Charting a Course for Cooperation and Collaboration

An Introduction to the Service Delivery Strategy Act for Local Governments

June, 1997
(Revised 2002)

Association County Commissioners of Georgia

Georgia Municipal Association
Georgia Department of Community Affairs
Carl Vinson Institute of Government, The University of Georgia

Forward

In 1995, the Georgia General Assembly created the Georgia Future Comunities Commission to examine the issues confronting local governments, to determine what changes are needed to improve their structure and operation and to develop specific proposals to achieve those changes. Its ultimate charge was to offer ideas on how our communities can create an environment conducive to an improved quality of life and economic prosperity.

By the summer of 1996, the 30-member Commission of city and county officials, usiness leaders and state legislators concluded that while Georgia's system of local government has served our State well for many years, the lack of a clear legal distinction between cities and counties since 1972 has fostered inefficient service delivery systems and unhealthy conflict in too many of our communities.

Searching for an appropriate solution to the growing problem of service duplication, overlap and competition, the idea of requiring cities and counties to develop a Service Delivery Strategy was born. While agreeing on the concept of a locally-controlled process for sorting out service delivery responsibilities and funding sources was easy, negotiating the details of the legislation proved to be an arduous and time-consuming task. Compromise between the Georgia Municipal Association and the Association County Commissioners of Georgia was a necessity.

In late January 1997, consensus was reached and a proposal was jointly endorsed by the boards of both associations and subsequently embraced by the Commission. The proposal was introduced as HB 489 by Rep. Richard Royal, chairman of the House State Planning and Community Affairs Committee and, along with three companion bills, was enacted by the General Assembly and signed into law by the Governor. In addition to Rep. Royal, we extend our special thanks to the other legislative members of the Commission, including Rep. Larry Walker, Rep. Dorothy Felton, Rep. Robert Reichert, former Rep. John Scoggins, Sen. Sonny Perdue, Sen. Nadine Thomas, Sen. Jack Hill, Sen. Clay Land and former Sen. Jake Pollard.

Change is never easy, and the process of sorting out roles and responsibilities and resolving land use conflicts called for in HB 489 may be difficult, if not painful, for some communities.

The Service Delivery Strategy legislation represents the best opportunity in many, many years to significantly improve the quality of local government in Georgia. While still preserving Georgia's strong home rule tradition of local governance, this new law is intended to help city and county officials move beyond confrontation and conflict and chart a course of cooperation and collaboration well into the 21st century.

We trust local officials will find this guidebook useful and will call on us if we can be of assistance.

Introduction

During the 1997 legislative session, House Bill 489 (The Service Delivery Strategy Law) was passed by the Georgia General Assembly to require each county and the cities within the county to adopt a Service Delivery Strategy by July 1, 1999. This legislation, developed following several months of negotiation between the Association County Commissioners of Georgia and the Georgia Municipal Association, was the major recommendation of the Georgia Future Communities Commission.

The intent of the legislation is that local governments take a careful look at the services they provide in order to identify overlap or gaps in service provision and develop a more rational approach to allocating delivery and funding of these services among the various local governments and authorities in each county. The legislation also asks local governments to look at their land use plans in order to minimize conflicts between the city and county plans.

Service Delivery Strategy: What It Is Not

- Does not require city/county consolidation or county/county consolidation
- Does not require consolidation of services
- Does not require adoption of zoning ordinances
- Does not require hiring of consultants

The legislation calls for the development of 159 Service Delivery Strategies, one for each county area. Counties were responsible for initiating the process between July 1, 1997 and January 1, 1998. The legislation is intentionally vague, leaving much discretion to cities and counties in how they go about developing a Service Delivery Strategy. The following is a brief summary of the bill:

Each Strategy must include:

- an identification of all services presently provided in the county by cities, counties and authorities
- an assignment of which local government will be responsible for providing which service in what area of the county
- a description of how all services will be funded
- an identification of intergovernmental contracts, ordinances, resolutions, etc. to be used in implementing the Strategy, including existing contracts.

In assigning and implementing service delivery responsibilities, the following requirements must be met:

- the Strategy should provide for the elimination of duplication of services, or an explanation for its existence
- jurisdictions charging water and sewer rate differentials to customers outside their boundaries must be able to justify such differentials

- services provided primarily for unincorporated areas must be funded by revenues derived exclusively from the unincorporated areas
- conflicts in land use plans within a county, between the county and its cities, must be eliminated
- a process must be agreeded upon for resolving land use classification disputes between a county and city over property to be annexed.

Projects inconsistent with the Strategy will not be eligible for state funding or permits.

Approval of the Strategy in each county requires adoption of resolutions by:

- the county,
- the county seat city,
- all cities over 9,000 population, and
- 50% or more of all other cities over 500 population.

Generally, failure by a county and its cities to adopt the Strategy will result in loss of eligibility by that county and cities for all state administered funding or permits. See Code Section 36-70-27(b) for exceptions to this statement.

The Department of Community Affairs will be required to verify that local governments have adopted a Service Delivery Strategy, and that the Strategy meets the requirements of the Act.

An analysis of each major section of the law, including responses to commonly asked questions, is provided on the following pages. The law in its entirety is included in the Appendix.

What is a Service Delivery Strategy?

A Service Delivery Strategy is intended to be a concise action plan, backed up by the appropriate ordinances and intergovernmental agreements, for providing local government services and resolving land use conflicts within an entire county area. While the law does not dictate specific service delivery and land use planning arrangements within any given county, it does require every Strategy to include four basic components and to meet six criteria. These components and criteria are discussed in detail beginning on pages 4 and 7, respectively.

