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LOCAL GOVERNMENT Act to Incorporate the City of Sandy Springs; Incorporate the City of Sandy Springs in Fulton County; Provide for a Charter for the City of Sandy Springs; Provide for Incorporation, Boundaries, and Powers of the City; Provide for General Powers and Limitations on Powers; Provide for a Governing Authority of Such City and the Powers, Duties, Authority, Election, Terms, Method of Filing Vacancies, Compensation, Expenses, Qualifications, Prohibitions, and Districts Relative to Members of Such Governing Authority; Provide for Inquiries and Investigations; Provide for Organization and Procedures; Provide

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LOCAL GOVERNMENT

Act to Incorporate the City of Sandy Springs; Incorporate the City of Sandy Springs in Fulton County; Provide for a Charter for the City of Sandy Springs; Provide for Incorporation, Boundaries, and Powers of the City; Provide for General Powers and Limitations on Powers; Provide for a Governing Authority of Such City and the Powers, Duties, Authority, Election, Terms, Method of Filling Vacancies, Compensation, Expenses, Qualifications, Prohibitions, and Districts Relative to Members of Such Governing Authority; Provide for Inquiries and Investigations; Provide for Organization and Procedures; Provide for Ordinances; Provide for the Office of Mayor and Certain Duties and Powers Relative to the Office of Mayor; Provide for Administrative Responsibilities; Provide for Boards, Commissions, and Authorities; Provide for a City Manager, a City Attorney, a City Clerk, a Tax Collector, a City Accountant, and Other Personnel; Provide for a Municipal Court and the Judge or Judges Thereof; Provide for Practices and Procedures; Provide for Ethics and Disclosures; Provide for Taxation, Licenses and Fees; Provide for Franchises, Service Charges, and Assessments; Provide for Bonded and Other Indebtedness; Provide for Accounting and Budgeting; Provide for Purchases; Provide for Homestead Exemptions; Provide for Bonds for Officials; Provide for Other Matters Relative to the Foregoing; Provide for a Referendum; Provide Effective Dates and Transitional Provisions Governing the Transfer of Various Functions and Responsibilities from Fulton County to the City of Sandy Springs; Provide for Severability; Repeal Conflicting Laws; and for Other Purposes

CODE SECTION:	None Affected
BILL NUMBER:	HB 37
ACT NUMBER:	35
GEORGIA LAWS:	2005 Ga. Laws 3515
SUMMARY:	The bill provides for a charter for the City of Sandy Springs. Most importantly, the bill provides for a referendum whereby the citizens of

Sandy Springs will vote to decide whether to become an independent city. The bill outlines the boundaries of Sandy Springs and provides for a governing authority and general powers of the city.

History

Representative Joe Wilkinson of the 52nd district introduced HB 37 because he believes that the “86,000 residents of Sandy Springs deserve the right to exercise their constitutional rights and determine whether or not they will be a city.”¹ The battle to incorporate the City of Sandy Springs has ensued for many years, and a vote on incorporation was a long time coming.² Representative Wilkinson stressed that by passing HB 37, the Georgia General Assembly would not create the City of Sandy Springs, but merely allow Sandy Springs to hold a referendum and decide whether or not to become a city.³

Bill Tracking of HB 37

Consideration by the House

Representatives Joe Wilkinson, Wendell Willard, Harry Geisinger, and Edward Lindsey of the 52nd, 49th, 48th, and 54th districts, respectively, sponsored HB 37.⁴ The House first read the bill on January 25, 2005, and the House Committee on Governmental Affairs favorably reported the bill, by substitute, on March 3, 2005.⁵

1. See Audio Recording of House Proceedings, Mar. 10, 2005 (remarks by Rep. Joe Wilkinson), http://www.georgia.gov/00/article/0,2086,4802_6107103_33078458,00.html [hereinafter House Audio].

2. See *id.*

3. See *id.*

4. HB 37, as introduced, 2005 Ga. Gen. Assem.

5. See State of Georgia Final Composite Status Sheet, HB 37, Jan. 25, 2005 (May 11, 2005); State of Georgia Final Composite Status Sheet, HB 37, Mar. 3, 2005 (May 11, 2005).

The Bill, as Introduced

The original bill called for a referendum to allow residents of Sandy Springs to vote on incorporation.⁶ As introduced, the bill provided the essential framework for the city charter by providing for the government and basic necessities to establish the City of Sandy Springs.⁷

Committee Substitute

The Committee substitute only marginally modified the original bill.⁸ The Committee substitute increased the pay for the city council and the mayor.⁹ Perhaps the most significant discussion regarding the Committee substitute was whether or not to institute sunset caps on the tax millage rate.¹⁰ After substantial debate between the bill's four cosponsors along with Representatives Martin, Jones, and Burkhalter, of the 47th, 44th, and 50th districts, respectively, the Committee substitute decided to leave the tax rate permanent and permit residents of Sandy Springs to change the rate through referendum.¹¹

Floor Debate and Amendments

During the debate, several representatives spoke on behalf of the bill.¹² Representatives Wilkinson and Willard both spoke about the duration and persistence of the Sandy Springs incorporation movement and reiterated that the bill did not create a city but merely allowed the people of Sandy Springs to decide whether they wanted to become a city.¹³ Representative Geisinger referred to the contemporaneous voting in Iraq to point out that Sandy Springs

6. See HB 37, as introduced, 2005 Ga. Gen. Assem.

7. See *id.*

8. Compare HB 37 (HCS), 2005 Ga. Gen. Assem., with HB 37, as introduced, 2005 Ga. Gen. Assem.

9. See HB 37 (HCS), 2005 Ga. Gen. Assem.

10. See Telephone Interview with Rep. Wendell Willard, House District No. 49 (Apr. 12, 2005) [hereinafter Willard Interview].

