

2023

## HB 374 - The LEAF Act and Municipal Deannexation

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## LOCAL GOVERNMENT

*Provisions Applicable to Counties and Municipal Corporations: Amend Titles 36 and 46 of the Official Code of Georgia Annotated, Relating to Local Government and Public Utilities and Public Transportation, Respectively, so as to Prohibit Certain Regulations and Policies Concerning the Use of Certain Equipment; Prohibit Local Regulations that Create Differing Standards for or Distinguish Gasoline-Powered Leaf Blowers from Similar Equipment; Provide for a Short Title; Provide for Legislative Findings; Prohibit Governmental Entities from Adopting Any Policy that Prohibits the Connection or Reconnection of Any Utility Service or Sales of Certain Fuels Based Upon the Appliance to be Used by a Customer; Amend Chapter 36 of Title 36 of the Official Code of Georgia Annotated, Relating to Municipal Annexation of Territory, so as to Provide for Municipal Deannexation of Property by Application of 100 Percent of Property Owners; Provide for Procedures, Conditions, and Limitations; Provide for Ad Valorem Taxes; Prohibit Deannexations Where There is Outstanding Municipal Bond Obligations; Authorize Municipalities to Continue to Provide Services to Deannexed Properties in Certain Circumstances; Provide for Related Matters; Provide for an Effective Date; Repeal Conflicting Laws; and for Other Purposes*

CODE SECTIONS:	O.C.G.A. §§ 36-36-130, -131, -132, -133, -134 (new); 36-60-30 (new); 46-1-6 (amended)
BILL NUMBER:	HB 374
ACT NUMBER:	257
GEORGIA LAWS:	2023 Ga. Laws 411
EFFECTIVE DATE:	May 2, 2023
SUMMARY:	The Act prohibits counties or municipalities from banning or



day-to-day operations.<sup>5</sup> On behalf of landscaping and other businesses, advocates stepped in to lobby for preemptive action to protect the use of gasoline-powered lawn care equipment.<sup>6</sup>

House Bill (HB) 374 contains three distinct parts.<sup>7</sup> The first section encompasses the Landscape Equipment and Agricultural Fairness (LEAF) Act, from which the bill draws its name.<sup>8</sup> The next section contains a provision for the connection or reconnection of utility service based on the type of consumer appliance.<sup>9</sup> Lastly, the bill contains a provision regarding the deannexation of property in the state.<sup>10</sup> The preceding order reflects the structure of the Act; however, the following subsections will address the deannexation section first, as HB 374 originated with this section, and then the other two sections as the legislature added them.

### *The Deannexation Section*

When first read in the Georgia House of Representatives, the bill initially contained only the section addressing the deannexation of property in the state.<sup>11</sup> This provision originated from a request by four commissioners for Cherokee County; the commissioners have

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5. *LEAF: Landscape Equipment and Agricultural Fairness Act*, URB. AG. COUNCIL GA. (Mar. 10, 2022), <https://urbanagcouncil.com/industry-news/leaf-landscape-equipment-and-agricultural-fairness-act/> [<https://perma.cc/F36V-L3HA>]. The council stated:

The cost of doing business will increase, as this would require the purchase of new equipment that at present is significantly more expensive to acquire, more expensive to operate, and is less efficient. The currently available battery operated leaf blowers [] reduce productivity due to limited battery life and will require significantly more time to complete the same tasks existing equipment. This in turn could lead to job losses, as these businesses adjust to a greater cost of operating their businesses.

*Id.*; see also Telephone Interview with Mary Kay Woodworth, Executive Director, Urban Agriculture Council (May 19, 2023) [hereinafter Woodworth Interview] (on file with the Georgia State University Law Review).

6. Woodworth Interview, *supra* note 5.

7. 2023 Ga. Laws 411, §§ 1–3, at 412–15.

8. 2023 Ga. Laws 411, § 1, at 412.

9. 2023 Ga. Laws 411, § 2, at 413.

