Eliminating, Reducing or Revising Nonessential County-Funded Requirements to Provide Relief to Local Taxpayers

Association County Commissioners of Georgia
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Below are specific taxpayer-funded statutory or regulatory requirements that counties reported need repeal or revision. This list continues to be revised and updated leading into the 2012 legislative session.

Planning

Comprehensive Planning

SB 86 was passed during 2011 legislative session to provide local relief. While the bill was vetoed by the Governor a DCA Task Force is currently working on comprehensive planning revisions.

O.C.G.A. §50-8-7.1(b) and DCA rules (Chapter 110-12-1 and Chapter 110-3-2) require, often at significant expense, that every local government create a comprehensive plan and update it each decade or risk losing Qualified Local Government status. When the Georgia Planning Act was passed in 1989, the intent was to create a statewide plan from the bottom up. The resources and political will to see that through never happened. However, DCA still requires a comprehensive planning process that many feel has little value at the local level, has become more prescriptive, and is less flexible to the changing economic landscape. Improvements to the mandatory planning process need to be made. Creating comprehensive plans can cost from $20,000 for the smallest local governments to more than $500,000 for the largest. The state funded $4.5 million in FY11 for Coordinated Planning activities at DCA.

Developments of Regional Impact

SB 86 was passed during 2011 legislative session to provide local relief. While the bill was vetoed by the Governor a DCA Task Force is currently working on comprehensive planning revisions.

Created in 1989, O.C.G.A. §50-8-7.1(b)(3) and DCA Rules (Chapter 110-12-3) require DCA to develop planning procedures and standards to 1) determine the types of development that would have a regional impact and 2) encourage inter-jurisdictional cooperation among local governments. Developers must submit projects identified by DCA that might have a regional impact to the Regional Commissions who provide an advisory report of finding to the local government regarding whether the proposed development is in the best interest of the region/state. Statutory revisions are needed to eliminate the finding on whether the proposed development is in the best interest of the region/state.

Service Delivery Strategy

O.C.G.A. §36-70-20 (Article 2 of Chapter 70), enacted in 1997, requires each county and the municipalities therein to develop an agreement describing what services are to be provided by which local government and how the services will be paid for in order to minimize non-compatible municipal and county land-use plans. When enacted in 1997 the intent was to coordinate land use planning and ensure services were not duplicated within a county. The initial strategies have been developed and agreed upon; today the requirement to renew the strategies has become a divisive tool used by Cities and Counties to negotiate for other concessions. In these challenging economic times cities and counties are eagerly looking to cut expenditures. If services are duplicated a service delivery agreement is not needed to eliminate them. Both the regional water and transportation planning initiatives provide constructive alternatives to ensuring essential services are coordinated.

Notices, Reports, Surveys and Audits

Eliminate Numerous Reporting Requirements in Legal Organ

Various code sections require counties to post notices in its legal organ for numerous purposes so that the public is provided with adequate notice of the events or actions required to be listed. The requirement that a notice be posted in the newspaper is both antiquated and costly for Georgia taxpayers. Most citizens and business that look for these notices have access to computers, thus are more likely to look for the notices on the Internet. This is especially true of businesses that operate outside the state or outside the county that do not have access to local papers. Counties should be provided with the flexibility to post notices on their websites or on a common statewide website instead of having to pay to put them in the legal organ. Newspapers are still free to post these notices as a public service to which they are committed, but should not be mandatorily subsidized by local taxpayers in doing so.

Copying and Storing of Newspapers by Clerk of Court, Sheriff and Probate Judge

Current law requires that clerks of court, sheriffs and probate judges procure and preserve for public inspection a complete file of all newspaper issues in which their advertisements actually appear. Newspapers may be bound, microfilmed, photostatted or photographed and must be maintained for 50 years. As a matter of efficiency, the law should be amended to allow for digital storage of newspapers, to limit preservation to those portions of newspapers reporting ads placed by county officials, or to authorize county governing authorities, in their discretion, to suspend the storage of newspapers.

Debt Reporting

Enacted in 2001 and 2006, OCGA §36-82-10 & OCGA §36-82-100 require local governments and authorities that issue bonds in excess of $5 million to conduct a performance audit or review, or publish a legal advertisement stating that no performance audit or review will be conducted. The audit or review must be done by an outside auditor or consultant, must show whether the bond funds are being spent efficiently and economically, and must be done annually until all bond proceeds are spent. Municipalities, counties, and local government authorities, boards, or commissions that are empowered to enter into debt to report individual debt issuances exceeding $1 million to the DCA. Debt Issuance Reports are submitted to DCA within 60 days from the date of issue. This is costly and time consuming for county staff.