As indicated in Code Section 36-70-20, the General Assembly intends for local governments to use this planning process to develop service delivery systems which reduce unnecessary duplication, promote cooperation, eliminate funding inequities and minimize inter-jurisdictional land use disputes.

The intent of the code section 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 legislation 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 non-compatible 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.
After receiving the necessary level of local approval (see page 14), the Strategy must be submitted to the Department of Community Affairs for review to verify that it includes the required components and addresses the minimum criteria. If a Strategy is not adopted by the county and the required combination of cities, all local governments within the county will be ineligible for state-administered funding, grants, loans and permits.

Getting Started

(O.C.G.A. 36-70-22)

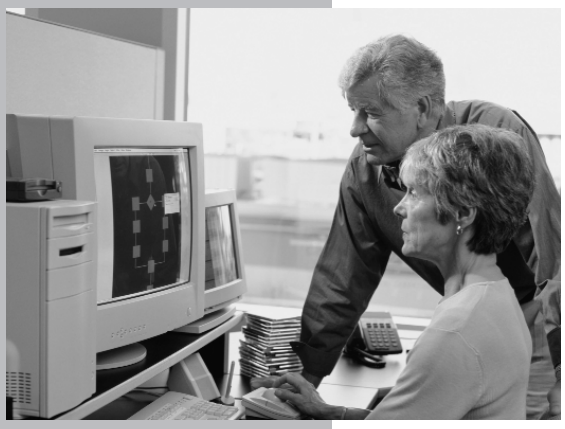
Originally, the law required each county to initiate the process for developing a Service Delivery Strategy between July 1, 1997 and January 1, 1998. During this period, the county was to send a notice to the following jurisdictions announcing the date, time and location of the first meeting:

- all cities located wholly or partially within the county;
- all other cities which provide services within the county; and
- all other counties which provide services within the county.

The notice must be sent not more than 45 days and not less than 15 days prior to the meeting date.

If the county failed to initiate the process by January 1, 1998, any city within the county could do so by sending a written notice to the county, the other cities within the county and any other jurisdictions providing services within the county.

Are authorities, such as a water and sewer authority or a housing authority, or local boards of education required to be notified of the meeting?



While authorities are not required to receive notice of the initial meeting, the input of any authority providing a local government service within the county will obviously be needed when discussions are held regarding the specific services provided by authorities. Notification of the first meeting must be provided to the governing bodies of all cities within the county and the governing body of any other city or county that provides services within the county. School districts are explicitly excluded.

Is the initial meeting, as well as subsequent meetings, subject to the Open Meetings Law?

Although the new law does not specifically reference the Open Meetings Law, it is advisable to treat such meetings as open to the public.

Should minutes be taken at each meeting?

Since the Open Meetings Law requires minutes to be taken, it's probably a good idea to keep a written record of the subject matter and outcome of each meeting. Also keep in mind that in addition to the minutes, all other records, including notes, tapes and disks, are subject to the Open Records law.

Who should conduct these meetings?

The law does not specify. Although the law calls upon the county government to initiate the meeting process, it is not intended for the county to take the lead in developing the Service Delivery Strategy. The cities and county are equal partners in developing the Strategy. Some communities may find it beneficial to use an outside facilitator to conduct the meetings. For assistance in locating a facilitator, local governments may contact their regional development center or the Department of Community Affairs, Office of Coordinated Planning at 404-679-3114.

Does the law specify an organizational structure for developing a strategy?

No. However, the way in which local governments organize themselves to undertake this task is a critical decision which should be given careful consideration. Obviously, no single organizational structure will fit each locality's needs. A number of factors, including the type of county (i.e., urban vs. rural), number of jurisdictions within the county and the types of services provided within the county will influence the type of organizational structure needed.

In smaller communities, the local governments may want to create two committees a committee of elected officials to make policy decisions, and a staff committee to develop recommendations on how specific services should be handled in the future.

In larger counties, particularly where there are more than one or two cities involved, a three-tiered arrangement as outlined below may prove to be effective:

- An executive committee consisting of the chief elected official and possibly other elected officials of the county and each city in the county would be responsible for making final policy decisions.
- A staff committee consisting of county and city managers and administrators would be responsible for drafting the Strategy with input from various subcommittees.
- Subcommittees, consisting of department heads and authority members (if applicable), would make recommendations about specific local government services (e.g., police, fire, water & sewer, recreation, etc.).

What Must a Service Delivery Strategy Include?

(O.C.G.A. 36-70-23)

Each Service Delivery Strategy must include the following components:

I. Current Service Delivery Arrangements

The Strategy must identify all local government services presently provided or primarily funded by each general purpose local government and each authority within the county and describe the geographic area in which the identified services are provided by each jurisdiction.

This component of the Strategy should identify which local governments and authorities are presently providing which services in which area of the county at the time the process of developing the Strategy is initiated.

Does the law define what is meant by local government services?

The law is not specific. Each local governments is encouraged to review its comprehensive plan, most recent annual budget and its charter to identify services it provides that should be included in the Service Delivery Strategy.

Must services that are provided by only one local government in the county be included in the Strategy?

Yes.

Should services be included when they are provided under contract with another government entity or a private firm?

Yes. For example, if the county contracts with a private hauler for solid waste collection, it will still be necessary for this arrangement to be addressed in the Service Delivery Strategy.

Should administrative support services such as personnel or computer operations be included in the Service Delivery Strategy?

Again, the law is not specific, but it would be reasonable to assume that such services are not required to be addressed in the Strategy. However, local governments are certainly encouraged to include such services where there may be opportunities to improve the efficiency, effectiveness, and responsiveness of these local government services provided within the county.

