

CHAPTER 31 INCORPORATION OF MUNICIPAL CORPORATIONS

Sec.

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36-31-1. Legislative intent.

It is declared to be the intention of the General Assembly to prescribe certain minimum standards which must exist as a condition precedent to the original incorporation of a municipal corporation of this state.

(Ga. L. 1963, p. 251, § 1.)

Law reviews.

- For article surveying history of grant of municipal charters in Georgia, see 11 Ga. B. J. 133 (1948).

JUDICIAL DECISIONS

Cited in *City of Atlanta v. Mays*, 301 Ga. 367, 801 S.E.2d 1 (2017).

RESEARCH REFERENCES

Am. Jur. 2d.

- 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions, § 13.

C.J.S.

- 62 C.J.S., Municipal Corporations, § 11.

36-31-2. Two-year inapplicability of provisions regarding inactive municipalities.

When a municipal corporation is created by local Act as authorized in this chapter, the provisions of Code Section 36-30-7.1 shall not apply for two years from the date the first elected officials of such municipal corporation take office. No later than July 1 following the expiration of such two-year period, the governing authority of the municipal corporation shall file a certification with the Department of Community Affairs stating whether the municipal corporation does or does not meet the standards for an active municipality under subsection (b) of Code Section 36-30-7.1.

(Ga. L. 1963, p. 251, § 2; Ga. L. 1967, p. 718, § 1; Ga. L. 1971, p. 90, § 1; Ga. L. 1996, p. 399, § 1; Ga. L. 2005, p. 185, § 1/HB 36.)

Editor's notes.

- Ga. L. 2005, p. 185, § 5/HB 36, not codified by the General Assembly, provides for severability.

Ga. L. 2005, p. 185, § 6/HB 36, not codified by the General Assembly, provides that the Act shall apply with respect to any local Act enacted at the 2005 regular session of the General Assembly or any future session.

JUDICIAL DECISIONS

Section not retroactive.

- When a municipality was created prior to this section, the restrictions of this section do not apply to an amendatory Act. To construe this section as applicable to acts amending the corporate powers of municipalities in

existence prior to this section would violate the statute's plain and unambiguous language, and the constitutional prohibition against enactment of retroactive laws. *Brown v. City of Marietta*, 220 Ga. 826, 142 S.E.2d 235 (1965).

Cited in *Meredith v. Meredith*, 240 Ga. 226, 240 S.E.2d 75 (1977); *City of Atlanta v. Mays*, 301 Ga. 367, 801 S.E.2d 1 (2017).

RESEARCH REFERENCES

C.J.S.

- 62 C.J.S., Municipal Corporations, § 13.

36-31-3. Minimum population standards for proposed municipal corporation.

To be eligible for original incorporation as a municipal corporation, the minimum population standards of the area embraced within the proposed municipal boundary shall be as follows:

1. A total resident population of at least 200 persons; and
2. An average resident population of at least 200 persons per square mile for the total area.

(Ga. L. 1963, p. 251, § 3.)

RESEARCH REFERENCES

C.J.S.

- 62 C.J.S., Municipal Corporations, § 25.

36-31-4. Use and subdivision of areas proposed to be incorporated.

To be eligible for original incorporation as a municipal corporation, the area embraced shall be so developed that at least 60 percent of the total number of lots and tracts in the area at the time of incorporation are used for residential, commercial, industrial, institutional, recreational, or governmental purposes and shall be subdivided into lots and tracts such

that at least 60 percent of the total acreage, not counting the acreage which at the time of incorporation is used for, held for future use for, or subject to a contract for future use for commercial, industrial, governmental, recreational, or institutional purposes, consists of lots and tracts of five acres or less in size.

(Ga. L. 1963, p. 251, § 4; Ga. L. 1986, p. 10, § 36; Ga. L. 2005, p. 185, § 2/HB 36.)

Editor's notes.

- Ga. L. 2005, p. 185, § 5/HB 36, not codified by the General Assembly, provides for severability.

Ga. L. 2005, p. 185, § 6/HB 36, not codified by the General Assembly, provides that the Act shall apply with respect to any local Act enacted at the 2005 regular session of the General Assembly or any future session.

