

GMA Mayors' Day 2018

Service Delivery Strategy

History of Local Government Service Delivery in Georgia

The work of Georgia's city elected officials is often directly affected by the decisions of corresponding county elected officials. County/city agreement is normally discretionary, but county/city agreements are compulsory for the receipt of sales tax revenues (Local Option and Special Purpose Local Option Sales Taxes) and for the adoption of a Service Delivery Strategy (SDS).

The Georgia Service Delivery Strategy Act, enacted by the General Assembly in 1997, established a process through which local governments within each county must come to an agreement about service provision. "The process...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."¹

For nearly 200 years in the history of Georgia, county/city duplication of services, competition, and inefficiency was not a major issue because of the clear legal distinction between the services of municipalities and county governments. Cities existed through charters as creatures of the state legislature for the purpose of providing urban services such as police and fire protection, water and sewer utilities, street maintenance, recreation, etc. Counties served as administrative arms of the state, and counties provided state-mandated functions such as courts, sheriff, health, welfare, and roads and bridge maintenance (including county roads in cities).²

These clear county/city service distinctions were disrupted by Georgia's rapid population growth between 1950 and 1970. Population migrated from Georgia cities and from other states into suburban areas of the state's most populous counties.³ Residents of these suburban areas sought the same urban services already provided within cities. However, cities' annexation authority was very limited, and county governments could only provide urban services to suburban residents through approval of the General Assembly with case-by-case passage of local constitutional amendments.

Service Delivery Expansion for a Growing Population

Facing a proliferation of local legislation and recognizing the problems of urban growth, in 1972, the General Assembly reviewed these issues through its State Planning and Community Affairs Committee. The Community Development Subcommittee reported,

"In terms of the quality of our environment, we are suffering from the effects of unplanned, uncoordinated, haphazard growth and development. The results are urban sprawl, congestion, pollution and accelerating social ills which have hastened the white flight to the suburbs, leaving the decaying central cities to the poor, the black, and the elderly."⁴

GMA Mayors' Day 2018

The Urban Growth Subcommittee saw the need for new approaches and structural remedies to address these problems. The Subcommittee recognized county/city consolidation in Columbus and annexations in Macon and Albany as means of reform; however, the Subcommittee predicted these solutions would not work statewide:

*"Other alternatives, at least for service delivery, should be made available for urban areas, particularly one which precludes the need for local governments to return to the General Assembly for permissive authority. This is also a recognition of the profusion of local legislation which has already indicated the need for an equalization of authority among local governments."*⁵

The Urban Growth Subcommittee proposed an amendment to the Georgia Constitution that would equalize service delivery authority between cities and counties.⁶ The amendment also gave cities and counties permission—but not the obligation—to establish special services districts. The General Assembly approved "Amendment 19," and it was adopted by Georgia voters in November, 1973.⁷ Local government had been fundamentally restructured: Georgia counties began exercising the same powers as cities -- both jurisdictions could provide police, fire, sanitation, water/sewer, storm water, recreation, streets maintenance, etc.⁸

The amendment prohibited counties from providing these services inside cities without a county/city contract; however, the Amendment did not preclude counties from using their county-wide taxes to pay for urban services in unincorporated areas.⁹ County governing bodies determined that levying county-wide property taxes was (and continues to be) the most politically feasible way for counties to fund unincorporated area urban services. City residents continued to pay for urban services in their city tax bills. The problem of providing urban services to unincorporated areas was solved, but a new, more insidious problem was created: double taxation of city taxpayers who pay for urban services in both their city and county tax bills. Prior to the enactment of the equalization amendment, some city officials had expressed fears of tax inequities for city residents. Those fears proved to be well-founded.

Commencement of Double Taxation

As predicted by some city officials, GMA members soon began reporting statewide problems with double taxation. In 1977, GMA issued a report defining and identifying "double taxation" as "... *The disparity that exists either when citizens of municipalities pay county and city taxes, and receive benefits or services only from the city, or when city – county agreements provide for the joint financing of services with city residents also financing part of the county share.*"¹⁰ The 1977 report stated:

Double taxation is one of the most severe and perplexing problems facing municipal officials today in Georgia. It is a problem that is constantly being discussed by city officials among themselves and their constituents and one which they are bringing to the attention of the Georgia Municipal Association, committees and Board of Directors of the Georgia Municipal Association.