Eliminate Publication of Annual Financial Statements

Enacted in 1952, OCGA §36-1-6 requires all boards of county commissioners, county commissioners, county managers, or other persons or bodies having charge of receipts and expenditures of county moneys to publish a financial statement once each calendar year in the paper in which sheriff's advertisements are published in their respective counties. A copy of this statement shall also be posted twice each year for a period of not less than 30 days on the bulletin boards of the various county courthouses. This is costly and time consuming for county staff. Local governments are already required to both submit and post their annual budgets and audit reports.

Increase the Threshold for the Report and Remittance of People Holding Abandoned Property

OCGA §44-12-214 requires counties to provide the name and social security or federal identification number, if known, and last known address, including ZIP Code (if any) of each person appearing from the records of the holder to be the owner of any property of the value of $50.00 or more presumed abandoned under this article. The County is also required to attempt to contact the owner prior to

submission to the state if the value is $50.00 or more. Due to the costs required to research and contact owners, an increase in the $50 threshold amount would be beneficial.

Eliminate Needless DCA Review of Local Audits

Each local government must submit their Report of Local Government Finances (audit) to DCA for an agency review which consists of entering numbers in a computer and identifying actual or potential errors, and/or missing supplemental schedules. DCA's review is meant to identify errors in calculations or variances outside of a normal range. However, it appears DCA may not review footnotes nor have a CPA reviewing them. As county audits are done by a third party, typically a CPA firm that specializes in government accounting; audits receive a qualified or unqualified opinion from the aforementioned firm; and audits are required to be posted on the Carl Vinson Institute of Government website, there is no need to submit audits to DCA for the agency to key in numerical data and generate a report.

Consolidate and Standardize the Submission of Auditing Reports and Grant Progress Reports

Local governments are required to submit audits and annual budgets to multiple state agencies. Furthermore, cities are required to submit grant progress reports to multiple agencies. One agency should be designed to collect this information. Also, the reporting standards vary from agency to agency and should be standardized to make compliance for local government more efficient.

Training and Travel

Under various code sections counties are required to fund the cost of training for a large number of county elected and appointed officials and staff. Due to the current economic challenges facing local governments, a moratorium should be placed on non-essential, mandatory training for their employees. Moratoriums on magistrate and probate court judicial training were applied during 2009 and 2010, so this concept is not a new one. The cost of training should also be limited to the actual cost of the training and should not include a per diem or added travel allowance. Further, additional training options such as online and virtual training should be explored to reduce costs.

Eliminate Per-Diem Expense Requirement for Coroners and Deputy Coroners Attending Training

Coroners and their deputies must take training approved by the Georgia Coroner's Training Council. The law provides them reimbursement for the cost of the training including mileage and a per-diem equivalent to that of members of the General Assembly. This leaves the opportunity for coroners to double dip, receiving two payments for one at taxpayer expense. Coroners should only be reimbursed for the cost of the training and should not also receive per-diem funding.

Eliminate Court Reporter Travel Expense for Travel that Never Occurs

O.G.G.A. §15-14-6(b) and §15-7-47(c) require that both the state and county governing authority pay $960 per year to court reporters a contingent expense for travel though that travel never occurs because the court reporter works in a single county circuit. This is not paid for reimbursement of actual expenses of travel, just a one-time payment each year. This provision should be removed from statute and court reporters should only be reimbursed for actual travel expenses.

Personal Fees and Compensation for County Officers

Processing of U.S. Passports – Superior Court Clerks

Under O.C.G.A. §15-6-77 (c) Superior Court Clerks are authorized to process U.S. Passports. Approximately 70 of the 159 Superior Court Clerks offer this service through their county taxpayer-funded offices. However, state statute specifically states that passport fees ($25 each) provided under the laws of the United States, or regulations promulgated pursuant to such laws, shall be "personal compensation" to the Clerk of the Superior Court for the performance of those duties. Fees should go to the county's general fund as the clerk is using county time, supplies, staff and overhead to process passports. Note that some clerks have received compensation for in excess 3,000 applications, totaling more than $75,000 in additional compensation paid personally to the clerk of court.