II. Future Service Delivery Arrangements

The Strategy must indicate which local government or authority will provide each service, the geographic areas of the county in which each service will be provided and a description of any services to be provided by any local government to any area outside of its geographical boundaries. If two or more local governments within the same county are assigned responsibility for providing identical services within the same geographic area, the Strategy must include an explanation of this arrangement.

This component of the Strategy should identify which local governments and authorities will provide which services in which areas of the county after the Strategy is adopted and implemented.

Will a map be required to show who will provide which service in which area of the county?

While the law does not require that a map be included as a part of the Strategy, maps may be the easiest and most reliable way to delineate service areas. Maps are particularly helpful when a county or city provides a service extraterritorially.

If a city and a county both provide the same service but do not serve the same area, will this be allowed?

Yes. The law does not preclude cities and counties from offering the same services, but it does encourage local governments to take advantage of this planning process to provide services in the most efficient manner possible. In some cases, service consolidation will make sense and in other cases it will not. As long as the Strategy meets the required criteria (see Required Criteria), local governments have complete discretion to develop their own arrangements.

What would be an example of an identical service being provided in the same geographic area?

One example which would fit this description is where two jurisdictions run parallel water and sewer lines through the same area of the county.

What is meant by "include an explanation of such arrangement" for duplicative services?

Local governments should provide a rationale for continuing any duplicative services, stating any overriding benefits or insurmountable problems that support continuing the arrangement. Examples are pre-existing contracts and ongoing facility financing arrangements that cannot be changed.

What if a city or county decides to add a new service or drop an existing service after the Strategy is adopted?

This will require an update of the Service Delivery Strategy, which all parties will have to negotiate and reach agreement upon. It is also possible for the Strategy to include provisions for future startup or discontinuation of services by cities or the county, if these changes can be anticipated at the time the Strategy is being prepared.

Does the law restrict the types of arrangements local governments can make for the delivery of a service?

No. In addition to segregating service delivery responsibilities among the local governments or establishing separate service delivery areas, the law encourages cities and counties to consider a wide range of options for delivering services in the most cost-effective and responsive manner possible. Some of these possibilities include:

• creating a jointly owned and operated service.

• contracting with another government or private entity for the delivery of the service while still maintaining responsibility for providing the service.

• turning over responsibility for providing the service to one government in the county & -;either one of the cities or the county. (Issues related to level of service, cost, rates, citizen input, and land use impacts can be addressed by contract.)

• creating a county-wide authority to deliver services. (If this option is used, caution should be exercised to ensure cooperation between the authority board and local governing bodies.)

III. Funding Sources

The Strategy must describe the funding source for each service to be provided. This component of the Strategy must indicate the source of revenue each local government will use to fund each service it will provide within the county (e.g., countywide revenues, unincorporated area revenues, municipal revenues, enterprise funds, or some combination).

IV. Legal Mechanisms to Implement the Strategy

The Strategy must identify the mechanisms, if any, to be used to implement the Service Delivery Strategy.
The term mechanisms, as defined in O.C.G.A. 36-70-2, paragraph 5.3, includes, but is not limited to, intergovernmental agreements, ordinances, resolutions and local Acts of the General Assembly in effect on July 1, 1997 or executed thereafter.

Must all legal mechanisms be implemented and in place by July 1, 1999 (the deadline for completing the Service Delivery Strategy)?

No. The agreement to implement the Strategy must be in place by July 1, 1999. Since the law mentions time frames for implementation of the Strategy, it is reasonable to assume that it is permissible to phase in the implementation of various components of the Service Delivery Strategy according to a mutually agreed upon timetable. Any changes in this implementation timetable will require a formal update of the Strategy.

Required Criteria

(O.C.G.A. 36-70-24)

In developing a Strategy, the law requires local governments to meet the following criteria:

I. Elimination of Unnecessary Duplication

The Strategy must promote the delivery of government services in the most efficient, effective and responsive manner. The Strategy must also identify steps which will be taken to eliminate or avoid overlapping and unnecessary competition and duplication of services and identify the time frame in which such steps will be taken.

When two local governments or authorities provide or offer the same service in overlapping areas, the Service Delivery Strategy must provide for elimination of this duplication of services. Examples of such duplication of service include:

- A city water department and a county water authority both have excess water capacity and have extended water lines to serve the same area of the county immediately adjacent to the city's jurisdictional boundaries.

- A city contracts for ambulance service with a provider that routinely responds to calls outside the city's boundaries where the county EMS also provides ambulance service.

When a city provides a service at a higher level than the same service provided throughout the geographic area of the county by the county, the law states that such service shall not be considered a duplication of the county service.

Cities by their very nature exist to meet the greater service demands of the residents and businesses within their communities. For example, a sheriff may patrol the entire county while the city maintains its own police department and patrols more frequently within the city. In this instance, such a service would not be viewed as a duplication.

Who determines if a Strategy promotes the delivery of services in the most efficient, effective and responsive manner possible?

The law simply requires each county and the cities within the county to look for opportunities to improve the efficiency, effectiveness, and responsiveness of all the local government services provided within the county. It is left up to the local governments within each county to decide if their Strategy is efficient, effective, and responsive.

Can this criteria be interpreted to mean that cities and counties must consolidate either their governments or their services?

No. Local officials may decide they want to consolidate one or more services, or even consolidate governments, but it is not mandated.

If overlap or duplication of services, or unnecessary competition in the provision of services are discovered in the process of developing the Strategy, can the affected local governments choose to take no action to address this overlap?

