

## **Study Committee on Annexation, De-annexation & Incorporation Meeting 2**

**September 22<sup>nd</sup>, 2015**

**10 AM – 1:30 PM**

### **Notes:**

- All members (Chair Elena Parent, Senator John Albers, Senator Charlie Bethel, Senator Fran Millar, and Senator Frank Ginn) were present although Senator Ginn and Senator Albers were unable to stay until the end of the meeting.
  - Brian Johnson and Jon A. West testified first on behalf of the Department of Community Affairs (DCA).
    - DCA believes there needs to be more coordination and clarity for county and city to make it fair, and DCA doesn't want to take sides.
    - "Annexation is a critical function of local governments."
    - "HB 2 from the 2007-08 Regular Legislative Session was passed in order to mitigate grievances between cities and counties over the annexation process. The primary component of that process was the creation of arbitration panels to hear and decide upon these grievances."
    - The service delivery strategy should provide very clear direction to local governments, which will help to avoid sanctions applied to the entire county.
    - If a city plans to annex an area, all cities and legislators from that area should be notified.
      - Within 15 days of the city receiving notification, DCA would appoint an "arbitration panel."
      - There needs to be more coordination and clarity for county and city to make it fair, and DCA doesn't want to take sides.
      - "Statute simply requires DCA empanel a group to hear the dispute having never actually received notice that an annexation is proposed or that a county objects to it. This is the crux of a meaningful problem."
      - "DCA concedes that it does not believe the burden of notification should ever rest with the city, but should always rest with the party making the objection, the county. However, the lack of clarity in the statute has created problems."
      - In terms of appointing an arbitration panel, DCA believes Georgia code should be changed to say 15 "business days" rather than "calendar days" because this can cause problems, especially around holidays.
      - For academic panelists on an arbitration panel, DCA asks that panelists be "currently employed by a nonprofit institution of higher learning with a physical presence in this state."

- Senator Bethel wants to know why DCA wants the Georgia code changed rather than DCA just adopting nonprofit institutions in Georgia as part of DCA's policy.
  - Senator Albers is little concerned about only nonprofit universities being able to participate in panels.
- DCA questions whether or not this is a permissive process. DCA is not sure if the General Assembly was trying to be permissive in 2008 or not. However, if it's not a permissive process, "then a party cannot simply, subjectively refuse to participate."
  - Senator Millar says the intent was not to be permissive in the process in 2008.
- In terms of annexation reporting, "DCA is not advocating for or against a modification of this process; however, if the General Assembly and our partners at GMA and ACCG would like to alleviate a problem the local governments are apparently facing, DCA would welcome the opportunity to assist. We could do this by":
  - "Having local government upload geospatial (GIS) files through the website when completing their forms, online. A number of specific details would need to be worked out to make that happen, but that's nothing insurmountable."
  - "With that information, in-hand, DCA would be able to actually complete the U.S. Census Bureau's Boundary and Annexation Survey (BAS) on behalf of the municipalities."
  - "However, currently, even though reporting is required, it doesn't consistently occur. For this to work, all filings would need to be done electronically and would need to include the necessary GIS files. DCA currently has no mechanism to compel municipalities to file the required report, even as they are currently structured, which would make the potential success of this possible approach questionable without modification to statute."
    - Senator Millar wants annexation and incorporation programs to be the same.
    - DCA says you need to use GIS over paper maps.
- The "Service Delivery Act" of 1997 requires a county to work together with its cities to create a document called the Service Delivery Strategy (SDS).
  - This act was passed to help get rid of problems concerning double taxation by county and city for the same services.
  - The act also set the times when the SDS should be updated and revised, such as the creation, abolition, or consolidation of local governments."
  - Most acts in recent years have included a transitional period, usually around two years, for services to transition from one local government to another.