For the past two years, a resolution on double taxation was passed at the annual business session of the Georgia Municipal Association urging the Georgia

GMA Mayors' Day 2018

*General Assembly to 'place before the people of the state the proposed amendment to the Georgia Constitution which would require county governments to reduce millage rates of city residents in reasonable proportion to the full services not delivered to municipal residents.'*¹¹

The report identified four mechanisms to mitigate the problem including (1) county and city officials recognize the problem and devise equitable solutions; (2) establish County taxing districts comprised of incorporated and unincorporated areas with tax rates for each district; (3) consolidate county and city governments; and (4) enact corrective state legislation.¹² The report was prophetic even if practical implementation of its recommendations did not occur for 20 years - and the problem of double taxation persists across Georgia today.

Passage of the Service Delivery Act

From 1975 to 1997, GMA and its leadership unsuccessfully strived to enact legislation to solve the problem of double taxation. GMA addressed the issue through its policy committees and through special study groups. Finally, in 1995, the General Assembly created the Georgia Futures Commission comprised of state legislators, city and county officials, and business leaders; the group concluded that "Amendment 19" [now entitled the "Supplementary Powers Clause" of the Georgia Constitution] which authorized counties to provide municipal services, had led to "fruitless competition and duplication" between cities and counties.¹³

The Commission made a number of recommendations to promote economy and efficiency in the delivery of local government services, to eliminate duplication of services, to reduce "turf conflict" between cities and counties, and to offer improved service delivery mechanisms.¹⁴ The passage of H.B. 489, the Service Delivery Act, was one of the most important accomplishments of the Commission in addressing county-city tax inequities¹⁵ (identified by GMA 20 years earlier). The stated intent of the Service Delivery Act 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" so as to avoid duplication of services and competition.¹⁶ The Act also addresses county/city land use compatibility and water/sewer fees charged to customers located outside the geographic boundaries of the service provider.¹⁷

The key provisions of the SDS Act require that county services which are primarily of benefit to the unincorporated area -- and the county share of county/city jointly funded services -- must be funded with unincorporated area revenues including assessments and fees, insurance premium taxes, and property taxes derived from the unincorporated area. Furthermore, counties must account for and report these unincorporated area expenditures and revenues in unincorporated area special service districts.¹⁸

It is important to note that the Commission recommendations also facilitated the adoption of H.B. 491, "Local Government Uniform Charts of Accounts and Reporting"¹⁹ which mandates statewide county-city financial and service delivery reporting. The information from these reports has proven to be essential in the identification and elimination of county-city tax inequities. (Information sources will be described in more detail below.)

GMA Mayors' Day 2018

Requirements of the Service Delivery Act: Components and Criteria

As of 1997, all Georgia cities and counties have been required to submit service delivery plans; counties and cities must submit SDS updates in conjunction with the adoption of revised comprehensive plans. DCA publishes SDS and comprehensive plan deadlines on its website.²⁰ DCA also publishes detailed information about SDS including the Act, forms and instructions, copies of plans statewide, and non-compliance local governments.²¹

Required SDS Components

In order for the Service Delivery plan of each county and city to be approved by DCA, it must include four required components:

Component One

*(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.*²²

The act does not specify the names, types, or number of services. But most plans include 30 to 40 services and follow the expenditure classifications required under the "uniform chart of accounts" statute described above.²³ It is in the interest of cities to make clear distinctions among service types -- especially Supplementary Powers services-- to eliminate overlapping county/city services. Preparation of a master table or spreadsheet can be informative showing services, providers, and geographic areas of service.

Component Two

*(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.*²⁴

This component of the SDS plan (along with the funding component below) is essential to document double taxation and tax inequities. **Counties often argue that all of their services benefit everyone in the county.** Component 2 addresses this sometimes-false county argument by documenting the exact geographic location of services such as buildings, facilities, infrastructure, staffing, and work districts. City residents can benefit from a county service only if services are actually present and provided in the city.