The law requires that local governments either include an explanation for duplication of services (see page 6) or the steps and implementation timetable for eliminating the duplication.

Is it conceivable that the county and the cities within the county could decide to adopt a Strategy which makes no changes to the current service delivery arrangement within the county and not be penalized?

While it is possible that who provides the services will not change, the water and sewer rate equity and the tax equity criteria described below could require changes in how the services are funded.

II. Elimination of Arbitrary Water and Sewer Rate Differentials

The Strategy must ensure that water or sewer fees charged to customers located outside the geographic boundaries of a service provider are not arbitrarily higher than the fees charged to customers inside the boundaries of the service provider.

If a local government believes a rate differential is arbitrary and disputes the reasonableness of such water and sewer rate differentials, the law provides that local government with the following recourse:

- The disputing local government may hold a public hearing for the purpose of review ing the rate differential.
- If the public hearing does not lead to a resolution of the dispute, a qualified engineer may be hired to prepare a study of the water and sewer rates.
- If the rate study concludes that the rate differential is arbitrary (i.e., not reasonably based on the cost to provide the service), the dispute must be submitted to some form

of alternative dispute resolution, such as mediation.

- If alternative dispute resolution is unsuccessful, the disputing local government may challenge the arbitrary rate differentials in a court of competent jurisdiction.

Before initiating a time-consuming and potentially expensive appeals process, the local government representing disgruntled water and sewer customers is encouraged to meet with the jurisdiction providing the service and attempt to resolve their concerns.

If the water and sewer rate charged by a city to unincorporated areas of the county is one and a half times the rate charged to city residents, is this rate differential arbitrary?

Not necessarily. If the differential is due to the higher cost of providing the service, the rate is not arbitrary.

Who pays for the rate study?

The law does not specify. This should be worked out between the disputing local governments.

The law says that a qualified engineer is to perform a rate study if the rate structure is disputed. What is a qualified engineer?

Georgia statutes do not define the term. However, a reasonable interpretation would be that a qualified engineer is a registered professional engineer who has experience in utility rate analysis.

Who is responsible for bearing the cost of alternative dispute resolution?

The statute does not specify who bears the cost of alternative dispute resolution (ADR). Keep in mind that the objective of ADR is to minimize legal expenses that would otherwise be incurred in litigating the dispute; in other words, ADR is a substitute for litigation. As such, it is recommended that the parties to the dispute share the cost on a pro rata population basis with the county's share being based on the county's unincorporated population as specified in O.C.G.A. 36-70-25 (d) which specifies the cost allocation for ADR if employed to reach an accord on the Strategy as a whole.

If a county challenges the reasonableness of a city's water and sewer rate differential in court and prevails, who pays the attorney fees?

Each party to the litigation would pay its own attorney fees unless otherwise ordered by the court.

If a local government acknowledges that the water and sewer rates charged to its outside customers are arbitrary, do the rates have to be adjusted immediately, or can they be adjusted over a period of time?

While the law is silent on this question, it would not appear to be realistic to require a local government to immediately adjust its rate structure. It is recommended that the Strategy include a schedule agreed to by the affected parties which provides for a phased-in adjustment of rates.

What is a court of competent jurisdiction?

A court of competent jurisdiction is a court that has jurisdiction over a dispute; in the case of a water and sewer rate dispute, generally the superior court of the county.

III. Elimination of Double Taxation

The Strategy must 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. In addition, the Strategy must ensure that when the county and one or more cities jointly fund a countywide service, the county share of such funding shall be borne by the unincorporated residents, individuals, and property owners who receive the service.

The intent of this provision is to eliminate double taxation of municipal property owners. When a county provides a service primarily for the benefit of the unincorporated area, the law provides that funding for such service must come from:

1. special service districts created by the county in which property taxes, insurance premiums taxes, assessments or user fees are levied or imposed; or

2. any other mechanism agreed upon by the affected parties which eliminates double taxation.

Since all taxpayers are citizens of the county, whether or not they live inside municipal limits, why should double taxation be a concern?

The issue is one of fairness to city residents who, of course, pay county taxes in addition to their city taxes. Many believe that it is not fair for the county to tax both city residents and unincorporated residents to pay for a county service that is provided primarily for the benefit of the unincorporated area.

Which county services should be paid for out of the general fund and which services should be paid from revenue sources derived from the unincorporated area?

Some county services are made available county-wide to all residents and, in many instances, nonresidents. Examples include services such as indigent legal defense, public health and welfare, county roads in incorporated and unincorporated areas, the county jail and the operation of county courts. These services should be paid for out of the county general fund.

Other county services may be provided by the county to unincorporated area residents but not to municipal residents. This type of service should be funded by revenues derived from the unincorporated area. Examples include, but are not limited to, a county fire department and a county refuse collection service which primarily serve unincorporated area residents.

Obviously, since service arrangements vary widely from county to county, city and county officials will have to determine for themselves which county services are available to all

county residents and which are primarily for the benefit of the unincorporated area.

Does this mean that county services paid for out of the general fund, such as road maintenance, are not subject to negotiation in developing the Service Delivery Strategy?

No. The way in which a county expends general fund revenues within a city is a legitimate issue and subject to negotiation.

What are the types of revenues counties should use to pay for services provided in the unincorporated area?

Special district property taxes, insurance premiums taxes, business and occupation taxes, alcohol taxes, and hotel-motel taxes.

Must all residents of the county receive the same benefit from a county service in order for the service to be paid out of the county's general fund?