RESEARCH REFERENCES

C.J.S.

- 62 C.J.S., Municipal Corporations, §§ 26, 27.

36-31-5. Certificate of existence of minimum standards; manner of determination; disposition and evidentiary effect of certificate.

Every local law granting an original municipal charter shall have attached thereto a certificate by the author of the bill stating that the minimum standards required by this chapter exist as to the area embraced.

Existence of the standards may be determined, as to population, by estimate based on the number of dwellings in the area multiplied by the average family size in the area, as determined by the last preceding federal census or by other reliable evidence acceptable to the author. As to development of the area, existence of the standards may be determined by estimate based on actual survey, county maps or records, aerial photographs, or some other reliable map acceptable to the author. The certificate shall be a permanent part of the charter and shall constitute conclusive evidence of the existence of the standards required by this chapter.

(Ga. L. 1963, p. 251, § 5.)

JUDICIAL DECISIONS

Cited in *City of Baldwin v. Woodard & Curran, Inc.*, 293 Ga. 19, 743 S.E.2d 381 (2013).

RESEARCH REFERENCES

C.J.S.

- 62 C.J.S., Municipal Corporations, § 24.

36-31-6. Responsibility of the Attorney General for preclearances.

Reserved. Repealed by Ga. L. 2015, p. 385, § 6-3/HB 252, effective July 1, 2015.

Editor's notes.

- This Code section was based on Code 1981, § 36-31-6, enacted by Ga. L. 2005, p. 185, § 3/HB 36.

Ga. L. 2015, p. 385, § 1-1/HB 252, not codified by the General Assembly, provides that: "This Act shall be known and may be cited as the 'J. Calvin Hill, Jr., Act.'"

36-31-7. Power to license and regulate alcoholic beverages.

When a new municipal corporation is created by local Act, the governing authority of the municipal corporation shall have all the same powers to license and regulate alcoholic beverages within its territory as did the governing authority of the county when such territory was within the unincorporated area of the county. Without limiting the generality of the foregoing, it is specifically provided that no petition, election, or other condition precedent which might otherwise be required under Title 3 to authorize sales of any alcoholic beverages shall be required in order for the governing authority of the municipality to exercise such powers.

(Code 1981, § 36-31-7, enacted by Ga. L. 2005, p. 185, § 3/HB 36.)

Editor's notes.

- Ga. L. 2005, p. 185, § 5/HB 36, not codified by the General Assembly, provides for severability.

Ga. L. 2005, p. 185, § 6/HB 36, not codified by the General Assembly, provides that the Act shall apply with respect to any local Act enacted at the 2005 regular session of the General Assembly or any future session.

36-31-7.1. Ownership and control of county road rights of way.

- a. When a new municipal corporation is created by Act of the General Assembly, the new municipality shall assume the ownership, control, care, and maintenance of county road rights of way located within the area incorporated unless the municipality and the county agree otherwise by joint resolution.
- b. This Code section shall apply to any new municipal corporation created by Act of the General Assembly on or after April 15, 2005.

(Code 1981, § 36-31-7.1, enacted by Ga. L. 2015, p. 1358, § 2/HB 477.)

36-31-8. Transition periods for governmental functions; appointment by the Governor of interim representatives.

- a. When a new municipal corporation is created by local Act, the local Act may provide for a transition period not to exceed 24 months for the orderly transition of governmental functions from the county to the new municipal corporation. The local Act may specify the time or times during the transition period (or the method or methods for determining the time or times during the transition period) at which:
 1. Various governmental functions, services, and responsibilities will be assumed by the new municipal corporation within its territory; and
 2. The municipal court of the new municipality shall begin to exercise its jurisdiction over various subject matters.
- b. When a chartering local Act so provides for a transition period, the county in which the new municipality is located shall continue to provide within the territory of the new city all government services and functions which it provided as of the date of enactment of the chartering local Act. The county shall continue to provide such services and functions until the end of the transition period; provided,

however, that the new city may assume the provision of any service or function at such earlier time as may be specified in the chartering local Act or at such earlier time as may be agreed upon by the county and the new city.