DCA forms require the preparation of legible maps to clarify some service areas;²⁵ however, maps should be prepared for every service to assist in identifying service

GMA Mayors' Day 2018

duplication. [GA DOT county and city maps and can be used for this documentation.²⁶] In some cases, cities may need to file open records requests with the county to identify facilities, infrastructure, work orders, staffing assignments, capital projects, etc. necessary to document the exact location of services. [GMA provides sample documents to make open records requests.²⁷]

Component Three

(3) A description of the source of the funding for each service identified pursuant to paragraph (2) of this Code section;²⁸

Most County double taxation arises from the use of county-wide taxes for services that are primarily for the benefit of the unincorporated area. Therefore, the plan should specify the exact source of revenue for each service, **especially county services in the unincorporated area**. Each service should be associated with specific assessments and fees and other sources of revenues following the uniform chart of accounts cited above. **County general fund revenues²⁹ and Local Option Sales Taxes³⁰ cannot not be used to fund services that primarily the benefit the unincorporated area (see Criteria Three described below) without the consent of cities and inclusion of this consent in the SDS.**

Component Three gives cities the ability to identify county double taxation by documenting the county service, the county cost of service, and fees or revenues directly supporting the county service. By definition, the net cost of any such service is being funded by property taxes. This net cost may not come from county-wide property taxes but must be obtained from unincorporated area property taxes. The calculation of net cost is best determined from the county's own documents. County expenditures, revenues, and tax digests are available online from DCA, DOR, the UGA Carl Vinson Institute, and other sources.³¹

Component Four

(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.³²

County double taxation and service inequities should be readily identifiable upon the completion of Components One, Two, and Three. Component Four compels counties and cities to describe how services will be delivered or modified to meet requirements of the SDS statute.

Required SDS Criteria

In order for the plan of each county and city to be approved by DCA, it must meet four criteria:

Criterion One

(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

GMA Mayors' Day 2018

*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;*³³

Criterion One complements Component Four above: it requires a description of services and also requires information about the mitigation of any overlapping, duplicative, unnecessary or competitive services. Criterion One then requires a time frame for mitigation of this identified non-compliance.

Criterion One also addresses the issue of "higher levels of service" provided by cities, and the criterion states that this is not considered a duplication of county services. **However, this SDS component is often abused by counties to justify double taxation of city residents.** County services may be limited to the unincorporated area, yet the county contends that the services are of county-wide benefit. In order for a county service to be of county-wide benefit, that service must be provided "throughout the geographic area of the county."³⁴ By definition, a county service cannot be limited to the unincorporated area and provide county-wide benefit. For example, county road maintenance may be limited to the unincorporated area, yet counties claim county-wide benefit. Also, for example, county recreational services and facilities may be only located within the unincorporated area, yet counties claim recreational services have county-wide benefit. The county then asserts that city recreational services are provided at a "higher level." Any such false claims must be identified and factually addressed under the reporting requirements of Component Two described above.

Criterion Two

(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;*³⁵

Criterion Two provides methods to address the frequent complaints of unincorporated area residents that they must pay higher water/sewer rates than inside-city residents when cities provide water/sewer services in unincorporated areas. Typically, inside-city water/sewer services have higher customer density than is the case in suburban, unincorporated areas. Lower water/sewer customer density results in higher per-customer costs for the extension and maintenance of lines, pumping stations, and infrastructure. Nevertheless, cities that operate water and sewer services beyond their boundaries must be prepared to document and demonstrate the fairness and justification for their water and sewer rates and fees.

GMA Mayors' Day 2018

Criterion Three

(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.³⁶

Criterion Three is the heart of the Service Delivery Act especially in the sense that it addresses the on-going double taxation identified by GMA after the passage of the Supplementary Powers constitutional amendment. Criteria Three compels counties to fund unincorporated area urban services in the same way that cities fund such services—from the residents and businesses that receive the services. Further when cities and counties jointly fund services, the county may not fund its share of the cost from its general fund (and county-wide property taxes); instead, the county must also fund shared service costs derived from unincorporated area revenues. Counties that fail to meet these tests are not in compliance with the SDS statute, and city residents are being double taxed.

Counties and cities have flexibility in determining remedies to achieve SDS compliance. These could include differential property tax millage rates, revised LOST shares, county provision of services through contracts with the city, establishment of service authorities, or any other such arrangement meeting the approval of the city and the requirements of the SDS statute. However, in the absence of such an agreement, Criterion Three requires that county services primarily for the benefit of the unincorporated area must be funded with unincorporated area property taxes, assessments and fees, and insurance premium taxes through an unincorporated area special services district.

