

O.C.G.A. § 36-70-20

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***** Current through the 2008 Regular Session *****

TITLE 36. LOCAL GOVERNMENT
PROVISIONS APPLICABLE TO COUNTIES AND MUNICIPAL CORPORATIONS
CHAPTER 70. COORDINATED AND COMPREHENSIVE PLANNING AND SERVICE
DELIVERY BY COUNTIES AND MUNICIPALITIES
ARTICLE 2. SERVICE DELIVERY

O.C.G.A. § 36-70-20 (2008)

§ 36-70-20. Legislative intent

The intent of this article is to provide a flexible framework within which local governments in each county can develop a service delivery system that is both efficient and responsive to citizens in their county. The General Assembly recognizes that the unique characteristics of each county throughout the state preclude a mandated legislative outcome for the delivery of services in every county. The process provided by this article is intended to minimize inefficiencies resulting from duplication of services and competition between local governments and to provide a mechanism to resolve disputes over local government service delivery, funding equity, and land use. The local government service delivery process should result in the minimization of noncompatible municipal and county land use plans and in a simple, concise agreement describing which local governments will provide which service in specified areas within a county and how provision of such services will be funded.

HISTORY: Code 1981, § 36-70-20, enacted by Ga. L. 1997, p. 1567, § 1.

§ 36-70-21. Deadline date for implementation agreement

Each county and municipality shall execute an agreement for the implementation of a local government service delivery strategy as set forth in this article by July 1, 1999.

HISTORY: Code 1981, § 36-70-21, enacted by Ga. L. 1997, p. 1567, § 1.

§ 36-70-22. Date for process initiation

Each county shall initiate the process for developing a local government service delivery strategy after July 1, 1997, but no later than January 1, 1998. Initiation of the strategy shall be accomplished by the provision of a written notice from the county to the governing bodies of all

municipalities located wholly or partially within the county or providing services within the county and to other counties providing services within the county. Such notice shall state the date, time, and place for a joint meeting at which designated representatives of all local governing bodies shall assemble for the purpose of commencing deliberations on the service delivery strategy. The notice shall be sent not more than 45 and not less than 15 days prior to the meeting date. In the event the county governing authority fails to initiate the process by January 1, 1998, any municipality within the county may do so by sending a written notice, containing the required information, to the county and all other municipalities.

HISTORY: Code 1981, § 36-70-22, enacted by Ga. L. 1997, p. 1567, § 1.

§ 36-70-23. Required components

Each local government service delivery strategy shall include the following components:

(1) An identification of all local government services presently provided or primarily funded by each general purpose local government and each authority within the county, or providing services within the county, and a description of the geographic area in which the identified services are provided by each jurisdiction;

(2) An assignment of which local government or authority, pursuant to the requirements of this article, will provide each service, the geographic areas of the county in which such services are to be provided, and a description of any services to be provided by any local government to any geographic area outside its geographical boundaries. In the event two or more local governments within the county are assigned responsibility for providing identical services within the same geographic area, the strategy shall include an explanation of such arrangement;

(3) A description of the source of the funding for each service identified pursuant to paragraph (2) of this Code section; and

(4) An identification of the mechanisms to be utilized to facilitate the implementation of the services and funding responsibilities identified pursuant to paragraphs (2) and (3) of this Code section.

HISTORY: Code 1981, § 36-70-23, enacted by Ga. L. 1997, p. 1567, § 1.

§ 36-70-24. Criteria for service delivery strategy

In the development of a service delivery strategy, the following criteria shall be met:

(1) The strategy shall promote the delivery of local government services in the most efficient, effective, and responsive manner. The strategy shall identify steps which will be taken to remediate or avoid overlapping and unnecessary competition and duplication of service delivery and shall identify the time frame in which such steps shall be taken. When a municipality

provides a service at a higher level than the base level of service provided throughout the geographic area of the county by the county, such service shall not be considered a duplication of the county service;

(2)(A) The strategy shall provide that water or sewer fees charged to customers located outside the geographic boundaries of a service provider shall not be arbitrarily higher than the fees charged to customers receiving such service which are located within the geographic boundaries of the service provider.

(B) If a governing authority disputes the reasonableness of water and sewer rate differentials imposed within its jurisdiction by another governing authority, that disputing governing authority may hold a public hearing for the purpose of reviewing the rate differential. Following the preparation of a rate study by a qualified engineer, the governing authority may challenge the arbitrary rate differentials on behalf of its residents in a court of competent jurisdiction. Prior to such challenge, the dispute shall be submitted to some form of alternative dispute resolution;

(3)(A) The strategy shall ensure that the cost of any service which a county provides primarily for the benefit of the unincorporated area of the county shall be borne by the unincorporated area residents, individuals, and property owners who receive the service. Further, when the county and one or more municipalities jointly fund a county-wide service, the county share of such funding shall be borne by the unincorporated residents, individuals, and property owners that receive the service.