10. 2023 Ga. Laws 411, § 3, at 413–15.

11. HB 374, as introduced, 2023 Ga. Gen. Assemb.

requested the deannexation legislation for approximately ten years.<sup>12</sup> Previous House Committees had sought to address issues around property rights and the provision of “better city services.”<sup>13</sup> Until the LEAF Act, the deannexation provisions did not have a vehicle for passage in the General Assembly.<sup>14</sup>

### *The LEAF Act Section*

The first section of the bill contains the LEAF Act.<sup>15</sup> Two trends emerged prior to the passage of the LEAF Act: (1) jurisdictions began to entertain legislation restricting the use of gasoline-powered lawn care equipment; and (2) landscaping businesses urged lawmakers to take preemptive action to prevent local jurisdictions from restricting the use of such gasoline-powered equipment.<sup>16</sup>

Jurisdictions outside of Georgia have contemplated restrictions on gasoline-powered lawn care equipment.<sup>17</sup> Referencing noise concerns and environmental impacts, communities have proposed legislative action to regulate or “outright ban” the use of gas-powered leaf blowers.<sup>18</sup> Washington, D.C. has banned such leaf blowers, and California plans to phase out their use by 2024.<sup>19</sup> Dallas, Texas has also contemplated restrictions on this type of lawn care equipment.<sup>20</sup> Lawmakers in Georgia have heard the same calls.<sup>21</sup> Similar to other communities, opponents of leaf blower use cite noise concerns and

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12. Video Recording of Senate State and Local Governmental Operations Committee Meeting at 15 min., 6 sec. (Mar. 22, 2023) [hereinafter Senate Committee Meeting] (remarks by Rep. Brad Thomas (R-21st)), <https://vimeo.com/showcase/8822000/video/802698516> [<https://perma.cc/5MJA-LGG9>].

13. *Id.*

14. *See generally id.*

15. 2023 Ga. Laws 411, § 1, at 412.

16. Kristal Dixon, *Georgia Bill Could Protect Leaf Blowers from Regulation*, AXIOS (Feb. 23, 2022), <https://www.axios.com/local/atlanta/2022/02/23/georgia-bill-leaf-blower-regulation> [<https://perma.cc/7CEV-MFNV>].

17. *Id.*

18. *Id.*

19. *Id.*

20. *Id.*

21. *Id.*

toxic effects on both the environment and the individuals who use the leaf blowers.<sup>22</sup>

In response to potential restrictions on the use of gasoline-powered leaf blowers, lawmakers addressed the concerns of consumers, landscapers, and advocacy groups.<sup>23</sup> Fears of a patchwork of bans on gas-powered equipment spurred lawmakers to introduce legislation.<sup>24</sup> Professional landscapers and advocacy groups state the need to use gas-powered leaf blowers for their businesses.<sup>25</sup> In introducing the LEAF Act, legislators aimed to prevent confusion and increased costs for landscaping businesses adhering to the imminent legislation.<sup>26</sup> Free market concerns about consumer choice and the ability of landscaping businesses to conduct their operations pushed the legislation forward.<sup>27</sup>

### *The Consumer Appliance Section*

Finally, the bill addresses consumer appliances and provides that no local governmental entity can restrict the connection or reconnection of utility service based on the type of energy consumed by the consumer appliance.<sup>28</sup> Lawmakers added this provision to HB 374 because of its similarity to the LEAF Act.<sup>29</sup> Like the LEAF Act, lawmakers took preemptive action to prevent the restrictions on the connection of gas-powered appliances based on their energy source.<sup>30</sup>

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22. Dixon, *supra* note 16; Meris Lutz, *Georgia Bill Seeks to Protect Gas-Powered Leaf Blowers from Local Bans*, ATLANTA-J. CONST. (Feb. 17, 2023), <https://www.ajc.com/politics/georgia-state-legislature/georgia-bill-seeks-to-protect-gas-powered-leaf-blowers-from-local-bans/EEPW6DEY4RAA3I55334NQ2XGDM/> [https://perma.cc/3JTR-W4JF].