Criterion Three also provides a mechanism for multiple cities within a county to structure a service delivery plan that meets the needs of each jurisdiction. No city may be compelled to accept supplementary powers services from the county or from another city. However, the city must be prepared to provide or to fund such a service. Also, a city may face opposition when the city seeks to provide services (such as water/sewer) outside of city boundaries. All cities providing or seeking to provide services outside of their boundaries should ensure that the SDS plan identifies the service, provider, and geographic service area. Also, the city must enter contracts and agreements as required by law.

Criterion Four

(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

GMA Mayors' Day 2018

*services by any jurisdiction shall be consistent with all applicable land use plans and ordinances.*³⁷

This criterion addresses two other sources of county/city conflict which are usually best addressed on a case-by-case basis.

Constitutional Officers

A 2004 amendment to the Service Delivery Strategy Act excluded sheriffs, clerks of the superior court, judges of the probate court, tax commissioners, their personnel, or services provided by them from the definition of "local government."³⁸ The ostensible reason given for this amendment at the time was that the constitutional officers are elected county-wide and provide services on a county-wide basis. In some communities, however, this is not the case, particularly with respect to the sheriff. Some sheriffs provide patrolling and emergency response services only in portions of the county not served by municipal police. The service delivery act still requires identification of all services provided "by each general purpose local government and each authority within the county, or provided within the county."³⁹ Thus, the actual impact of this amendment on service delivery agreements remains unclear. In addition, Georgia sheriffs have the same authorities and duties throughout the county.⁴⁰ Therefore, cities may opt to receive law enforcement services from the sheriff in lieu of funding their own police force.

Renegotiation

Counties and cities must submit updated SDS plans along with comprehensive reports per the requirements enumerated by DCA. However, changes in revenue distribution, service provision, and comprehensive plans,⁴¹ expiration of the existing service delivery agreement, and creation or abolition of local governments all may warrant the adoption of a new agreement.⁴² Cities and counties may also agree to amend their existing agreements.⁴³

In order for a service delivery strategy to be valid, it must be approved by a resolution adopted by the governing authorities of the county, every city within (or partially within) the county which has a population of 9,000 or more within the county, the city that serves as the county site, and by no less than 50% of the remaining cities within the county which contain at least 500 persons within the county.⁴⁴ All city officials should note that the resolution includes a certification that:

*Our service delivery strategy ensures that the cost of any services the county government provides (including those jointly funded by the county and one or more municipalities) primarily for the benefit of the unincorporated area of the county are borne by the unincorporated area residents, individuals, and property owners who receive such service.*⁴⁵

Sanctions and the Role of DCA

Counties are required to file the service delivery strategy agreement with the Georgia Department of Community Affairs (DCA) by their designated deadline.⁴⁶ Counties and cities may request a 90-day deadline extension from DCA provided that all jurisdictions required to approve

GMA Mayors' Day 2018

the final plan also approve the extension request. Within 30 days of receipt of the agreement, DCA must verify that the agreement filed meets the components and criteria imposed by state law, but shall not approve or disapprove of specific elements of the strategy.⁴⁷ If local governments are not successful in agreeing to a verified strategy, no state administered financial assistance or grant, loan, or permit, shall be issued to any local government or authority not included in the strategy or any project inconsistent with a verified strategy.⁴⁸

Dispute Resolution

If local governments are unable to reach an agreement prior to sanctions being imposed, some means of alternative dispute resolution shall be employed.⁴⁹ This means that the local government must engage one or more mediators or other neutrals to assist in resolving the dispute. If alternative dispute resolution does not result in an agreement, the neutral must prepare a report that is provided to each governing authority and becomes part of the public record. The costs of the alternative dispute resolution must be shared by the parties to the dispute on a pro rata population basis, with the county population based on the unincorporated area.⁵⁰ If local governments are still not successful in reaching an agreement after sanctions have been imposed, the law provides that any of the parties may file a petition in superior court seeking mandatory mediation.