- However, Peachtree Corners and Gwinnett County seemed unaware that they needed to comply with or update the SDS before the transitional period ended.
- DCA would like the General Assembly to include specific language that clearly states when the SDS should be adopted in abolition, consolidation, and incorporation charters.
  - Senator Millar agrees and thinks the General Assembly may need to amend the LaVista Hills and Tucker charters.
  - Senator Millar wants to revisit recent and pending cities to look at the language concerning service delivery strategies.
  - DCA wants to keep counties compliant.
  - Senator Bethel said it's clear that counties and cities need to work together to provide services. Both sides need to do the job they were elected to do.
  - Senator Albers and Jon A. West said to notify all city officials (e.g. mayor and attorney) possibly affected at the same time.
  - Senator Millar says to notify legislators in affected areas too.
  - Tolliver County is the only county in the state that is non-compliant at this time.
  - There are 700 local governments in the state, but there are likely 100 local governments interested in unincorporating because they are small cities with only 50-70 people.
- Sharon Whitmore, CFO, and Jerolyn Ferrari, county attorney, testified second on behalf of Fulton County.
  - Jerolyn said Fulton County would like the law amended to give school boards a voice in annexation decisions. The law doesn't currently allow school impact as a reason for the county to object.
    - Senator Millar and Senator Albers agree with Jerolyn about the impact on schools.
    - City of Atlanta is an independent school system unlike Fulton County.
  - Constituents want the county to object to the pending Atlanta annexation, but the law limits the county's ability to do so (only for certain reasons).
    - Fulton County would like to expand the grounds for objection by counties because right now it's limited to zoning reasons.
  - Fulton County may be the first fully municipalized county in Georgia outside of the consolidated governments.
  - The annexing city must provide public safety services, such as fire and police, but sometimes the annexing city does not have the resources available to provide those services when the annexation takes effect.
    - There was no intergovernmental agreement from the most recent annexation.

- There needs to be a mutual aid agreement between adjoining fire departments (next to each other like Fulton County and DeKalb County).
- Fulton County says annexations erode the county's tax base, but Senator Ginn says then the county has fewer services to provide.
- Police and fire leave the county with higher pension amounts, which should be funded going along but often are not.
- The tax base is diminished so the county must either cut services or raise taxes.
- Annexed areas often have a higher tax base due to the commercial property annexed.
- Senator Bethel said if a city ceases to exist, a county can make a special service district and an unincorporated area that becomes incorporated could have a special service district so hopefully hard assets would transfer and get worked out. When a new city comes in, could debt follow it?
- A county may provide service for several months but will not receive the tax revenue to cover the expense of service delivery.
- Recommendations:
  - Increase the list of objections (not just land use/zoning) by county
  - Commercial businesses need a voice in the annexation/incorporation process (60% method).
  - Schools need a voice too.
  - Arbitration is the exclusive remedy, but it shouldn't be.
  - Counties need more than 30 days to object, especially because they need time to look at petitions.
  - Essentially, counties need more time, more reasons, and more meaningful arbitration (arbitrator needs more power).
    - An arbitrator should be more like a judge.
    - The cost of arbitration borne by counties is 75%, but that should be split equitably or at the end assigned based on the outcome, especially due to service delivery reasons.
- Dr. Laura Wheeler from Georgia State's Andrew Young School of Policy Studies testified third.
  - Some states have review boards that are quasi-governmental.
    - Some have political appointees with a professional staff.
    - There are state standards they must adhere to like in North Carolina.
    - South Carolina has a state-level review board with a committee on municipal incorporation with a professional staff, maps, feasibility studies, and a petition requirement.

- Senator Bethel says Georgia has a Land Use Agreement like NC, but GA doesn't exercise it consistently.
  - It's hard to cherry pick ideas from other states without knowing the history and philosophy.
  - Senator Ginn said you definitely live in a county in Georgia, but you might live in a city too.
  - Dr. Wheeler said some places have policies saying there can be no more incorporations, only annexations.
  - Most states have petition requirements.
  - What happens to service delivery in the rest of the county or other cities?
  - All say that needs to be taken into account when no weight is given.
  - There is acknowledgement that there is an impact on the county, but it is not clear how that is dealt with.
  - It would be more proactive to think about how the county and local governments coordinate upfront letter with Service Delivery Strategy (SDS) worked out. Then county would understand is expected of them upfront.
  - In terms of policies, this brings to light how to think about what happens going forward.
  - California/Washington – California has LAFCo's, local agency formation commissions, that are independent, quasi-governmental and can adjust boundaries or deny incorporation.
  - Finances can influence the decision to incorporate or annex unincorporated areas.
  - California, Florida, and Washington do revenue-neutral incorporations.
  - Should there be an assessment of the donor area to the county/
  - If so, payments made to the county could compensate.
  - Florida does financial impact assessments.
  - Minnesota has a tax-base sharing plan.
  - Senator Millar wants Dr. Wheeler to provide background information on revenue-sharing mitigation payments and how they are done.
- Ted Baggett from UGA's Carl Vinson Institute of Government testified last.
    - New cities have to take over road maintenance as the minimum criteria.
    - There is a point where you can't revise taxes enough to provide services. However, it has to be recognized an environment part of a regulated urban area.
    - Georgia is the second state with the most counties.
      - As a result, counties are smaller and should be able to provide wall-to-wall services.
      - Can a county afford cuts and services?