- c. When a chartering local Act so provides for a transition period, on and after the first day the initial governing authority takes office, the governing authority may from time to time adopt appropriate measures to initiate collection within the territory of the new city during the transition period of all taxes, fees, assessments, fines and bond forfeitures, and other moneys. Where a particular tax, fee, assessment, fine, forfeiture, or other amount collected by the city during the transition period is specifically related to the provision of a particular government service or function by the county, the service or function shall continue to be provided by the county during the transition period contingent upon payment by the city of the actual cost of providing such service or function unless otherwise provided in a written agreement between the new city and the county.
- d. When a chartering local Act so provides for a transition period, the county in which the new city is located shall not from the time of enactment of the charter until the end of the transition period remove from the county road system any road within the territory of the new city except with the agreement of the new city.
- e. When a chartering local Act so provides for a transition period, the new municipality shall not be subject to the laws specified in this subsection during the transition period; provided, however, that the new city and other political subdivisions may during the transition period commence planning, negotiations, and other actions necessary or appropriate for compliance after the transition period. During the transition period, the new municipality shall not be subject to:
 - 1. Chapter 70 of this title, relating to planning and service delivery strategies;
 - 2. Provisions of Code Section 12-8-31.1, relating to solid waste planning;
 - 3. Provisions of Code Section 48-13-56, relating to reporting of excise taxes collected and expended pursuant to Article 3 of Chapter 13 of Title 48; and
 - 4. Provisions of Code Section 36-81-8, relating to reporting of local government finances, reporting of revenues derived from

a tax levied pursuant to Article 3 of Chapter 13 of Title 48, and reporting of local government services and operations.

- f. When a chartering local Act so provides for a transition period, upon the termination of the transition period subsections (b) through (e) of this Code section shall cease to apply and the new city shall be a fully functioning municipal corporation and subject to all general laws of this state.
- g. As of the date a chartering local Act is approved by the Governor or becomes law without such approval, the Governor is authorized to appoint five persons to serve as interim representatives of the newly incorporated municipality until the election of the municipality's first governing authority. The interim representatives shall cease to serve as of the time the members of the first governing authority take office. The function of the interim representatives shall be to facilitate the provision of municipal services and facilities, the collection of taxes and fees, and the negotiation of intergovernmental agreements in preparation of the establishment of the new municipality. The interim representatives shall not have the ability to enter into any binding agreements, to expend public funds, or to incur any liability on behalf of the new municipality. Any person who is serving as or has served as an interim representative shall be ineligible to qualify for election as a member of the initial governing authority of the new municipality.

(Code 1981, §~~36-31-8~~, enacted by Ga. L. 2005, p. 185, § 3/HB 36; Ga. L. 2012, p. 775, § 36/HB 942; Ga. L. 2015, p. 693, § 3-32/HB 233.)

Editor's notes.

- Ga. L. 2005, p. 185, § 5/HB 36, not codified by the General Assembly, provides for severability.

Ga. L. 2005, p. 185, § 6/HB 36, not codified by the General Assembly, provides that the Act shall apply with respect to any local Act enacted at the 2005 regular session of the General Assembly or any future session.

Ga. L. 2015, p. 693, § 4-1/HB 233, not codified by the General Assembly, provides that: "This Act shall become effective on July 1, 2015, and shall apply to seizures of property for forfeiture that occur on or after that date. Any such seizure that occurs before July 1, 2015, shall be governed by the statute in effect at the time of such seizure."

Law reviews.

- For article on the 2015 amendment of this Code section, see 32 Ga. St. U. L. Rev. 1 (2015). For article, "The Municipalization of Urban Counties in Georgia," see 23 Ga. Bar. J. 18 (Dec. 2017).

36-31-9. Initial terms of office.

When a new municipal corporation is created by local Act, the chartering local Act may provide for the initial terms of office of members of the governing authority to be of any length or lengths; and the provisions of this Code section shall control over any conflicting provisions of Code Sections 21-2-541.1 and 21-2-541.2.

(Code 1981, §36-31-9, enacted by Ga. L. 2005, p. 185, § 3/HB 36.)