Insurance Premium Taxes—County Service Delivery Obligations

Georgia counties have special service delivery funding and reporting obligations if those counties collect insurance premium taxes. Essentially all counties collect the tax.⁵¹ County insurance premium taxes must be used for police, fire protection, waste collection and disposal, curbs, sidewalks, streetlights, and any other service provided by the county for the primary benefit of the unincorporated area -- or reducing unincorporated area taxes if none of these services are provided. Counties collecting the tax must separate and document unincorporated area services and revenues in county financial records, budgets, budget adoption resolutions, and minutes.⁵² Few, if any, counties fully meet these requirements. Counties' fulfillment of these statutory duties would give cities ready information to determine counties' SDS compliance.

Some counties use of insurance premium tax revenues results in additional double taxation of city residents and businesses. Approximately 25 counties have County M&O Property Tax Millage Rates which are lower in the unincorporated area than in the incorporated area.⁵³ These counties have effectively concluded that they provide no services which are primarily for the benefit of the unincorporated area, and they use insurance premium taxes to lower unincorporated area county property taxes. In most cases, cities in these counties maintain their own roads and provide their own police services;⁵⁴ however, city residents must also pay for county services limited solely to the unincorporated area including sheriff law enforcement patrol, county road maintenance, sanitation, etc. Cities can put counties on notice of their obligations under the insurance premium tax statute, and adversely affected taxpayers can file class-action lawsuits to seek redress for over-payment of county property taxes.⁵⁵

GMA Mayors' Day 2018

Service Delivery and Local Option Sales Tax Distribution

Georgia law requires that counties and cities re-determine LOST shares every decade according to eight distribution criteria. Six of these criteria require direct consideration of counties' and cities' service delivery responsibilities and agreements. The first criterion considers counties' and cities' service delivery responsibilities during business hours; for conventions, tradeshows, and athletic events; for central business districts; and for unincorporated areas.⁵⁶ The second criterion considers service delivery responsibilities of cities and counties to the resident population. The third criterion considers the existing service delivery responsibilities of each political subdivision.⁵⁷

Criterion Six requires consideration of the existing intergovernmental agreements among and between the political subdivisions.⁵⁸ The most important, comprehensive intergovernmental agreement in all counties and cities is the SDS plan and any supporting contracts and agreements.

Criterion Seven requires counties and cities to consider: *"(7) The use by any political subdivision of property taxes and other revenues from some taxpayers to subsidize the cost of services provided to other taxpayers of the levying subdivision."*⁵⁹ This criterion allows cities to identify counties' use of county-wide revenues -- including property taxes -- to subsidize services which are primarily for the benefit of the unincorporated area. Criterion Eight requires consideration of: *(8) Any coordinated plan of county and municipal service delivery and financing"*⁶⁰ which is a clear reference to the Service Delivery Agreement and other county/city service arrangements.

The same information collected and used for SDS must be considered to determine LOST allocations based on the statutory distribution criteria. This determination should include a listing of services, service providers, geographic location of the services, cost of services, revenues associated with services, net cost of services and any service subsidy. County subsidy of a service that is primarily for the benefit of the unincorporated area can be mitigated through the reallocation of LOST funds to cities.

Conclusion

All city elected officials should have a working knowledge of SDS to prepare plans in compliance with the statute. Such knowledge is essential since cities and counties must certify that all county services which are primarily for the benefit of the unincorporated area and all jointly-funded services are funded with revenues derived from the unincorporated area. Knowledge of SDS is necessary to direct the alteration of services or funding sources during the term on an SDS agreement -- which requires the consent of affected jurisdictions. Finally, county and city elected officials have an opportunity to use SDS—and any other legal means-- to improve the efficiency and effectiveness of local government through service arrangements that best serve residents, businesses, and visitors.