Whether a person lives in a city or in the unincorporated area of the county, there is no requirement that all residents of the county receive the same or even similar benefit for a service to be paid out of the county general fund. For example, indigent defense services are available for any person accused of a crime who can not afford to hire his or her own attorney, but only those who need a court-appointed attorney receive the benefits of this service. Since this service is available to anyone in the county, it should be paid out of the county general fund.

Can double taxation be gradually eliminated on a schedule agreed to by the local governments or does it have to be eliminated at the time the Service Delivery Strategy is adopted?

Just as arbitrary water and sewer rate differentials may need to be phased out in a reasonable time frame agreed to by the local governments, local officials may also determine that the only feasible way to eliminate double taxation is to do so gradually over a mutually acceptable time period.

What if a county and a city have previously entered into a contract which provides for the joint funding of a service?

The state Constitution makes it clear that the General Assembly cannot enact legislation that has the effect of impairing obligations of existing contracts. In the context of the Service Delivery Strategy Law, if a county and its cities have negotiated "double taxation" issues and have evidenced their agreement in writing, the agreement is not voided by HB 489. However, the agreement may or may not meet the tax equity requirements of HB 489. Generally, if the parties to the agreement believe it reasonably meets the intent of the law, then it can be a component of the Service Delivery Strategy. If not, the parties can agree to amend or rescind the contract.

In a situation where one government pays most of the capital facility costs of a service while another provides operations and maintenance funding, can these costs be used to offset each other in determining whether city and county residents are paying proportional costs?

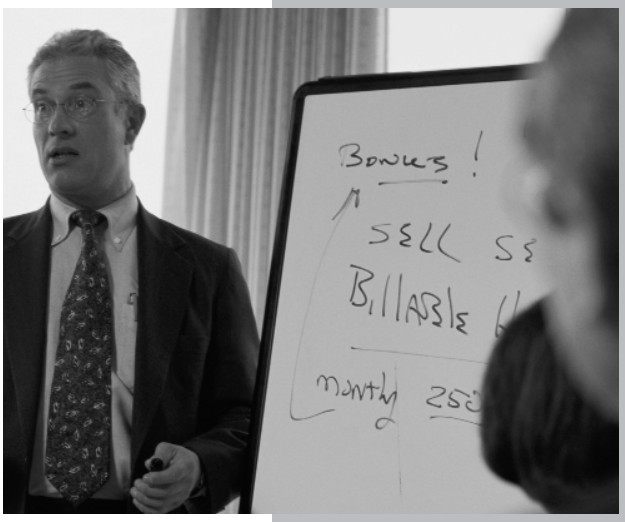
Yes. The intent of the law is to determine the total cost and funding sources of the various services, so that the participating local governments can reach an equitable arrangement that allocates a reasonable and proportionate share of service delivery costs to the citizens who benefit from the services.

Can the cost of providing one service be balanced against that of another in reaching an equitable agreement to resolve double taxation? For example, could a city agree to provide county-wide recreation service in return for charging a little higher water rates to unincorporated residents?

Although the law is silent on this issue, it would seem reasonable to expect that if all of the parties agree that the Strategy as a whole eliminates double taxation, such an arrangement would be permissible.

IV. Compatible Land Use Plans

Local governments within the same county must, if necessary, either amend their land use plans so that the plans are compatible and nonconflicting or adopt a single land use plan for the entire county.



Why is compatibility of land use plans a required part of the Service Delivery Strategy?

The intent here is to protect citizens who reside near the boundaries of one local government's jurisdiction from undesirable and incompatible land uses (such as industrial operations, large commercial centers, high density residential development, offensive agricultural operations, etc.) being allowed to locate nearby in areas under the control of another local government.

What is meant by "land use plans" and "conflicting land use plans"?

The land use plan means the Land Use Element of each local government's local comprehensive plan as established under the Georgia Planning Act. Conflicts between cities' and counties' land use plans typically occur along municipal boundaries. The county's land use plan may call for an entirely different use of property in the unincorporated area than what the city land use plan on adjacent or nearby property will permit. The intent of this provision is for local governments to resolve potential conflicts about proposed land uses along municipal boundaries before they occur.

Who determines if land use plans are compatible and nonconflicting?

This determination is left up to the county and the cities within the county.

If conflicting or non-compatible aspects of the land use plans are discovered in the process of developing the Strategy, can the affected local governments choose to take no action to address these conflicts?

No, the local governments must amend their land use plans, adopt a single land use plan, or agree to mitigating measures to eliminate the land use incompatibilities.

Short of amending either or both land use plans, what can be done to eliminate conflicts in land use plans?

The affected local governments might agree to require buffers (usually strips of trees or other obscuring vegetation) around potentially offensive land uses. Another alternative is to specify

setbacks (i.e., the minimum distance any structures must be located inside the property boundaries) to assure that potentially offensive uses are not located immediately next to the adjoining properties. Landscaping and design requirements can also be useful in minimizing the impact of conflicting land uses.

Who should amend their land use plan, the county or the city?

This decision is also negotiable. The local governments may choose to adopt a single land use plan for the entire county. If not, they can reach agreement on which plan(s) to amend to make all of the plans compatible.

Does this law require cities and counties to adopt a zoning ordinance?

No.

What if all jurisdictions agree that their land use plans are compatible at the time the Service Delivery Agreement is executed, but later one local government decided to amend its plan or rezone property in a way that creates disagreement?

Although it's not required, cities and counties may follow the same process they are required to develop to resolve land use disputes arising from annexation (see Criterion VI below). For example, if a county proposed to allow a residential development with six units per acre just outside the city limits and the city land use plan would only allow one unit per acre, it would be beneficial to both local governments if they had a process already in place to reach an agreement on this conflict.