11. See Telephone Interview with Rep. Edward Lindsey, House District No. 54 (Apr. 12, 2005) [hereinafter Lindsey Interview].

12. See House Audio, *supra* note 1.

13. See *id.* (remarks by Reps. Joe Wilkinson and Wendell Willard).

citizens deserved the right to vote.¹⁴ There was one minor floor amendment in the House which contained minimal redistricting.¹⁵

Next, several representatives spoke in opposition to the bill.¹⁶ Representative Beasley-Teague succinctly noted that the only fair way to conduct such a referendum was to allow everyone in Fulton County to vote.¹⁷ Representative Fludd also voiced concern that the bill was a local bill and everyone in Fulton County should vote.¹⁸ Representative Fludd further noted that a City of Sandy Springs would create an undue burden on unincorporated South Fulton.¹⁹ Representative Fludd noted that a City of Sandy Springs would decrease the general fund of Fulton County by seven million dollars every year and further decrease the special services district by twenty-nine million dollars.²⁰ He later read a letter from Sherry Sinclair from the Georgia Law Center for the Homeless who urged the House to rethink the Sandy Springs issue.²¹ According to Representative Fludd, the center receives money from Fulton County that it uses to leverage federal and private funds to help the homeless.²² The proposed City of Sandy Springs, he noted, could severely impact the money available to help the homelessness problem as well as judicial, library, and other human services.²³

Next, Representative Bruce spoke out against the bill and maintained that the bill was a local issue that local delegations should address.²⁴ Representative Bruce reiterated that the bill did not come before the Fulton County delegation, and even though it was masqueraded as something other than local legislation, he noted that “you can call a skunk a rose, but if it walks like a skunk and smells like a skunk, it’s probably a skunk.”²⁵ Representative Bruce offered

14. *See id.* (remarks by Rep. Harry Geisinger).

15. *See* HB 37 (HCSFA), 2005 Ga. Gen. Assem.

16. *See* House Audio, *supra* note 1 (remarks by Reps. Sharon Beasley-Teague, Virgil Fludd, Roger B. Bruce, and Joe Heckstall).

17. *See id.* (remarks by Rep. Sharon Beasley-Teague).

18. *See id.* (remarks by Rep. Virgil Fludd).

19. *See id.*

20. *See id.*

21. *See id.*

22. *See* House Audio, *supra* note 1 (remarks by Rep. Virgil Fludd).

23. *See id.*

24. *See id.* (remarks by Rep. Roger B. Bruce).

25. *See id.*

an amendment to the bill to allow everyone in Fulton County to vote on the incorporation, but the amendment failed.²⁶

Next, Representative Heckstall spoke against the bill in rather colorful terms.²⁷ Representative Heckstall described hearing a “poof, poof, poof” and seeing an evil genie pop out of a bottle, but then noted:

[legislators can] sometimes disguise the little genie and paint him up a little bit [and] put different clothes on him. Sometimes they teach him to speak and be very articulate, but the little [genie] just runs through the chamber and he’s known as what I call a butt-pincher. He pinches the butts, people jump up and they do whatever they think they should do based on the little genie that’s a nemesis, the butt pincher.²⁸

Representative Heckstall encouraged the legislature to leave the genie in the bottle.²⁹

Consideration by the Senate

The Senate first read HB 37 on March 11, 2005.³⁰ The Senate Committee for State and Local Governmental Operations amended the bill with regard to the millage rate and favorably reported the bill on March 14, 2005.³¹ On the same day, the Senate passed HB 37.³² Subsequently, on March 17, 2005, the House agreed to the bill as amended.³³ The Governor signed the bill into law on April 15, 2005.³⁴

26. See Failed House Floor Amendment to HB 37, introduced by Rep. Roger B. Bruce, Mar. 10, 2005.

27. See House Audio, *supra* note 1 (remarks by Rep. Joe Heckstall).

28. See *id.*

29. See *id.*

30. See State of Georgia Final Composite Status Sheet, HB 37, Mar. 11, 2005 (May 11, 2005).

31. See HB 37 (SCA), 2005 Ga. Gen. Assem.; State of Georgia Final Composite Status Sheet, HB 37, Mar. 14, 2005 (May 11, 2005).