GMA Mayors' Day 2018

NOTES

- ¹ O.C.G.A. § 36-70-20.
- ² "The Issue of Double Taxation in Georgia," *Georgia Bar Journal*, Volume 21, Number 7, June 2016, pgs. 13-19.
- ³ U.S. Department of Commerce, Bureau of the Census, 1970 Population Counts for States: Georgia; July, 1970, pgs. 28-31.
- ⁴ Journal of the House of Representatives, 131st General Assembly, Regular Session, 1972, pg. 4465.
- ⁵ *Id.*, pg. 4459.
- ⁶ *Id.*
- ⁷ 1972 GA Laws at 1552; GA Official and Statistical Register 1971-1972 at 1900.
- ⁸ GA Constitution, Article IX, Section II, Paragraph III. [*"Supplementary Powers" services include: (1) Police and fire protection. (2) Garbage and solid waste collection and disposal. (3) Public health facilities and services, including hospitals, ambulance and emergency rescue services, and animal control. (4) Street and road construction and maintenance, including curbs, sidewalks, street lights, and devices to control the flow of traffic on streets and roads constructed by counties and municipalities or any combination thereof. (5) Parks, recreational areas, programs, and facilities. (6) Storm water and sewage collection and disposal systems. (7) Development, storage, treatment, purification, and distribution of water. (8) Public housing. (9) Public transportation. (10) Libraries, archives, and arts and sciences programs and facilities. (11) Terminal and dock facilities and parking facilities. (12) Codes, including building, housing, plumbing, and electrical codes. (13) Air quality control. (14) The power to maintain and modify heretofore existing retirement or pension systems....*]
- ⁹ *Id.*
- ¹⁰ Double Taxation Handbook, A Guide to Determine the Impact, Georgia Municipal Association, 1972, p.1.
- ¹¹ *Id.*, p. i.
- ¹² *Id.* pgs. 2-3.
- ¹³ A Strategy for Promoting Georgia's Future Prosperity, The Georgia Future Communities Commission, Report of Recommendations, Volume 1 at 7 (1998).
- ¹⁴ 1997 Preliminary Recommendations, Cooperation, Innovation, and Shared Problem Solving, Georgia Future Communities Commission, September, 1997, p. ii.
- ¹⁵ *Id.*, p. iii.
- ¹⁶ O.C.G.A. § 36-70-20.
- ¹⁷ O.C.G.A. § 36-70-20 et seq.
- ¹⁸ O.C.G.A. § 36-70-24(3).
- ¹⁹ 1997 Preliminary Recommendations, Cooperation, Innovation, and Shared Problem Solving, Georgia Future Communities Commission, September, 1997, p. iii-iv.
- ²⁰ <http://www.dca.ga.gov/dcacommunity/default.aspx/default.aspx>
- ²¹ <http://www.dca.ga.gov/development/PlanningQualityGrowth/programs/servicedelivery.asp>
- ²² O.C.G.A. § 36-70-23(1).
- ²³ <http://www.dca.state.ga.us/development/research/programs/uca.asp>
- ²⁴ O.C.G.A. § 36-70-23(2).
- ²⁵ See GA DCA Service Delivery Form 2:
<http://www.dca.ga.gov/development/PlanningQualityGrowth/programs/opqgforms.asp#SDS>
- ²⁶ <http://www.dot.ga.gov/DS/Maps>
- ²⁷ Government in the Sunshine, The Guide to George's Open Meetings and Open Records Laws for Municipal Officials, August 2014, p. 88
- ²⁸ O.C.G.A. § 36-70-23(3).
- ²⁹ O.C.G.A. § 36-70-24(3)(B).
- ³⁰ See *Nielubowicz et al. v. Chatham County*, GA Supreme Court 252 Ga. 330; 312 S.E. 2d 802.
- ³¹ County information sources include:
Financial statements and budgets-- https://ted.cviog.uga.edu/financial-documents/budget_docs_view
County revenue and expenditure details-- <http://www.dca.ga.gov/RLGF/default.aspx>
County tax digests: <https://apps.dor.ga.gov/digestconsolidation/default.aspx>
GOMI Reports-- <http://www.dca.state.ga.us/development/research/programs/gomi.asp>
- ³² O.C.G.A. § 36-70-23(4)
- ³³ O.C.G.A. § 36-70-24(1)
- ³⁴ O.C.G.A. § 36-70-24(1)

GMA Mayors' Day 2018

³⁵ O.C.G.A. § 36-70-24(2)

³⁶ O.C.G.A. § 36-70-24(3)

³⁷ O.C.G.A. § 36-70-24(4)

³⁸ O.C.G.A. § 36-70-2(5.2).

³⁹ O.C.G.A. § 36-70-23(2).

⁴⁰ O.C.G.A. § 15-16-10

⁴¹ The Georgia Department of Community Affairs concluded in March 2010 that only a full comprehensive plan update by a county necessarily triggers a mandatory renegotiation of the service delivery strategy.