Editor's notes.

- Ga. L. 2005, p. 185, § 5/HB 36, not codified by the General Assembly, provides for severability.

Ga. L. 2005, p. 185, § 6/HB 36, not codified by the General Assembly, provides that the Act shall apply with respect to any local Act enacted at the 2005 regular session of the General Assembly or any future session.

36-31-10. Appropriation of funds for grants or loans.

The General Assembly may, in connection with the incorporation of a new municipal corporation, at any time (before, after, or contemporaneously with the passage of the chartering Act) appropriate to the Department of Community Affairs funds for grants or loans or both to a specific existing or proposed municipal corporation. When funds are so appropriated, the department shall make grants as specified by recipient, amount, and purpose and loans as specified by recipient, amount, interest rate, term, and purpose in the appropriation unless the chartering Act fails to secure passage or otherwise fails to become effective.

(Code 1981, §36-31-10, enacted by Ga. L. 2005, p. 185, § 3/HB 36.)

Editor's notes.

- Ga. L. 2005, p. 185, § 5/HB 36, not codified by the General Assembly, provides for severability.

Ga. L. 2005, p. 185, § 6/HB 36, not codified by the General Assembly, provides that the Act shall apply with respect to any local Act enacted at the 2005 regular session of the General Assembly or any future session.

36-31-11. Removal of new municipal corporations from county special districts for provision of local government services.

When a municipal corporation is created by local Act within a county which has a special district for the provision of local government services consisting of the unincorporated area of the county, the territory within the new municipal corporation shall be removed from the special district except to the extent otherwise provided by Code Section 36-31-8 during a transition period and except that the county may continue to levy within such territory any previously imposed tax for the purpose of retiring any special district debt until such time as such debt is retired.

(Code 1981, § 36-31-11, enacted by Ga. L. 2005, p. 185, § 3/HB 36.)

Editor's notes.

- Ga. L. 2005, p. 185, § 5/HB 36, not codified by the General Assembly, provides for severability.

Ga. L. 2005, p. 185, § 6/HB 36, not codified by the General Assembly, provides that the Act shall apply with respect to any local Act enacted at the 2005 regular session of the General Assembly or any future session.

36-31-11.1. Municipality control over parks and fire stations; obligation of county.

a. As used in this Code section, the term:

1. "County" means a county in which a tax is being levied and collected for purposes of a metropolitan area system of public transportation.
2. "Fire station" means any property or facility that is located wholly within the territory of a qualified municipality, owned by the county or subject to a lease-purchase or installment sale arrangement by the county, and used by the county as of the

date immediately prior to the date the local Act incorporating a qualified municipality became law to provide fire protection services authorized by Article IX, Section II, Paragraph III(a)(1) of the Constitution. Such term shall include any buildings, fixtures, or other improvements on such property or in such facilities.

3. "Park" means any property or facility that is located wholly within the territory of a municipality, including but not limited to athletic fields, athletic courts, recreation centers, playgrounds, swimming pools, arts centers, historical properties, and adjacent greenspace, owned by the county, or subject to a lease-purchase or installment sale arrangement by the county and used by the county as of the date immediately prior to the date the local Act incorporating a qualified municipality became law to provide any services authorized by Article IX, Section II, Paragraph III(a)(5) of the Constitution or to provide any services authorized by Article IX, Section II, Paragraph III(a)(10) of the Constitution. Such term shall include any buildings, fixtures, or other improvements on such property or in such facilities.
 4. "Qualified municipality" means any new municipality located in a county and created by local Act which becomes law on or after January 1, 2008.
- b. A qualified municipality that succeeds to the control of local government services pursuant to Article IX, Section II, Paragraph III(a) of the Constitution may take control of and hold title to parks and fire stations as a trustee or agent for the public.
- c.
1. A qualified municipality located within a county which has a special district for the provision of fire services shall continue to be part of such special fire district where the local Act creating such qualified municipality so provides or where the governing authority of the qualified municipality elects by formal resolution to continue to be part of the special fire district and delivers a copy of such resolution to the governing authority of the county within 30 days after the date the resolution is adopted.
 2. If a qualified municipality initially elected to remain in a fire services special district, such municipality shall be removed from such fire services special district by adopting a resolution stating its intent to be removed from the district and the date of removal, provided the governing authority of the qualified

municipality delivers a copy of such resolution to the governing authority of the county. The fire services shall be discontinued by the county on the first day of the next fiscal year of the county that begins at least 180 days after the specified notice is received by the county.

