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LOCAL GOVERNMENT Authority to Enter Contracts: Provide for Additional Authority with Respect to Entering into Certain Contracts of One Year or Less; Provide for an Exception

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LOCAL GOVERNMENT

Authority to Enter Contracts: Provide for Additional Authority with Respect to Entering into Certain Contracts of One Year or Less; Provide for an Exception

CODE SECTION:	O.C.G.A. § 36-60-14 (amended)
BILL NUMBER:	HB 87
ACT NUMBER:	23
GEORGIA LAWS:	2001 Ga. Laws 100
SUMMARY:	This Act allows counties and municipal corporations to contract with federal income tax exempt, private, nonprofit organizations which fall under section 501(c)(3) of the Internal Revenue Code. These nonprofit organizations include chambers of commerce. The Act also provides an exception for any county funds collected under the hotel-motel tax, unless that county meets an additional exception.
EFFECTIVE DATE:	March 28, 2001 ¹

History

Sandy Springs Revitalization had contracted with Fulton County to provide street lights and sidewalks.² The Revitalization Group is a nonprofit organization, classified as a Section 501(c)(3) organization for federal income tax exemption purposes.³ The prior law allowed only Section 501(c)(6) nonprofit organizations to contract for one year or less with county or municipal governments.⁴ Fulton County and Sandy Springs Revitalization wanted to continue contracting with each other to provide services for the county, but needed the language in the statute expanded to include the Section 501(c)(3) organizations.⁵

1. See 2001 Ga. Laws 100, §§ 2-3, at 100-01. The Act took effect upon approval by the Governor. See *id.*, § 2, at 100.

2. See Audio Recording of House Proceedings, Feb. 5, 2001 (remarks by Rep. Robert Irvin), at <http://www.state.ga.us/services/leg/audio/2001archive.html> [hereinafter House Audio I]; see also Telephone Interview with Sen. Rusty Paul, Senate District No. 40 (Apr. 6, 2001) [hereinafter Paul Interview].

3. See House Audio I, *supra* note 2 (remarks by Rep. Robert Irvin).

4. See Paul Interview, *supra* note 2.

5. See House Audio I, *supra* note 2 (remarks by Rep. Robert Irvin).

*HB 87**Introduction*

Representative Robert Irvin of the 45th District and Senator Rusty Paul of the 40th District sponsored HB 87.⁶ Representative Irvin introduced the bill on the House floor on January 10, 2001.⁷ The Speaker assigned the bill to the State Planning and Community Affairs Committee.⁸ The House Committee added a section providing that the Act would be effective upon gubernatorial approval or upon its becoming law without such approval.⁹ The Committee then favorably reported the bill on February 1, 2001, and the House adopted the Committee substitute, passing the bill unanimously on February 5, 2001.¹⁰

Senator Paul introduced the bill on the Senate floor on February 7, 2001, and the Finance and Public Utilities Committee reviewed the bill.¹¹ The Senate Committee favorably reported the bill on February 16, 2001.¹² On March 13, 2001, the full Senate adopted an amendment to the effective date, changing it to ten days after gubernatorial approval.¹³ The bill then went back to the House, which rejected the effective date amendment, but added an amendment for one county to access its hotel-motel tax revenue if the county deemed the funds accessible.¹⁴ The Senate agreed to those changes on March 21, 2001.¹⁵ Governor Roy Barnes signed HB 87 into law on March 28, 2001.¹⁶

6. See State of Georgia Final Composite Status Sheet, HB 87, Mar. 21, 2001.

7. See House Audio I, *supra* note 2 (remarks by Rep. Robert Irvin).

8. See State of Georgia Final Composite Status Sheet, HB 87, Mar. 21, 2001.

9. Compare HB 87, as introduced, 2001 Ga. Gen. Assem., with HB 87 (HCS), 2001 Ga. Gen. Assem.

10. See State of Georgia Final Composite Status Sheet, HB 87, Mar. 21, 2001; House Audio I, *supra* note 2 (voting results).

11. See State of Georgia Final Composite Status Sheet, HB 87, Mar. 21, 2001; Paul Interview, *supra* note 2.

12. See State of Georgia Final Composite Status Sheet, HB 87, Mar. 21, 2001.

13. Compare HB 87 (HCS), 2001 Ga. Gen. Assem., with HB 87 (SFA), 2001 Ga. Gen. Assem.

14. Compare HB 87 (SFA), 2001 Ga. Gen. Assem., with HB 87 (HCSFA), 2001 Ga. Gen. Assem.

15. See State of Georgia Final Composite Status Sheet, HB 87, Mar. 21, 2001.

16. See 2001 Ga. Laws 100, § 3, at 101.

Senate Approval of the House Amendment

Senator Michael Polak of the 42nd District voiced concern about the bill's effect on an ongoing dispute in DeKalb County.¹⁷ The county's business bureau and the local arts council were in the process of determining whether the county could use the revenue from the hotel-motel tax for general purposes or if it had to reserve those funds for convention and visitor's bureau purposes.¹⁸ The amendment restricted the use of the hotel-motel tax for contracts with nonprofit organizations, but rendered the restriction inapplicable in any county engaged in an ongoing dispute, namely DeKalb County.¹⁹ Both houses agreed to this amendment.²⁰

The Act

The Act expands the type of private, nonprofit organizations with which a county or municipal corporation may contract.²¹ It authorizes such counties to contract with federal income tax exempt entities such as chambers of commerce and schools, or specifically, the revitalization groups that inspired the bill.²²

For most counties, revenue collected under Article 3 of Chapter 13 of Title 48 is generally not accessible because it is reserved for convention and visitor's bureau expenditures.²³ DeKalb County had not yet resolved

17. See Audio Recording of Senate Proceedings, Mar. 13, 2001 (remarks by Sen. Michael Polak), at <http://www.state.ga.us/services/leg/audio/2001archive.html> [hereinafter Senate Audio].

18. See Audio Recording of House Proceedings, Mar. 19, 2001 (remarks by Rep. Robert Irvin), at <http://www.state.ga.us/services/leg/audio/2001archive.html> [hereinafter House Audio II].

19. Compare HB 87 (HCSFA), 2001 Ga. Gen. Assem., with HB 87 (SFA), 2001 Ga. Gen. Assem. See House Audio II, *supra* note 18.

20. See State of Georgia Final Composite Status Sheet, HB 87, Mar. 21, 2001.

21. Compare 1990 Ga. Laws 8, § 36, at 25-26 (formerly found at O.C.G.A. § 36-60-14 (2000)), with O.C.G.A. § 36-60-14 (Supp. 2001).

22. See Paul Interview, *supra* note 2. Compare 1990 Ga. Laws 8, § 36, at 25-26 (formerly found at O.C.G.A. § 36-60-14 (2000)), with O.C.G.A. § 36-60-14 (Supp. 2001).

23. See House Audio II, *supra* note 18; O.C.G.A. § 36-60-14 (Supp. 2001).

the use of those funds, so the Act included a provision to exempt DeKalb or any similarly situated county from not using the hotel-motel tax revenue.²⁴

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24. See Senate Audio, *supra* note 17 (remarks by Sen. Michael Polak); House Audio II, *supra* note 18 (remarks by Rep. Robert Irvin). Compare 1990 Ga. Laws 8, § 36, at 25-26 (formerly found at O.C.G.A. § 36-60-14 (2000)), with O.C.G.A. § 36-60-14 (Supp. 2001).