⁴² O.C.G.A. § 36-70-28.

⁴³ O.C.G.A. § 36-70-28.

⁴⁴ O.C.G.A. § 36-70-25.

⁴⁵ See GA DCA Service Delivery Form 4:

<http://www.dca.ga.gov/development/PlanningQualityGrowth/programs/opqgforms.asp#SDS>

⁴⁶ O.C.G.A. § 36-70-26.

⁴⁷ O.C.G.A. § 36-70-26.

⁴⁸ O.C.G.A. § 36-70-27.

⁴⁹ O.C.G.A. § 36-70-25.1

⁵⁰ O.C.G.A. § 36-70-25.1(c).

⁵¹ See GA DOR, Local Government Services Division, Amount of Insurance Premium and Local Option Sales Tax Proceeds for Millage Adjustment, 2016.

⁵² O.C.G.A. § 33-8-8.3 et seq.

⁵³ See GA. DOR, Local Government Services Division, Georgia County Ad Valorem Millage Rates, 2016.

⁵⁴ See UGA, Carl Vinson Institute of Government, Tax and Expenditures Data Center for Georgia Local Governments

⁵⁵ See *Hamilton v. Montgomery County*, Case No. 13-CV-159 (Sup. Ct. Montgomery County).

⁵⁶ O.C.G.A. § 48-8-89(b)(1)

⁵⁷ O.C.G.A. § 48-8-89(b)(2) and (3)

⁵⁸ O.C.G.A. § 48-8-89(b)(6)

⁵⁹ O.C.G.A. § 48-8-89(b)(7)

⁶⁰ O.C.G.A. § 48-8-89(b)(8)

Service Delivery Strategy: Key Provisions of Georgia Law {Lexis Advance Research]

Ga. Const. Art. IX, § II, Para. III

Current through the 2017 Regular Session of the General Assembly.

Supplementary powers (a) In addition to and supplementary of all powers possessed by or conferred upon any county, municipality, or any combination thereof, any county, municipality, or any combination thereof may exercise the following powers and provide the following services:

- (1) Police and fire protection.
- (2) Garbage and solid waste collection and disposal.
- (3) Public health facilities and services, including hospitals, ambulance and emergency rescue services, and animal control.
- (4) Street and road construction and maintenance, including curbs, sidewalks, street lights, and devices to control the flow of traffic on streets and roads constructed by counties and municipalities or any combination thereof.
- (5) Parks, recreational areas, programs, and facilities.
- (6) Storm water and sewage collection and disposal systems.
- (7) Development, storage, treatment, purification, and distribution of water.
- (8) Public housing.
- (9) Public transportation.
- (10) Libraries, archives, and arts and sciences programs and facilities.
- (11) Terminal and dock facilities and parking facilities.
- (12) Codes, including building, housing, plumbing, and electrical codes.
- (13) Air quality control.

(14) The power to maintain and modify heretofore existing retirement or pension systems, including such systems heretofore created by general laws of local application by population classification, and to continue in effect or modify other benefits heretofore provided as a part of or in addition to such retirement or pension systems and the power to create and maintain retirement or pension systems for any elected or appointed public officers and employees whose compensation is paid in whole or in part from county or municipal funds and for the beneficiaries of such officers and employees.

- o (b) Unless otherwise provided by law, (1) No county may exercise any of the powers listed in subparagraph (a) of this Paragraph or provide any service listed therein inside the boundaries of any municipality or any other county except by contract with the municipality or county affected; and (2) No municipality may exercise any of the powers listed in subparagraph (a) of this Paragraph or provide any service listed therein outside its own boundaries except by contract with the county or municipality affected.

(c) Nothing contained within this Paragraph shall operate to prohibit the General Assembly from enacting general laws relative to the subject matters listed in subparagraph (a) of this Paragraph or to prohibit the General Assembly by general law from regulating, restricting, or limiting the exercise of the powers listed therein; but it may not withdraw any such powers.

(d) Except as otherwise provided in subparagraph (b) of this Paragraph, the General Assembly shall act upon the subject matters listed in subparagraph (a) of this Paragraph only by general law.

Service Delivery Statute 36-70-20 et seq

§ 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.

§ 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.

Service Delivery Strategy: Key Provisions of Georgia Law [Lexis Advance Research]

§ 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.