23. Williams, *supra* note 1.

24. See Dixon, *supra* note 16; Woodworth Interview, *supra* note 5 (noting that many businesses operate across jurisdictions).

25. Lutz, *supra* note 22.

26. Dixon, *supra* note 16.

27. Senate Committee Meeting, *supra* note 12, at 2 min., 1 sec.

28. 2023 Ga. Laws 411, § 2, at 413.

29. Senate Committee Meeting, *supra* note 12, at 2 min., 1 sec.

30. *Id.*

Similarly, the protection of consumer choice motivated lawmakers to include this provision in HB 374.<sup>31</sup>

### *Bill Tracking of HB 374*

#### *Consideration and Passage by the House*

Representative Brad Thomas (R-21st), Representative Rick Jasperse (R-11th), Representative Victor Anderson (R-10th), Representative John Carson (R-46th), Representative David Wilkerson (D-38th), and Representative Darlene Taylor (R-173rd) sponsored HB 374 in the House.<sup>32</sup> The House read the bill for the first time on February 14, 2023, and committed the bill to the Governmental Affairs Committee.<sup>33</sup> The House read the bill for the second time the next day.<sup>34</sup> On March 6, 2023, the Committee favorably reported the bill by substitute.<sup>35</sup>

The Committee offered a few changes to the bill.<sup>36</sup> The Committee suggested keeping Code section 36-36-22 and removing the introductory language referencing the repeal.<sup>37</sup> The Committee also added additional language to proposed new Code section 36-36-131, limiting deannexation actions to ten parcels of land at a time, and requiring the relevant county's governmental authority to approve deannexation actions by resolution.<sup>38</sup> The Committee's additions to proposed Code section 36-36-131 also provided that county-governing authorities need not approve a deannexation if it would be detrimental to the area remaining within the municipality by creating health or

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31. *Id.*

32. See Georgia General Assembly, HB 374, Bill Tracking [hereinafter HB 374, Bill Tracking], <https://www.legis.ga.gov/legislation/64285> [<https://perma.cc/86CX-9MNT>].

33. *Id.*; State of Georgia Final Composite Status Sheet, HB 374, May 9, 2023.

34. State of Georgia Final Composite Status Sheet, HB 374, May 9, 2023.

35. *Id.*

36. See generally HB 374 (HCS), 2023 Ga. Gen. Assemb.

37. Compare HB 374, as introduced, p. 1, ll. 1–14, 2023 Ga. Gen. Assemb., with HB 374 (HCS), p. 1, ll. 1–6, 2023 Ga. Gen. Assemb. See HB 374, as introduced, § 1, p. 2, ll. 21–37, 2023 Ga. Gen. Assemb. (deleting Code section 36-36-22).

38. HB 374 (HCS), § 1, p. 2, ll. 21–23, 2023 Ga. Gen. Assemb.

safety risks to residents or property owners in the area.<sup>39</sup> On the same day, March 6, 2023, the House read the bill for the third time, and passed it by a vote of 144 to 28, adopting the Governmental Affairs Committee substitute.<sup>40</sup>

*Consideration and Passage by the Senate*

Senator Shawn Still (R-48th) sponsored the bill in the Senate.<sup>41</sup> On March 7, 2023, the Senate read HB 374 and referred the bill to the State and Local Governmental Operations Committee.<sup>42</sup> On March 23, 2023, the Committee favorably reported HB 374 by substitute.<sup>43</sup> In the Committee substitute, amendments to Title 46 of the Code make their first appearance.<sup>44</sup> The Committee substitute added to HB 374 the language related to gasoline-powered lawn care equipment.<sup>45</sup> Additionally, the Committee added Code section 36-36-30, naming the LEAF Act and outlining its purpose, and revised Code section 46-1-6(b) to explicitly prohibit governmental restriction on the use of gasoline-powered lawn care equipment.<sup>46</sup> Further, the Committee substitute changed the language of Code section 36-36-133 entirely.<sup>47</sup> Under the revised section, property within a municipality that has any outstanding general obligation bonds or revenue bond indebtedness would be ineligible for deannexation.<sup>48</sup> The prior version of the bill addressed this situation by creating special tax districts and continuing to impose ad valorem taxes to handle deannexation.<sup>49</sup> Further, the Committee substitute added language to Code section 36-36-134,

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39. *Id.* § 1, p. 2, ll. 24–28.