- d. A qualified municipality located within a county that charges fees on a periodic basis for the provision of water or sewer services, or both, may elect to continue receiving such services for the same fees charged residents in the unincorporated area of the county. Such election may be set forth in the local Act creating such qualified municipality or be made by resolution of the governing authority of the qualified municipality provided the governing authority of the qualified municipality delivers a copy of such resolution to the governing authority of the county within 30 days after the date the resolution is adopted.
- e. The county shall not convey, otherwise encumber, move any fixtures or buildings, or enter into or renew any contractual obligations with respect to any park or fire station located in the qualified municipality. The governing authority of the county shall assign to the governing authority of the qualified municipality all of its right, title, and interest in any executory contract in effect on any park or fire station that the qualified municipality elects to purchase as provided in this Code section. Such assignment shall be effective on the date the municipality assumes ownership of any such park or fire station or as otherwise may be agreed between the governing authority of the municipality and the governing authority of the county.
- f. A municipality may elect to purchase parks within the territory of the municipality from the county in which the municipality is located. Notwithstanding any other law to the contrary, whenever a municipality elects to purchase any such parks, the governing authority of the municipality shall provide written notice to the governing authority of the county specifying the parks to be purchased and the date or dates the municipality will assume ownership of such parks; the purchase price for such parks shall be \$100.00 per acre. Such notice shall be provided for each such park no less than 30 days prior to the date the municipality intends to assume ownership.
- g. Upon the payment of the purchase price, all of the county's right, title, and interest in the parks that the municipality elects to purchase shall be transferred to the governing authority of the municipality. Such

transfer shall be effective on the date the municipality intends to assume ownership of such parks and as stated in the notice given pursuant to subsection (f) of this Code section. The governing authority of the county shall transfer, execute, and deliver to the governing authority of the municipality such instruments as may be necessary to record the transfer of such right, title, and interest. Notwithstanding any provision in any property deed or law to the contrary, a municipality may purchase a park from the county without permission of the state and may use such park for all purposes for which the county was authorized under such deed or law.

- h. In the event a park is transferred by a county to a municipality under this Code section, the municipality shall be prohibited from imposing or collecting user fees from residents of the county in excess of the amount of such fees imposed or collected from residents of the municipality.
- i. Where residents of a municipality are required pursuant to Code Section 36-31-11 to continue to pay taxes for the purpose of retiring any special district debt created by the issuance of bonds by the county on behalf of the special district for the purpose of improving parks and the municipality elects to purchase any such park pursuant to this Code section, the county shall transfer to the municipality as an agent of the special district the portion of the bond proceeds that the county planned to spend on such park at the time of the referendum on the bonds, based upon any statements of intention or representations concerning use of the bond proceeds by the governing authority of the county. Such amount shall be determined based on county resolutions and any attachments thereto, staff recommendations, or similar documents presented at the time of passage of a resolution, county records, and any public statements or representations made by county managers, representatives, officials, or their agents as to the amount that would be spent on such park in order to solicit voter support for the referendum; provided, however, that the amount to be transferred by the county to the municipality shall be reduced by any amount spent by the county to improve such park prior to the date of the municipality's notice of its election to purchase the park as provided in subsection (f) of this Code section. The transfer shall be due within 30 days after the municipality assumes ownership of any such park. The municipality shall be required to expend any such funds for and on behalf of the special

district in a manner consistent with the purpose and intent of the issuance of the bonds.