Service Delivery Strategy: Key Provisions of Georgia Law [Lexis Advance Research]

§ 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.

Service Delivery Strategy: Key Provisions of Georgia Law [Lexis Advance Research]

(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.

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

(a) (1) 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.

O.C.G.A. § 33-8-8.3

Current through the 2017 Regular Session of the General Assembly.

TITLE 33. INSURANCE CHAPTER 8. FEES AND TAXES

§ 33-8-8.3. Funding of services, or reduction of ad valorem taxes, in unincorporated areas of counties; powers and duties of governing authority

(a) The proceeds from the county taxes levied for county purposes, as provided by this chapter, shall be separated from other county funds and shall be used by the county governing authorities solely for the purpose of either:

(1) Funding the provision of the following services to inhabitants of the unincorporated areas of such counties directly or by intergovernmental contract as authorized by Article IX, Section III, Paragraph I of the Constitution of the State of Georgia:

- (A) Police protection, except such protection provided by the county sheriff;
- (B) Fire protection;
- (C) Curbside or on-site residential or commercial garbage and solid waste collection;
- (D) Curbs, sidewalks, and street lights; and
- (E) Such other services as may be provided by the county governing authority for the primary benefit of the inhabitants of the unincorporated area of the county; or

(2) Reducing ad valorem taxes of the inhabitants of the unincorporated areas of those counties in which the governing authority of a county does not provide any of the services enumerated in paragraph (1) of this subsection to inhabitants of the unincorporated areas. In fixing the ad valorem tax millage rate for the year 1984 and any year thereafter, the governing authorities of such counties shall be authorized and directed to reduce such ad valorem tax millage rate on taxable property within the unincorporated areas of such counties to offset any of the proceeds derived from any tax provided for in this chapter which cannot be expended pursuant to paragraph (1) of this subsection.

(b) In the adoption of the budget utilizing any of the funds derived from the tax imposed by Code Sections 33-8-8.1 and 33-8-8.2 the governing authority of a county shall specify in such budget the amount of such funds expended as authorized by paragraph (1) of subsection (a) of this Code section or used to reduce ad valorem taxes as provided in paragraph (2) of subsection (a) of this Code section. Said budget shall also specify the amount of any other funds expended for such purpose or purposes as are authorized to be expended for services referred to in paragraph (1) of subsection (a) of this Code section. Such provisions shall be spread on the minutes of the meeting at which such budget is adopted.



Georgia
Community Affairs



SERVICE DELIVERY STRATEGY
FORM 4: Certifications

Instructions:

This form must, at a minimum, be signed by an authorized representative of the following governments: 1) the county; 2) the city serving as the county seat; 3) all cities having a 2010 population of over 9,000 residing within the county; and 4) no less than 50% of all other cities with a 2010 population of between 500 and 9,000 residing within the county. Cities with a 2010 population below 500 and local authorities providing services under the strategy are not required to sign this form, but are encouraged to do so.

COUNTY: TYPE COUNTY NAME HERE

We, the undersigned authorized representatives of the jurisdictions listed below, certify that:

1. We have executed agreements for implementation of our service delivery strategy and the attached forms provide an accurate depiction of our agreed upon strategy (O.C.G.A 36-70-21);
2. Our service delivery strategy promotes the delivery of local government services in the most efficient, effective, and responsive manner (O.C.G.A. 36-70-24 (1));
3. Our service delivery strategy provides that water or sewer fees charged to customers located outside the geographic boundaries of a service provider are reasonable and are not arbitrarily higher than the fees charged to customers located within the geographic boundaries of the service provider (O.C.G.A. 36-70-24 (20); and
4. Our service delivery strategy ensures that the cost of any services the county government provides (including those jointly funded by the county and one or more municipalities) primarily for the benefit of the unincorporated area of the county are borne by the unincorporated area residents, individuals, and property owners who receive such service (O.C.G.A. 36-70-24 (3)).

JURISDICTION	TITLE	NAME	SIGNATURE	DATE
<p><u>LIST EACH JURISDICTION HERE, ALPHABETICALLY</u></p>	<p>List the Title of the Authorized Representative of Each Jurisdiction Here, Respectively</p>	<p>List the Names of the Representatives Here, Respectively</p>		