40. State of Georgia Final Composite Status Sheet, HB 374, May 9, 2023; Georgia House of Representatives Voting Record, HB 374, #212 (Mar. 6, 2023).

41. HB 374, Bill Tracking, *supra* note 32.

42. State of Georgia Final Composite Status Sheet, HB 374, May 9, 2023.

43. *Id.*

44. *See generally* HB 374 (SCS), 2023 Ga. Gen. Assemb.

45. *Id.* Prior iterations of Code section 46-1-6(b) only addressed governmental prohibitions on similar activities based on the tool's fuel source. O.C.G.A. § 46-1-6(b) (2021) (amended 2023).

46. HB 374 (SCS), §§ 1–2, pp. 2–4, 2023 Ga. Gen. Assemb.

47. *Id.* § 3, p. 6, ll. 130–33, 2023 Ga. Gen. Assemb.

48. *Id.*

49. HB 374 (HCS), § 1, p. 4, ll. 69–80, 2023 Ga. Gen. Assemb.

permitting, but not requiring, municipalities to continue providing services to deannexed property.<sup>50</sup>

Senator Ed Setzler (R-37th) and Senator Kay Kirkpatrick (R-32nd), although not members of the Committee, offered and promptly withdrew several unrelated amendments to the bill.<sup>51</sup> These amendments would have prohibited county-governing authorities “from redistricting or creating their election districts” and would have prevented vacancies in office when redistricting moves an elected official outside of the amended district.<sup>52</sup>

On March 23, 2023, the Senate read HB 374 for a second time.<sup>53</sup> On March 29, 2023, the Senate read the bill for a third time.<sup>54</sup> At the third reading, Senator Elena Parent (D-42nd) challenged the relevance of deannexation to gas-powered lawn equipment.<sup>55</sup> Senator Parent alleged that the Georgia Constitution and Senate Rule 3-1.1(b) prohibited the Senate from considering the substitute because the substitute contained provisions not germane to the underlying bill as it passed in the House.<sup>56</sup> The Chair ruled the subject matter germane.<sup>57</sup> The Senate sustained the Chair’s ruling by a vote of 33 to 22<sup>58</sup> and passed HB 372 by a vote of 32 to 20, adopting the State and Local Government Operations Committee Substitute.<sup>59</sup> The same day, the Senate returned HB 374 to the House, where the House agreed to the Senate’s changes, approving HB 374 by a vote of 101 to 66.<sup>60</sup> Notably, the LEAF Act language that the Senate Committee on State and Local

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50. HB 374 (SCS), § 3, p. 6, ll. 135–37, 2023 Ga. Gen. Assemb.

51. Withdrawn Senate Floor Amendment to HB 374 (AM 47 0064), introduced by Sen. Ed Setzler (R-37th) and Sen. Kay Kirkpatrick (R-32nd), Mar. 29, 2023.

52. *Id.* p. 1, ll. 3–8.

53. State of Georgia Final Composite Status Sheet, HB 374, May 9, 2023.

54. *Id.*

55. Video Recording of Senate Proceedings at 1 hr., 54 min., 23 sec. (Mar. 29, 2023) [hereinafter Senate Proceedings Video] (remarks by Sen. Elena Parent (D-42nd)), <https://www.youtube.com/watch?v=TOpnb6mu-W0> [https://perma.cc/H8TJ-XBNS].