- j. A qualified municipality may elect to purchase one or more fire stations from the county in which it is located. Notwithstanding any other law to the contrary, whenever a qualified municipality elects to purchase a fire station from the county, the governing authority of the qualified municipality shall provide written notice to the governing authority of the county specifying the fire station to be purchased and the date or dates the qualified municipality will assume ownership of such fire station. Such notice shall be provided with respect to each such property no less than 30 days prior to the date the qualified municipality intends to assume ownership of the fire station.
- k.
 - 1. Except as otherwise provided in paragraph (2) of this subsection, if a qualified municipality elects to purchase a fire station that serves only territory wholly within the qualified municipality, the purchase price shall be \$5,000.00 for each such fire station.
 - 2. If the county uses a fire station to serve an area located outside the qualified municipality, the purchase price for each such fire station shall be \$5,000.00 plus an additional amount determined as provided in this paragraph. Such additional amount shall be the product of the fair market value of such fire station multiplied by the percentage of the total service area of such fire station which is located outside of the corporate limits of the qualified municipality. If the portion served outside the qualified municipality exceeds 20 percent of the total service area, then from the date the qualified municipality assumes ownership of such fire station, the qualified municipality shall be obligated to offer to lease the fire station back to the county for a period not to exceed two years for an amount of \$10.00 for the lease period.
- l. If a county and municipality fail to reach an agreement on the amount to be paid or any related matter under this Code section, either the county or the municipality may petition the superior court to seek resolution of the items in dispute. Such petition shall be assigned to a judge, pursuant to Code Section 15-1-9.1 or 15-6-13, who is not a judge in the circuit in which the county is located. The judge selected may also be a senior judge pursuant to Code Section 15-1-9.2 who resides in another circuit. The visiting or senior judge shall conduct an

evidentiary hearing or hearings as such judge deems necessary and render a decision with regard to the disputed items.

(Code 1981, § 36-31-11.1, enacted by Ga. L. 2010, p. 4, § 1/HB 203; Ga. L. 2012, p. 810, § 1/HB 990.)

Editor's notes.

- Ga. L. 2012, p. 810, § 3/HB 990, not codified by the General Assembly, provides: "This Act shall not be applied to impair any obligation of contract entered into prior to the date this Act becomes effective." The effective date of this Act is May 1, 2012.

36-31-12. Legislative findings; special districts divided into noncontiguous areas; information required in audits; informational summary.

- a. The General Assembly finds that:
 1. The purpose of a special district is to provide services to a given geographic area and to finance the provision of those services from taxes, fees, and assessments levied in the geographic area which benefits from the services;
 2. The creation of a municipal corporation within a county which has a special district for the unincorporated area of the county may result in the special district being divided into noncontiguous areas or in existing noncontiguous areas of such district being even more remote from each other; and
 3. The purpose of a special district is defeated if it becomes divided into noncontiguous areas which are remote from each other and one or more of such noncontiguous areas is subsidizing the provision of services in other such noncontiguous areas.
- b.
 1. When a municipal corporation is created by local Act within a county which has a special district for the provision of local government services consisting of the unincorporated area of the county and following the creation of said municipal corporation the special district is divided into two or more

noncontiguous areas, any special district taxes, fees, and assessments collected in such a noncontiguous area shall be spent to provide services in that noncontiguous area. Effective January 1, 2006, for the purposes of this Code section, a noncontiguous area located within ten miles of another noncontiguous area may be treated as the same noncontiguous area.

2. If, on or after May 14, 2008:

- A. Excess proceeds derived from the collection of any special district taxes, fees, and assessments or from any earnings thereon remain following the expenditure required under paragraph (1) of this subsection; and
- B. All of the area within the special district shall have become incorporated within one or more municipalities,

then the excess proceeds shall be disbursed within 60 days to the governing authority of each municipality which has incorporated any portion of the area of the special district; and the county shall continue to make such disbursements for so long as such excess proceeds continue to be received. The amount of proceeds to be disbursed to each municipality shall be determined on a pro rata basis using as a denominator the total value of all tax parcels within the special district and as a numerator the total value of all tax parcels which were incorporated within each municipality.

