewhat simpler than city/county consolidation in achieving a more effective and efficient system for the delivery of city and county services. The end result of the reorganization is similar to city/county consolidation, but the method of achieving it is substantially different. Although mechanically simpler, this method still requires extensive revision of county commission law to restructure the membership and to provide for such necessary changes as authorizing municipal-type powers and eligibility for state or federal grants.[21] The tension between city and county interests still may impede attempts to reorganize, but the Act provides an alternative under which these competing interests may be able to reach an accord.

18. *Id.* § 36-68-2(a)(9).
19. *Id.* § 36-68-2(a)(6), (7), (8).
20. *Id.* § 36-68-2(a)(9).
21. Telephone interview with Harvey D. Findley, Legislative Counsel (May 29, 1986).