56. *Id.*; Ga. Senate Rule 3-1.1(b); GA. CONST. art. III, § 5, para. 3.

57. Senate Proceedings Video, *supra* note 55, at 1 hr., 58 min., 10 sec. (reporting the Chair’s ruling of the subject matter as germane to the underlying bill).

58. Georgia Senate Voting Record, HB 374, #343 (Mar. 29, 2023).

59. Georgia Senate Voting Record, HB 374, #344 (Mar. 29, 2023).

60. Georgia House of Representatives Voting Record, HB 374, #366 (Mar. 29, 2023).

Governmental Operations added to HB 374 came from Senator Still's former bill, SB 145.<sup>61</sup>

### *SB 145*

SB 145 was sponsored in the Senate by Senator Shawn Still (R-48th), Senator Greg Dolezal (R-27th), Senator Randy Robertson (R-29th), Senator Jason Anavitarte (R-31st), Senator Chuck Payne (R-54th), Senator Matt Brass (R-28th), Senator Clint Dixon (R-45th), Senator Lee Anderson (R-24th), Senator Shelly Echols (R-49th), Senator Carden Summers (R-13th), and Senator Steve Gooch (R-51st).<sup>62</sup> Representative Joseph Gullett (R-19th) sponsored the bill in the House.<sup>63</sup> The Senate first read the bill on February 13, 2023, and committed the bill to the State and Local Governmental Operations Committee.<sup>64</sup> The Senate Committee reported favorably on the bill on February 22, 2023, and read the bill for a second time on February 23, 2023.<sup>65</sup> On February 27, 2023, the Senate read SB 145 for a third time and passed it as amended by the Senate Committee.<sup>66</sup>

Despite the bill's success in the Senate, the House changes proved fatal. SB 145 initially passed through the House Rules Committee, but on March 20, 2023, the bill was withdrawn from the General Calendar and recommitted to the House Committee on Governmental Affairs.<sup>67</sup> There, the House attached language from six additional bills to SB 145.<sup>68</sup> Notwithstanding the House passage of SB 145 on March 27, 2023, the bill did not succeed in the Senate with the additional language.<sup>69</sup> On March 29, 2023, the Senate disagreed with the House

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61. *See infra* note 71.

62. Georgia General Assembly, SB 145, Bill Tracking, <https://www.legis.ga.gov/legislation/64248> [<https://perma.cc/GX23-X2G6>].

63. *Id.*

64. *Id.*; State of Georgia Final Composite Status Sheet, SB 145, May 9, 2023.

65. State of Georgia Final Composite Status Sheet, SB 145, May 9, 2023.

66. *Id.*

67. *Id.*; Interview with Sen. Shawn Still (R-48th) (May 18, 2023) [hereinafter Still Interview] (on file with the Georgia State University Law Review).

68. Still Interview, *supra* note 67.

69. *Id.*; State of Georgia Final Composite Status Sheet, SB 145, May 9, 2023.

amendments, but the House insisted upon the changes.<sup>70</sup> The Senate Committee on State and Local Governmental Operations instead added the LEAF Act language from SB 145 to HB 374 in its Committee substitute.<sup>71</sup>

### *The Act*

The Act amends the following portions of the Official Code of Georgia Annotated: Chapter 60 of Title 36, relating to the ability of local governments to regulate the use of gasoline-powered equipment; Chapter 1 of Title 46, relating to the ability of local governments to restrict utility service connection based on type of fuel; and Article 8 of Chapter 36 of Title 36, relating to the deannexation of territory.<sup>72</sup>

#### *Section One: The LEAF Act*

The first section of the Act amends Chapter 60 of Title 36 to add Code section 36-60-30.<sup>73</sup>

Subsection (a) of Code section 36-60-30 titles the Code section the “Landscape Equipment and Agricultural Fairness (LEAF) Act.”<sup>74</sup>

Subsection (b) details the findings of the General Assembly: (1) Georgia’s economy relies on “[p]rudent regulation” of gas-powered equipment, (2) “the costs and regulation of gasoline-powered leaf blowers” materially affect the agriculture and landscaping industries, and (3) confusion and increased costs for such businesses could result from a patchwork of local government regulation of gas-powered leaf blowers.<sup>75</sup>

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70. Still Interview, *supra* note 67; State of Georgia Final Composite Status Sheet, SB 145, May 9, 2023.