(B) Such funding shall be derived from special service districts created by the county in which property taxes, insurance premium taxes, assessments, or user fees are levied or imposed or through such other mechanism agreed upon by the affected parties which complies with the intent of subparagraph (A) of this paragraph; and

(4)(A) Local governments within the same county shall, if necessary, amend their land use plans so that such plans are compatible and nonconflicting, or, as an alternative, they shall adopt a single land use plan for the unincorporated and incorporated areas of the county.

(B) The provision of extraterritorial water and sewer services by any jurisdiction shall be consistent with all applicable land use plans and ordinances.

HISTORY: Code 1981, § 36-70-24, enacted by Ga. L. 1997, p. 1567, § 1; Ga. L. 1999, p. 789, § 1; Ga. L. 2004, p. 69, § 20.

§ 36-70-25. Approval; extension of deadline date

(a) Approval of the local government service delivery strategy shall be accomplished as provided for in this Code section.

(b) The county and each municipality within the county shall participate in the development of the strategy. Approval of the strategy shall be accomplished by adoption of a resolution:

(1) By the county governing authority;

(2) By the governing authority of municipalities located within the county which have a

population of 9,000 or greater within the county;

(3) By the municipality which serves as the county site if not included in paragraph (2) of this subsection; and

(4) By no less than 50 percent of the remaining municipalities within the county which contain at least 500 persons within the county if not included in paragraph (2) or (3) of this subsection.

(c) For the purpose of determining population, the population in the most recent United States decennial census shall be utilized.

(d) The adoption of a service delivery strategy specified in Code Section 36-70-21 may be extended to a date certain no later than 120 days following the date otherwise specified in Code Section 36-70-21 upon written agreement of the local governments enumerated in subsection (b) of this Code section. In the event such an agreement is executed, the sanctions specified in Code Section 36-70-27 shall not apply until on and after such extended date.

HISTORY: Code 1981, § 36-70-25, enacted by Ga. L. 1997, p. 1567, § 1; Ga. L. 2000, p. 1439, § 1.

§ 36-70-25.1. Dispute resolution procedures

(a) As used in this Code section, the term "affected municipality" means each municipality required to adopt a resolution approving the local government service delivery strategy pursuant to subsection (b) of Code Section 36-70-25.

(b) If a county and the affected municipalities in the county do not reach an agreement on a service delivery strategy, the provisions of this Code section shall be followed as the process to resolve the dispute.

(c) If a county and the affected municipalities in the county are unable to reach an agreement on the strategy prior to the imposition of the sanctions provided in Code Section 36-70-27, a means for facilitating an agreement through some form of alternative dispute resolution shall be employed. Where the alternative dispute resolution action is unsuccessful, the neutral party or parties shall prepare a report which shall be provided to each governing authority and made a public record. The cost of alternative dispute resolution authorized by this subsection shall be shared by the parties to the dispute pro rata based on each party's population according to the most recent United States decennial census. The county's share shall be based upon the unincorporated population of the county.

(d) In the event that the county and the affected municipalities in the county fail to reach an agreement after the imposition of sanctions provided in Code Section 36-70-27, then the following process is available to the parties:

(1) (A) The county or any affected municipality located within the county may file a petition in superior court of the county seeking mandatory mediation. 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.

(B) The visiting or senior judge shall appoint a mediator within 30 days of receipt of the petition. Mediation shall commence within 30 days of the appointment of a mediator. The mandatory mediation process shall be completed within 60 days following the appointment of the mediator. A majority of the members of the governing body of the county and each affected municipality shall attend the initial mediation. Following the initial meeting, the mediation shall proceed in the manner established at the initial meeting. If there is no agreement on how the mediation should proceed, a majority of the members of the governing body of the county and each affected municipality shall be required to attend each mediation session unless another process is agreed upon. Unless otherwise provided in accordance with paragraph (2) of this subsection, the cost of alternative dispute resolution authorized by this subsection shall be shared by the parties to the dispute pro rata based on each party's population according to the most recent United States decennial census.

(C) During the mediation process described in this subsection, the sanctions imposed pursuant to Code Section 36-70-27 may, by order of the court, be held in abeyance by the judge against any or all of the parties participating in such mediation process.