32. See State of Georgia Final Composite Status Sheet, HB 37, Mar. 14, 2005 (May 11, 2005).

33. See State of Georgia Final Composite Status Sheet, HB 37, Mar. 17, 2005 (May 11, 2005).

34. See State of Georgia Final Composite Status Sheet, HB 37, Apr. 15, 2005 (May 11, 2005).

Analysis

The incorporation of Sandy Springs has sparked a considerable amount of debate.³⁵ Sandy Springs' residents, who have been fighting for incorporation for decades, have expressed frustration with Fulton County.³⁶ Atlanta Democrats have blocked previous efforts to incorporate Sandy Springs, but the movement gained momentum when Republicans took control of the House and the Senate.³⁷ Eva Galambos, who spearheaded the drive to incorporate Sandy Springs, noted that incorporation is necessary for Sandy Springs to take control of its economic development and provide public services.³⁸

Representative Edward Lindsey noted three primary goals in cosponsoring the legislation: (1) allow Sandy Springs to vote on its future—something that has been 30 years in the making; (2) ensure that the city of Atlanta does not pay for the incorporation; and (3) improve the quality of life in Sandy Springs.³⁹ With regard to the second goal, Representative Lindsey noted that municipalities such as the City of Atlanta already provide services, and it is only fair that Fulton County, which will be allowed to decrease services and thereby cut costs, bear the loss of tax revenue engendered by the Sandy Springs incorporation.⁴⁰ With regard to the third goal, Representative Lindsey believes that Sandy Springs is too urbanized not to have control over zoning, police and fire protection, and economic development.⁴¹ According to Representative Lindsey, a high level of urbanization with no control causes suffering, not only in Sandy Springs, but also in surrounding communities such as Buckhead.⁴²

The major criticism of HB 37 is that it removes needed tax revenue from the Fulton County budget currently used to support rural north and south Fulton.⁴³ Incorporating Sandy Springs will leave Fulton

35. See *supra* notes 1-3 and accompanying text.

36. See Henry Farber, *Sandy Springs Gets Vote OK*, ATLANTA J. CONST., Mar. 22, 2005, at A1.

37. See *id.*

38. See Eva Galambos, *Sandy Springs: Two Views on Cityhood*, ATLANTA J. CONST., May 1, 2005, at ZH9.

39. See Lindsey Interview, *supra* note 11.

40. See *id.*

41. See *id.*

42. See *id.*

43. See D.L. Bennett, *What Next for Fulton County?*, ATLANTA J. CONST., Apr. 3, 2005, at E1.

County with unneeded buildings, police cars, firetrucks, parks, and employees now dedicated to serving Sandy Springs.⁴⁴ Financial analysts estimate that Sandy Springs generates \$49 million in taxes but only receives about \$26 million worth of services.⁴⁵ Stating that “[s]outh Fulton will be devastated,” Fulton County Commissioner Bill Edwards, who represents south Fulton County residents, fears that south Fulton will face drastic cuts in services or increases in taxes.⁴⁶ Opponents of the incorporation tried to block the bill by involving the Department of Justice; however, the Department rejected their claim that the issue was so important that all of the county’s voters must vote on it.⁴⁷

Supporters of the City of Sandy Springs maintain that the problems for unincorporated Fulton County are exaggerated.⁴⁸ For instance, Representative Lindsey noted that Sandy Springs’ portion of the local options sales tax is approximately \$18 million.⁴⁹ Because Fulton County has an annual budget of approximately \$600,000,000, the loss of this local option sales tax represents only a 3% hit.⁵⁰ Unlike other surrounding government entities, Fulton County has yet to tighten its belt.⁵¹ In fact, the county spends 25% to 50% more per person than surrounding areas.⁵²

Representative Lindsey maintained that any entity, public or private, can withstand a 3% hit in tax revenue.⁵³ Another cosponsor of the bill, Representative Willard, does not expect a drastic decrease in Fulton County services.⁵⁴ Representative Willard noted that although Fulton County will see a decrease in revenue, it will have fewer people and a smaller geographic area to service, which will lead to a cutback in expenditures.⁵⁵ Representative Willard also stressed that the bill provides for a transition period to ensure that the

44. *See id.*

45. *See id.*

46. *See id.*

47. *See Henry Farber, Feds OK Sandy Springs City Vote, ATLANTA J. CONST., May 14, 2005, at B1.*

48. *See Lindsey Interview, supra note 11.*

49. *See id.*

50. *See id.*

51. *See id.*

52. *See id.*

53. *See id.*

54. *See Willard Interview, supra note 10.*

55. *See id.*

incorporation will be a gradual process.⁵⁶ Once Sandy Springs is incorporated, its residents will pay Fulton County for services during the transition period, which will help to prevent a dramatic cut-off of funds.⁵⁷

Although persuasive arguments abound on both sides, only time will tell if Fulton County will see a dramatic decrease in services or high tax increases. On June 21, 2005, the citizens of Sandy Springs voted by a staggering 90% to incorporate the City of Sandy Springs—a vote that was a long time in the making.⁵⁸

Aaron Clark

56. *See id.*

57. *See id.*

58. *See* D.L. Bennett, *Sandy Springs: City and County Negotiating Teams Begin Transition Talks*, ATLANTA J. CONST., July 7, 2005, at JH1.