V. Water and Sewer Extension: Consistency with Land Use Plans

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

What is the intent of this provision?

Under the state comprehensive planning act, all counties and cities must prepare a comprehensive plan, including a land use element which, in many cases, is implemented by way of a zoning ordinance, subdivision regulations, or other land development controls. Since these plans and ordinances reflect the intent of the citizens and officials of each local government regarding future development, the purpose of this provision is to ensure that a government proposing to extend its water or sewer lines into the jurisdiction of another government does not violate the other government's comprehensive plan.

VI. Resolution of Annexation Disputes Over Land Use

A process to resolve land use classification disputes when a county objects to the proposed land use of an area to be annexed into a municipality within the county must be part of the agreed upon stratagy.

Why must this process be established one year before the Strategy has to be adopted?

The July 1, 1998 date represents a compromise reached during the legislative process. A separate bill to accomplish the same objective, had it passed, would have become effective upon signature by the Governor in 1997.

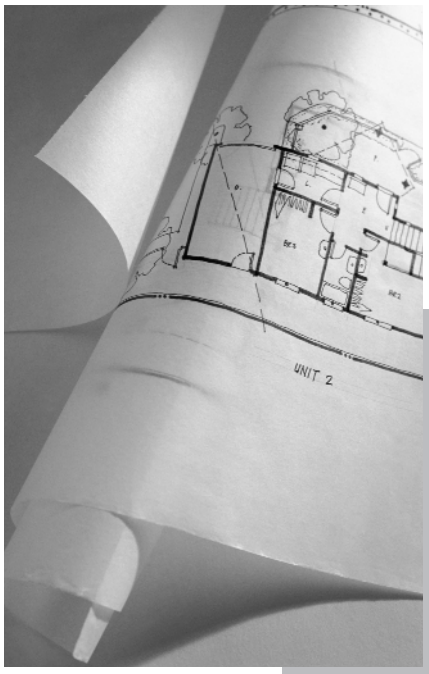
Does the law specify what is meant by "process"?

While the law does not define process, the intent is that local governments agree in advance on a method for negotiating the final land use classification of annexed property if the proposed land use of such property is disputed.

Adoption of the Strategy

(O.C.G.A. 36-70-21, 36-70-25)

Local governments within each county must execute an agreement for the implementation of a Service Delivery Strategy by July 1, 1999. Adoption of the Strategy must be accomplished by adoption of a resolution by:



- the county governing authority;
- the governing authority of each city located within the county which has a population of 9,000 or greater within the county;
- the city which serves as the county seat; and
- no less than half of the remaining cities which have a population of at least 500 persons within the county.

Why aren't all municipalities in the county required to adopt the Service Delivery Strategy?

The intent is to prevent a small portion of a county's municipal population from vetoing a Strategy which has been agreed to by local governments representing an overwhelming majority of the total county population.

Is a city bound by the Service Delivery Strategy even if it doesn't adopt it?

Yes.

How does the law treat a city which is located in more than one county? Does such a city have authority to approve the Strategy in each county in which it is located?

Only that portion of the city's population within a particular county is considered. For example, if a city has a population of 15,000 and 12,000 people are within one county, the city would have approval authority in that county since it is more than 9,000, but it would not have approval authority in the other county where its population is only 3,000, unless it is not the county seat or the only city between 500 and 9,000 population.

The law uses the term county site. Does this mean the same thing as county seat?

Yes. County site is the legal term used in Georgia law.

Dispute Resolution

(O.C.G.A. 36-70-25.1)

If a county and its cities cannot reach agreement on the Strategy, the law requires that they attempt to resolve their differences through some method of alternative dispute resolution. Alternative dispute resolution generally refers to either mediation, whereby a neutral third party is hired to help find a solution to a disagreement, or to arbitration, whereby a neutral third party is authorized to evaluate a situation and pick one side's proposal over another's.

While the term alternative dispute resolution generally includes both mediation and arbitration, most local government attorneys agree that cities and counties are prohibited by the State Constitution from settling disputes through arbitration.

If alternative dispute resolution is unsuccessful, the neutral party is required to prepare a report and provide it to each local government within the county. The report will be considered a public record.

Another alternative is available while sanctions are being imposed or in the event that a local government refuses to review and revise their strategy, if necessary, to address changes in service delivery or revenue distribution arrangements. Where applicable, one of the affected local governments may file a petition in superior court seeking mandatory judicially-supervised mediation. Under this procedure, the court may rule on the disputed issues and is authorized to hold sanctions in abeyance on one or more of the parties participating in the mediation.

The cost of alternative dispute resolution will be shared by the disputing parties on a pro-rata basis according to population. The county's share will be based upon the unincorporated population of the county.

How long can local government negotiate on their own before they have to resort to alternative dispute resolution?

This decision is left up to the local governments.

Does anyone maintain a list of individuals or firms who can provide dispute resolution assistance?

DCA maintains a list of individuals interested in serving as mediators. This list is not comprehensive, so local governments may want to check other sources including the State Bar Association of Georgia.

How much time should local governments allow for alternative dispute resolution to work?

Depending on the nature of the conflict, it could take anywhere from one meeting to several weeks to resolve a dispute. Hopefully, in most situations, the alternative dispute resolution process will be completed within 30 days.

What is the point of requiring the neutral third party to prepare a report when dispute resolution is unsuccessful?

The hope is that the disputing local governments will have more incentive to work out their differences by knowing that the public will ultimately be made aware of the source and nature of the conflict.