71. HB 374 (SCS), § 1 pp. 2–3, ll. 18–43, 2023 Ga. Gen. Assemb.

72. 2023 Ga. Laws 411.

73. 2023 Ga. Laws 411, § 1, at 412.

74. O.C.G.A. § 30-60-30(a) (2023).

75. *Id.* § 30-60-30(b).

Subsection (c) defines “gasoline-powered leaf blowers” for the purposes of the Act.<sup>76</sup>

Subsection (d) prohibits local governments from regulating gasoline-powered leaf blowers, prohibiting any “differing standards” between gasoline-powered and electric equipment.<sup>77</sup>

Subsection (e) explains that this Code section does not prohibit local governments from encouraging the use of electric alternatives to gasoline-powered equipment.<sup>78</sup>

### *Section Two: Utility Service Connection*

Section 2 of the Act amends subsection (b) of Code section 46-1-6.<sup>79</sup> Code section 46-1-6 relates to the prohibition of types of fuel sources delivered to consumers.<sup>80</sup> The Act adds language to prevent local governments from restricting types of fuel sources and clarifies that that this mandate applies to consumer appliances.<sup>81</sup>

### *Section Three: Deannexation*

The Act adds a new article, Article 8, to Chapter 36 of Title 36.<sup>82</sup> Section 36-36-130 of Article 8 provides an exception from the provisions of the article for deannexations by “local Acts of the General Assembly.”<sup>83</sup>

Subsection (a) of section 36-36-131 grants authority to municipalities to deannex areas with the consent of all landowners in the area.<sup>84</sup> The subsection excepts “owners of any public street, road, highway, or right of way” from the deannexation provision.<sup>85</sup> The

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76. 2023 Ga. Laws 411, § 1, at 412 (codified at § 30-60-30(c)).

77. § 30-60-30(d).

78. *Id.* § 30-60-30(e).

79. 2023 Ga. Laws 411, § 2, at 413.

80. O.C.G.A. § 46-1-6 (2023).

81. 2023 Ga. Laws 411, § 2, at 413 (codified at § 46-1-6(b)).

82. 2023 Ga. Laws 411, § 3, at 413.

83. O.C.G.A. § 36-36-130 (2023).

84. O.C.G.A. § 36-36-131(a) (2023).

85. *Id.*

subsection also restricts deannexation to ten parcels or less and requires the “adoption of a resolution by the governing authority of the county in which [the] property is located.”<sup>86</sup> The deannexation shall not occur if “detrimental to the health, safety, and welfare of the residents and property owners of the area to be deannexed.”<sup>87</sup>

Subsection (b) of section 36-36-131 provides that the group of property owners of the area to be deannexed comprise “one body, regardless of the number of owners.”<sup>88</sup> If one part of the body borders the limits of the municipality, then all parts are considered to border the limits of the municipality, provided that the lesser of one-eighth of the aggregate outside area or fifty feet of the area directly borders the municipal boundary.<sup>89</sup>

Subsection (c) of section 36-36-131 requires that any deannexed property must identify with the Department of Community Affairs and the governing authority of the county.<sup>90</sup>

Subsection (d) of section 36-36-131 provides, upon deannexation, that the municipality ceases to contain the deannexed property.<sup>91</sup>

Subsection (e) of section 36-36-131 provides that the deannexed property qualifies as deannexed for ad valorem tax purposes on December 31 of the year during which the deannexation took place.<sup>92</sup>

Subsection (f) of section 36-36-131 prevents deannexed property from annexation within two years of the effective date of the deannexation, unless provided for by the General Assembly.<sup>93</sup>

Section 36-36-132 disallows the creation of “unincorporated islands” with the deannexation of property.<sup>94</sup>

Section 36-36-133 disallows the deannexation of property from a municipality with municipal debt.<sup>95</sup>

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86. *Id.*

87. *Id.*

88. *Id.* § 36-36-131(b).