- Taxes don't fall perfectly on any citizen.
- In terms of sales tax revenue, there is less to each city as more occur.
- Some people want the county impact in feasibility studies, but Ted says it shows the short-term impact.
- Ted's recommendations:
  - He like petition minimum standards with a minimum number of signatures.
  - Petitions show community support, and boundaries can be set and feasibility studies done during petition process.
  - He recommends 60% for petitions, the "first in time" rule, and getting ducks in a row to get it to a reviewing authority.
  - Hopefully, people also get to vote on a referendum.
- Public Commentary from Elected Officials:
  - Linda Bryant, Fulton County School Board Member & Patrick Burke, Deputy Superintendent for Operations
    - Annexations cause kids to move to new schools, which can disrupt learning.
    - Annexing entities do not notify school districts because it's not required by law.
    - It costs \$80 million to build a new school.
    - New buildings, tax hikes, new teachers, changing feeder patterns and attendance zones, and more buses can all result from annexations.
    - Each school chooses its own curriculum/learning program and process in Fulton County, which can cause problems when annexations occur.
    - Schools districts should be alerted and need time to consider annexations.
  - Dale Provenzano, Glenn County Commissioner
    - Glenn County includes St. Simon's Island, Sea Island, and Jekyll Island.
    - Sea Island has the highest zip code in the state.
    - Who asks to annex or incorporate a blighted area?
    - It's easy to draw boundaries by taking certain areas with wealth.
    - The study needs to be done after boundaries are set, not before.
    - What happens to the rest of the community after wealthy areas incorporate?
    - There is duplication of services if you incorporate everything in a county.
    - Glenn County provides more services than its cities.
    - Counties are good at providing services because they have been doing it a long time. Fewer governments would be better.
    - Cities in Glenn County don't want to do everything, just zoning, planning, and code enforcement.

- Are we really taking into account the benefit of the whole community?
- There is a domino effect in metro Atlanta and in places like Glenn County because it's all about wealthy places wanting to incorporate.
- Representative Roger Bruce
  - South Fulton is like a municipality because of the special service tax district (fire, police, etc.) in place.
  - You should set up special service tax districts in places that want to be cities to see if they work.
  - South Fulton actually knows the revenues and expenditures.
  - County commissioners don't always live in the area they represent.
  - When an area wants to be incorporated, county commissioners should set up special service tax districts.
  - How do you validate petitions for annexations?
    - There is no current process to check them.
    - We need independent review boards like other states have to validate signatures with 60% of landowners and 60% of registered voters.
  - When kids fail due to changing schools, this cause a long-term impact on the community because there are fewer contributions to the community.
- Representative LaDawn Jones
  - We need an objective process with A, B, C, and D done to get us to a referendum.
  - There is too much cherry picking, and there needs to be a process to prevent that upfront.
  - There needs to be a verification process for annexation petition signatures.
  - Feasibility studies are expensive, and it's hard to raise money for them.
  - Who divides? People that don't represent that area are involved in the decision making, and that's problematic.
  - There should be a basis for objection.
- Senator Donzella James
  - She lobbied on behalf of the City of South Fulton like Representative Bruce and Representative Jones.
  - South Fulton was twice the size it is now in the 1990's.
  - South Fulton has wanted to be a city since the 1990's.
  - South Fulton has a special service tax district, has been paying for the special service tax district, and can pay to be a city.
  - Kasim Reed brought the bill the bill forward when he was in the seat for the 35<sup>th</sup> Senate district.

- However, he only worked to pass Chattahoochee Hills at the same time.
  - South Fulton residents don't want to be scapegoats and don't want to fall by the wayside.
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- **Last Two Meetings:**
  - **October 21<sup>st</sup> from 2-5 PM in Capitol 450**
  - **November 3<sup>rd</sup> 9 AM-12 PM in Capitol 450**