3. If, on or after May 14, 2008:

- A. Excess proceeds remain from the collection of any special district taxes, fees, and assessments or from any earnings thereon; and
- B. A new municipality shall have been created from within such special district such that the special district shall have been diminished in size but not all of the special district shall have been incorporated within one or more municipalities,

then the excess proceeds shall be disbursed within 60 days to the governing authority of each municipality which has incorporated any portion of the area of the special

district; and the county shall continue to make such disbursements for so long as such excess proceeds continue to be received. The amount of proceeds to be disbursed to each municipality shall be determined on a pro rata basis using as a denominator the total value of all tax parcels within the special district and as a numerator the total value of all tax parcels which were incorporated within each municipality.

- c. When a municipal corporation is created by local Act within a county subject to this Code section, the county shall for the fiscal year in which the municipal corporation is chartered and for each of the next two fiscal years have included in its annual audit detailed findings as to:
 - 1. The amount of any special district taxes, assessments, and fees collected in each noncontiguous area of the special district;
 - 2. The total amount of expenditures by the county for:
 - A. The provision of services within each noncontiguous area of the special district, including only those services which are provided by the county only in the special district; and
 - B. The construction and maintenance of facilities for the provision of services referred to in subparagraph (A) of this paragraph; and
 - 3. The amount by which expenditures stated in paragraph (2) of this subsection exceed or are less than the amount stated in paragraph (1) of this subsection.
- d. The party performing the audit required by subsection (c) of this Code section shall prepare as promptly as is practicable a brief informational summary of the audit findings required by that subsection. The informational summary shall also include a statement of the amount of proceeds collected by the county pursuant to any tax under Article 2 of Chapter 8 of Title 48 which would be allocated to each noncontiguous area of the special district if such area received an allocation equal on a per capita basis to the average per capita allocation to the cities in the county. After each year's summary becomes available, a copy of the summary shall be included with the next ad valorem tax bills mailed by the county to residents of the special district consisting of the unincorporated area of the county.

- e. For purposes of determining applicability of this Code section, a county shall be considered to have a special district for the provision of local government services when a county has created a special district for such purposes pursuant to Article IX, Section II, Paragraph VI of the Constitution or has created a similar district for the provision of services under any other provision of any past or present Constitution or law.

(Code 1981, § 36-31-12, enacted by Ga. L. 2005, p. 185, § 3/HB 36; Ga. L. 2006, p. 65, § 1/SB 399; Ga. L. 2006, p. 72, § 36/SB 465; Ga. L. 2008, p. 1019, § 2/SB 154; Ga. L. 2012, p. 810, § 2/HB 990.)

Code Commission notes.

- Pursuant to Code Section 28-9-5, in 2008, "May 14, 2008" was substituted for "the effective date of this paragraph" in paragraphs (b)(2) and (b)(3).

Editor's notes.

- Ga. L. 2005, p. 185, § 5/HB 36, not codified by the General Assembly, provides for severability.
- Ga. L. 2005, p. 185, § 6/HB 36, not codified by the General Assembly, provides that the Act shall apply with respect to any local Act enacted at the 2005 regular session of the General Assembly or any future session.
- Ga. L. 2012, p. 810, § 3/HB 990, not codified by the General Assembly, provides: "This Act shall not be applied to impair any obligation of contract entered into prior to the date this Act becomes effective." The effective date of this Act is May 1, 2012.

Law reviews.

- For survey article on local government law, see 59 Mercer L. Rev. 285 (2007) and 60 Mercer L. Rev. 263 (2008).

JUDICIAL DECISIONS

Constitutionality.

- O.C.G.A. § 36-31-12(b) did not violate the Georgia Constitution by encroaching on a county's exclusive authority, derived from a local constitutional amendment (Ga. L. 1972, p. 1482, § 1), over the collection and expenditure of revenues collected within the county's special taxing and spending district; the amendment granted concurrent authority to the county and the General Assembly over these matters. *Fulton County v. Perdue*, 280 Ga. 807, 631 S.E.2d 362 (2006).

Applicability.

- There is nothing in the language of O.C.G.A. § 36-31-12 indicating a legislative intent that the statute applies only to special taxing and spending districts with newly created noncontiguous areas. *Fulton County v. Perdue*, 280 Ga. 807, 631 S.E.2d 362 (2006).
Cited in *City of Atlanta v. Mays*, 301 Ga. 367, 801 S.E.2d 1 (2017).