89. *Id.*

90. O.C.G.A. § 36-36-131(c) (2023).

91. *Id.* § 36-36-131(d).

92. *Id.* § 36-36-131(e).

93. *Id.* § 36-36-131(f).

94. O.C.G.A. § 36-36-132 (2023).

95. O.C.G.A. § 36-36-133 (2023).

Section 36-36-134 allows, but does not require, the municipality to continue to provide services to the deannexed property.<sup>96</sup>

### *Analysis*

The Act was the first of any state legislation to preempt a ban on gas-powered lawn equipment.<sup>97</sup> In the short time since enactment, the Act has already begun to influence legislation in other states.<sup>98</sup> Senator Shawn Still (R-48th) noted that at least fourteen states are considering legislation modeled on the Act.<sup>99</sup> The Wisconsin Legislature recently passed a bill much like the Georgia Act, although it was ultimately vetoed by the Governor.<sup>100</sup> Texas Governor Greg Abbott (R) signed another similar bill into law on May 13, 2023.<sup>101</sup> Notably, Texas's bill quashed a Dallas ordinance seeking to ban gas-powered equipment, indicating the potential for future struggles between cities and states with differing opinions on the regulation of such equipment.<sup>102</sup>

Although the Texas and Wisconsin bills create the same effect as the Georgia Act, the language in the bills differ. The language of the Georgia Act does not actually prohibit local governments from banning gas-powered lawn care equipment.<sup>103</sup> Rather, the language prohibits local governments from using “differing standards” for regulating gas-powered leaf blowers as opposed to electric equipment.<sup>104</sup> The Wisconsin and Texas bills, on the other hand,

96. O.C.G.A. § 36-36-134 (2023).

97. Still Interview, *supra* note 67.

98. *Id.*

99. *Id.*

100. Assemb. B. 141, 2023 Leg., 106th Sess. (Wis. 2023); *see also* Wisconsin General Assembly, Assemb. B. 104, History, <https://docs.legis.wisconsin.gov/2023/proposals/ab141> [<https://perma.cc/L54S-NE4G>].

101. S.B. 1017, 2023 Gen. Assemb., 88th Sess. (Tex. 2023); *see also* Texas General Assembly, SB 1017, History, <https://capitol.texas.gov/BillLookup/History.aspx?LegSess=88R&Bill=SB1017> [<https://perma.cc/ABK2-HTH9>].

102. Everton Bailey Jr., *Dallas Changing Plans to Ban Gas-Powered Lawn Equipment Amid New State Law*, DALL. MORNING NEWS (July 20, 2023, 6:05 AM), <https://www.dallasnews.com/news/politics/2023/07/19/dallas-changing-plans-to-ban-gas-powered-lawn-equipment-amid-new-state-law/> [<https://perma.cc/WD77-MY74>].

103. *See* O.C.G.A. § 36-60-30(d) (2023).

104. *Id.*

expressly prohibit local governments from restricting the use or sale of a device based on its energy source.<sup>105</sup> The Georgia Act also allows local governments to, in Senator Still's words, maintain "direct local control"<sup>106</sup> over the prohibition or regulation of gas-powered lawn equipment on "property owned by a county or municipality."<sup>107</sup> Neither the Wisconsin bill nor the Texas bill provide such an exception.<sup>108</sup>

Although many states seem to be following the example Georgia set with the Act, some states, districts, and cities are crafting legislation to the opposite effect, banning gas-powered lawn equipment and other machines using small gas engines.<sup>109</sup> Washington, D.C., California, and Burlington, Vermont have all passed bans on the use or sale of such equipment.<sup>110</sup> In some states, like Colorado, bills banning such equipment are still making their way through the legislative process.<sup>111</sup> Other states, like Illinois, have proposed bills banning gas-powered equipment, but have so far been unsuccessful.<sup>112</sup>

Like the Act's counterparts and antitheses across the country, the Georgia Act is representative of the ongoing public policy debate around gas-powered appliance usage. As state and local governments

105. *See supra* notes 100–101.