DCA Verification

(O.C.G.A. 36-70-26)

Once a Strategy has been agreed to and adopted by the county and the necessary number of cities, the county is required to submit the Strategy to the Department of Community Affairs. DCA will have up to 30 days to review the Strategy to verify that it includes the necessary

components and addresses the mandatory criteria. The law specifically states that DCA shall neither approve or disapprove the specific elements or outcomes of the Strategy.

To avoid the potential sanctions which the law imposes for noncompliance (see page 17), should local governments file their Strategy with DCA by no later than June 1, 1999?

Yes, provided that an extension has not been filed with DCA.

How will state agencies decide if proposed local government projects are consistent with their strategies?

Each state agency is required to make certain that any projects under consideration for funding or permit approval are consistent with the applicable counties' Service Delivery Strategies. It is left up to each state agency to establish appropriate policies and procedures for making these required consistency determinations.

Will the Strategy have to be submitted to DCA each time it is updated?

Yes. Again, DCA will only be reviewing it to ensure that it includes the necessary components and addresses the mandatory criteria.

Who should the Strategy be submitted to at DCA?

The Strategy should be mailed or delivered to:

Department of Community Affairs Office
of Coordinated Planning
60 Executive Park South, NE.
Atlanta, Georgia 30329-2231

Sanctions for Noncompliance

(O.C.G.A. 36-70-27)

Effective July 1, 1999, state-administered financial assistance, grants, loans or permits will not be issued to any local government or authority which is not included in a DCA-verified Strategy. In addition, projects which are inconsistent with a Strategy will be ineligible for state funding and permits.

What constitutes noncompliance?

There are three ways in which a county and its cities may fail to be in compliance with the requirements of this act:

- The Service Delivery Strategy is not formally adopted by all required governments;
- The Strategy does not address all required components and criteria so that DCA is unable to verify the Strategy; or
- The Strategy is not updated as required.

Will all local governments in a county be subject to the penalties for noncompliance even if only one jurisdiction is holding up adoption of the Strategy?

Yes, until the Strategy is adopted by the county and the necessary number of cities and subsequently verified by DCA.

There is, however, one exception that applies when a city with a population less than 500 fails to enter into an agreement with the county for resolving land use classification disputes related to annexation. When that occurs, only the city that has not agreed to a process to resolve such disputes will suffer the sanctions—but only if the county and all other cities in the county with a population of 500 or greater have already reached an agreement.

What happens if one local government wants to back out of the agreement for implementation of the Service Delivery Strategy once it has been verified by DCA?

The agreement will take the form of a legally binding contract containing provisions making any government subject to the provisions of the agreement. It is incumbent upon the other local governments that are party to the agreement to seek remedies in the event of a local government backing out of, or not complying with, the agreement. If a local government becomes dissatisfied with the agreement, its practical remedy will be to call the other local governments in the county together and attempt to renegotiate and update the Service Delivery Strategy.

Can the agreement for implementation of the Service Delivery Strategy bind local officials who will be elected in the future?

Yes. The implementation agreement constitutes an enforceable intergovernmental contract.

What are some examples of state funding local governments stand to lose if they fail to reach an agreement on a Strategy?

Some examples are LARP grants, city-county road contracts, GEFA water and sewer loans, recreation grants and CDBG grants.

What types of permits would local governments be ineligible for if they failed to adopt a Strategy?

The law applies to any permit administered by the State. Water withdrawal permits, wastewater treatment permits and solid waste disposal facility permits issued by the Environmental Protection Division are obvious examples.

Strategy Updates

(O.C.G.A. 36-70-28)

Local governments must review and revise, if necessary, their approved Strategy under the following six conditions:

> (1) in conjunction with the updates of the comprehensive plan required by the Georgia Planning Act of 1989 (Growth Strategies law). These updates must be done at least every ten years on a schedule established by the Department of Community Affairs.

(2) whenever service delivery or revenue distribution arrangements are changed. This provision simply means that whenever the local governments within the county decided to change how a service is provided or funded, the Strategy must be updated to reflect that change. For example, if a city contracts with the county for animal control services after the Strategy is initially adopted, the Strategy will need to be updated to indicate this new service delivery arrangement. Likewise, if a local government decides to modify how a service is funded (e.g., paying for a service from user fees rather than the general fund), the Strategy will have to be revised.

(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 an existing service delivery strategy agreement expires;

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

If the country and one or morecities adopted separate comprehensive plans and are on different update schedules, will the Strategy have to be reviewded and revised in conjunction with each plan update?

DCA has established a single county-wide deadline for each county and all cities located therein to update their comprehensive plans. Since the county and its cities have the same deadline for updating their plans, this should reduce the number of strategy updates "triggered" by comprehensive plan updates

Who should be contacted to find out when a local government's comprehensive plan is next scheduled to be updated?

Call or write:

Department of Community Affairs
Office of Coordinated Planning
60 Executive Park South, NE.
Atlanta, Georgia 30329-2231
Phone: 404-679-3114

Will the Strategy have to be updated each time the local option sales tax distribution is renegotiated?

If the distribution formula is changed, the Strategy will have to be updated.

APPENDIX

COORDINATED AND COMPREHENSIVE PLANNING AND SERVICE DELIVERY BY COUNTIES AND MUNICIPALITIES

ARTICLE 1. PLANNING

§ 36-70-1. Legislative intent and purpose

The local governments of the State of Georgia are of vital importance to the state and its citizens. The state has an essential public interest in promoting, developing, sustaining, and assisting local governments. In addition, the natural resources, environment, and vital areas of the state are of vital importance to the state and its citizens. The state has an essential public interest in protecting and preserving the natural resources, the environment, and the vital areas of the state. The purpose of this article is to provide for local governments to serve these essential public interests of the state by authorizing and promoting the establishment, implementation, and performance of coordinated and comprehensive planning by municipal governments and county governments, and this article shall be construed liberally to achieve that end. This article is enacted pursuant to the authority granted the General Assembly in the Constitution of the State of Georgia, including, but not limited to, the authority provided in Article III, Section VI, Paragraphs I and II(a)(1) and Article IX, Section II, Paragraphs III and IV.