(D) The judge may, by order of the court, substitute any mediation entered into pursuant to subsection (c) of this Code section for the mediation required pursuant to this subsection; and

(2) If no service delivery strategy has been submitted for verification to the Department of Community Affairs at the conclusion of the mediation, any aggrieved party may petition the superior court and seek resolution of the items remaining in dispute. 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. In rendering the decision, the judge shall consider the required elements of a service delivery strategy with a goal of achieving the intent of this article as specified in Code Section 36-70-20. It shall be in the discretion of the judge to hold the sanctions specified in Code Section 36-70-27 against one or more of the parties in abeyance pending the disposition of the action. The court is authorized to utilize its contempt powers to obtain compliance with its decision relating to the disputed items under review. The judge shall be authorized to impose mediation costs and court costs against any party upon a finding of bad faith.

(e) The court shall notify, or cause to be notified, the Department of Community Affairs in the event that penalties are abated during the pendency of mediation or litigation held pursuant to subsection (d) of this Code section. A notice shall also be sent in the event penalties become applicable to the parties.

(f) Any service delivery agreement implemented as a result of the process set forth in this Code section shall remain in effect until revised pursuant to Code Section 36-70-28.

HISTORY: Code 1981, § 36-70-25.1, enacted by Ga. L. 2000, p. 1439, § 1; Ga. L. 2006, p. 72, § 36/SB 465.

§ 36-70-26. Required filing; verification of components

Each county shall file the agreement for the implementation of strategy required by Code Section 36-70-21 with the department. The department shall, within 30 days of receipt, verify that the strategy includes the components enumerated in Code Section 36-70-23 and the minimum criteria enumerated in Code Section 36-70-24. The department, however, shall neither approve nor disapprove the specific elements or outcomes of the strategy.

HISTORY: Code 1981, § 36-70-26, enacted by Ga. L. 1997, p. 1567, § 1.

§ 36-70-27. Limitation of funding for projects inconsistent with strategy

(a) On and after July 1, 1999, no state administered financial assistance or grant, loan, or permit shall be issued to any local government or authority which is not included in a department verified strategy or for any project which is inconsistent with such strategy; provided, however, that a municipality or authority located or operating in more than one county shall be included in a department verified strategy for each county wherein the municipality or authority is located or operating.

(b) (1) If a municipality containing fewer than 500 persons within the county fails to establish a process to resolve disputes as required by subparagraph (C) of paragraph (4) of Code Section 36-70-24, the sanctions specified in subsection (a) of this Code section shall not be imposed upon:

(A) The county within which any such municipality or portion of any such municipality is located; or

(B) Any other municipality located in such county.

(2) The provisions of this subsection shall apply only if a process to resolve disputes required by subparagraph (C) of paragraph (4) of Code Section 36-70-24 has been established between the county and each municipality containing 500 or more persons within the county.

(c) Any local government or authority which is subject to the sanctions specified in subsection (a) of this Code section shall become eligible for state administered financial assistance or grants, loans, or permits on the first day of the month following verification by the department that the requirements of Code Section 36-70-26 have been met.

HISTORY: Code 1981, § 36-70-27, enacted by Ga. L. 1997, p. 1567, § 1; Ga. L. 1999, p. 789, § 2; Ga. L. 2000, p. 1439, § 2.

§ 36-70-28. "Affected municipality" defined; review and revision of strategy

(a) As used in this Code section, the term "affected municipality" means each municipality required to adopt a resolution approving the local government service delivery strategy pursuant to subsection (b) of Code Section 36-70-25.

(b) Each county and affected municipality shall review, and revise if necessary, the approved strategy:

(1) In conjunction with updates of the comprehensive plan as required by Article 1 of this chapter;

(2) Whenever necessary to change service delivery or revenue distribution arrangements;

(3) Whenever necessary due to changes in revenue distribution arrangements;

(4) In the event of the creation, abolition, or consolidation of local governments;

(5) When the existing service delivery strategy agreement expires; or

(6) Whenever the county and affected municipalities agree to revise the strategy.

(c) In the event that a county or an affected municipality located within the county refuses to review and revise, if necessary, a strategy in accordance with paragraphs (2) and (3) of subsection (b) of this Code section, then any of the parties may use the alternative dispute resolution and appeal procedures set forth in subsection (d) of Code Section 36-70-25.1.

HISTORY: Code 1981, § 36-70-28, enacted by Ga. L. 1997, p. 1567, § 1; Ga. L. 2000, p. 1439, § 3; Ga. L. 2006, p. 72, § 36/SB 465.