106. *See* Still Interview, *supra* note 67.

107. § 36-60-30(e) ("Nothing in this subsection shall apply to the use of gasoline-powered leaf blowers on property owned by a county or municipality.").

108. Assemb. B. 141, 2023 Leg., 106th Sess. (Wis. 2023) ("[N]o state agency and no local governmental unit may restrict the use or sale of a device based on the energy source that is used to power the device or that is consumed by the device."); S.B. 1017, 2023 Gen. Assemb., 88th Sess. (Tex. 2023) (prohibiting a political subdivision from adopting or enforcing an ordinance or similar measure that prohibits or restricts the use or sale of an engine based on its fuel source).

109. Greg Zimmerman, *Are Leaf Blowers Illegal?*, FACILITIESNET (Oct. 21, 2022), <https://www.facilitiesnet.com/groundsmangement/tip/Are-Leaf-Blowers-Illegal--50626> [<https://perma.cc/TMC7-KK8B>].

110. D.C. Mun. Regs. tit. 20, § 2808 (2022); CAL. HEALTH & SAFETY CODE § 43018.11 (Deering 2021); BURLINGTON, VT. ORDINANCES ch. 21, art. I, § 21-14 (2021).

111. Noelle Phillips, *Colorado Could Ban Sale of Gas-Powered Lawn Tools in Metro Denver, Northern Front Range by 2025*, DENVER POST, <https://www.denverpost.com/2023/07/07/colorado-gas-lawn-garden-equipment-sales-ban/> [<https://perma.cc/VEA5-4HE9>] (July 8, 2023, 2:01 PM).

112. *See* Illinois General Assembly, S.B. 3313, Bill Status, <https://www.ilga.gov/legislation/BillStatus.asp?DocNum=3313&GAID=15&DocTypeID=SB&LegId=124890&SessionID=108&GA=101> [<https://perma.cc/4SZB-4BMK>]; S.B. 3313, 101st Gen. Assemb., Reg. Sess. (Ill. 2021).

balance their interest in limiting noise and environmental pollution with their interest in maintaining their agricultural industries, more jurisdictions are likely to introduce legislation addressing gas-powered lawn care equipment.

### *Conclusion*

Although HB 374 contains three distinct sections, Section 1, the LEAF Act, has received the greatest amount of attention.<sup>113</sup> When first read in the Georgia House of Representatives, the bill initially contained only the section addressing the deannexation of property in the state.<sup>114</sup> When HB 374 passed in the House and reached the Senate, the Senate Committee added the language relating to gasoline-powered lawn care equipment, naming this new Code section the LEAF Act and outlining its purpose to explicitly prohibit governmental restriction on the use of gasoline-powered lawn care equipment.<sup>115</sup> This preemptive action represents one side of the policy debate around noise pollution and gas emissions in local communities and the role that local governments may play. While the debate persists, Georgia does not stand alone in taking preemptive action, and continued pressure for further preemptive action is likely until alternative technology is available.

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113. 2023 Ga. Laws 411, § 1, at 412; *see, e.g.*, Williams, *supra* note 1; *Georgia State Senate: Prohibiting Leaf Blower Bans*, *supra* note 2; Seiler, *supra* note 3.

114. State of Georgia Final Composite Status Sheet, HB 374, May 9, 2023; HB 374, as introduced, 2023 Ga. Gen. Assemb.

115. HB 374 (SCS), 2023 Ga. Gen. Assemb.