§ 36-70-2. Definitions

As used in this chapter, the term:

(1) "Comprehensive plan" means any plan by a county or municipality covering such county or municipality proposed or prepared pursuant to the minimum standards and procedures for preparation of comprehensive plans and for implementation of comprehensive plans established by the department.

(2) "Coordinated and comprehensive planning" means planning by counties and municipalities undertaken in accordance with the minimum standards and procedures for preparation of plans, for implementation of plans, and for participation in the coordinated and comprehensive planning process, as established by the department.

(3) "County" means any county of this state.

(4) "Department" means the Department of Community Affairs of the State of Georgia created pursuant to Article 1 of Chapter 8 of Title 50.

(5) "Governing authority" or "governing body" means the board of commissioners of a county, sole commissioner of a county, council, commissioners, or other governing authority for a county or municipality.

(5.1) "Inactive municipality" means any municipality which has not for a period of three consecutive calendar years carried out any of the following activities:

(A) The levying or collecting of any taxes or fees;

(B) The provision of any of the following governmental services: water; sewage; garbage collection; police protection; fire protection; or library; or

(C) The holding of a municipal election.

(5.2) "Local government" means any county as defined in paragraph (3) of this Code section or any

municipality as defined in paragraph (7) of this Code section. The term does not include any school district of this state.

(5.3) "Mechanisms" includes, but is not limited to, intergovernmental agreements, ordinances, resolutions, and local Acts of the General Assembly in effect on July 1, 1997, or executed thereafter.

(6) "Minimum standards and procedures" means the minimum standards and procedures for preparation of comprehensive plans, for implementation of comprehensive plans, and for participation in the coordinated and comprehensive planning process, as established by the department, in accordance with Article 1 of Chapter 8 of Title 50. Minimum standards and procedures shall include any standards and procedures for such purposes prescribed by a regional development center for counties and municipalities within its region and approved in advance by the department.

(7) "Municipality" means any municipal corporation of the state and any consolidated city-county government of the state.

(8) "Region" means the territorial area within the boundaries of operation for any regional development center, as such boundaries shall be established from time to time by the board of the department.

(9) "Regional development center" means a regional development center established under Article 2 of Chapter 8 of Title 50.

§ 36-70-3. Powers of municipalities and counties

The governing bodies of municipalities and counties are authorized:

(1) To develop, or to cause to be developed pursuant to a contract or other arrangement approved by the governing body, a comprehensive plan;

(2) To develop, establish, and implement land use regulations which are consistent with the comprehensive plan of the municipality or county, as the case may be;

(3) To develop, establish, and implement a plan for capital improvements which conforms to minimum standards and procedures and to make any capital improvements plan a part of the comprehensive plan of the municipality or county, as the case may be;

(4) To employ personnel, or to enter into contracts with a regional development center or other public or private entity, to assist the municipality or county in developing, establishing, and implementing its comprehensive plan;

(5) To contract with one or more counties or municipalities, or both, for assistance in developing, establishing, and implementing a comprehensive plan, regardless of whether the contract is to obtain such assistance or to provide such assistance; and

(6) To take all action necessary or desirable to further the policy of the state for coordinated and comprehensive planning, without regard for whether any such action is specifically mentioned in this article or is otherwise specifically granted by law.

§ 36-70-4.

Municipality and county as members of regional development centers; membership dues; participation in compiling Department of Community Affairs data base

(a) Each municipality and county shall automatically be a member of the regional development center for the region which includes such municipality or county, as the case may be.

(b) Each municipality and county shall pay, when and as they become due, the annual dues required for membership in its regional development center.

(c) Each municipality and county shall participate in compiling a Georgia data base and network, coordinated by the department, to serve as a comprehensive source of information available, in an accessible form, to local governments and state agencies.

§ 36-70-5. Effect of chapter on county and municipal zoning powers

(a) Except as provided in subsection (b) of this Code section, nothing in this article shall limit or compromise the right of the governing body of any county or municipality to exercise the power of zoning.

(b) Any municipality which is as of April 17, 1992, an inactive municipality shall not on or after April 17, 1992, exercise any powers under this article or exercise any zoning powers, until and unless the municipality is restored to active status by the enactment of an appropriate new or amended charter by local Act of the General Assembly. Any municipality which becomes an inactive municipality after April 17, 1992, shall not after becoming inactive exercise powers under this article or exercise any zoning powers, until and unless the municipality is restored to active status by the enactment of an appropriate new or amended charter by local Act of the General Assembly.

(c) Any county which has located within its boundaries all or any part of any inactive municipality shall have full authority to exercise through its governing body all planning and zoning powers within the area of such inactive municipality within the county, in the same manner as if such area were an unincorporated area.

ARTICLE 2. SERVICE DELIVERY

§ 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.

§ 36-70-21. 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.

§ 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.

§ 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.

§ 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.

(C) A process shall be established by each county and every municipality located within each county, regardless of population, to resolve land use classification disputes when a county objects to the proposed land use of an area to be annexed into a municipality within the county.

§ 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.

§ 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 impositions 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.

(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.

§ 36-70-26. 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.

§ 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.

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

(a) As used in the 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.