Vital Records – Probate Judge

Enacted in 1995, O.C.G.A. §31-10-27(c) and DCH Rules 290-1-3, provides that the State Registrar of Vital Records designate a Local Vital Records Custodian. In many cases this custodian is the Probate Court Judge. There is a specific statutory provision that allows the local custodian of vital records to retain the fees as compensation whether the local custodian is paid on a fee basis, a salary basis, or a combination of both. In counties where the local custodian is the county board of health the fees must be remitted monthly to county health department. If the local custodian is a county-paid individual and the county is paying all of the employee's salary and administrative overhead for performing the function, the revenue generated from the provision of the service should be remitted to the county's general fund to offset local taxpayer cost.

Eliminate Court Reporter Per-page Transcription Fee on Top of their Salaries

In many cases, court reporters are full-time county employees who then charge the county a per page ($3.78) fee for transcribing court records, that is in addition to their salary. Also, some counties have been including transcription fees not only as FICA income but as pension-base income, thus further raking local taxpayers over the coals. They are on county time, using county equipment and overhead and are already paid for their services. Court reporters should have their base salary set at the commensurate rate, thus allowing counties to budget, with predictability, their annual salaries and benefits.

Collection of Municipal Taxes – Tax Commissioner

Current law found at OCGA § 48-5-359.1 authorizes counties to contract with cities for collection of municipal taxes by the county tax commissioner. The contract must provide that the city covers any additional costs to the county in providing this service including personnel, storage, utilities and so on. The law, however, is confusing in that it also authorizes the tax commissioner to contract with a city to receive additional, personal compensation for these duties. Given that the board of commissioners is the fiscal authority of the county, it would be inappropriate for cities to compensate a tax commissioner directly rather than through the city's contract with the county. The law should be amended to make it clear that the additional compensation to the tax commissioner be included in whatever payment the city makes to cover the county's additional cost in collecting the city's taxes.

Part-time Solicitors: Expenses

While it is appropriate for the county to cover the expenses of the operation of a full-time solicitor, ACCG proposes that current law be amended to make it clear that counties are not obligated to provide

offices, supplies and other costs for part-time solicitors in private practice. However, at the discretion of the county governing authority, counties may reimburse actual expenses directly related to the performance of the duties of a part-time solicitor, provide an expense allowance to cover same, and/or provide an office.

Compensation for Coroners

Under O.C.G.A. §45-16-27(b), coroners are generally paid on a fee basis ($175 per death investigation/$250 if a jury is impaneled) or by local legislation – at the coroner's choice. An exception in O.C.G.A. §45-16-11(a)(1) applies to counties under 35,000 population where annual salaries up to $3,600 are paid in addition to fees otherwise due. The law does not currently address the procedure for how a coroner chooses his or her method of compensation, which can create problems with county budgeting. As an alternative to fees, salary-based compensation may be established by local legislation of the General Assembly. However, in order to give proper consideration to coroners' compensation requests, ACCG proposes that county governing authorities be authorized to establish compensation for coroners on a salary basis by county resolution or ordinance. Any such legislation should provide that coroners presently on salary be held harmless. Alternatively, in order to allow counties to adequately budget for coroner compensation, a coroner should have to provide his or her intention to be paid by salary or by death investigation fee at least six months prior to the county's next budget year.

Revenue and Finance

Administrative Fee for Collecting Local Sales Tax

O.C.G.A. §48-8-9 and O.C.G.A. §48-8-115 authorize the state to collect the local portion of the sales tax along with the state portion and then distribute the local government's share back. The state Department of Revenue (DOR) collects 1 percent of the total amount collected on behalf of the local governments for providing this service (approximately $48 million annually) which is deposited in the state general fund. DOR should determine how much it costs to actually provide the service and only retain the funds to cover the cost. Because funding is redirected to the general fund DOR does not have adequate resources to audit. The Department currently audits less than ½ of 1 percent of the accounts each year. Local government should not be expected to support the state general fund and pay for a service they are not receiving. Local taxpayers assume that the 1 percent is going to their local government and providing services at the local level, when in fact it is going into the state general fund and being used for other purposes. Reducing the administrative fee to actual administrative cost would provide at least $40 million in sales tax revenues back to the local taxpayers which paid them

Revise the State's Fiscal Note Act

O.C.G.A. §28-5-47 to 28-5-56 require fiscal notes to be prepared for all bills "having a significant impact" on anticipated revenues or expenditures of state agencies. Fiscal notes should also be required of regulatory decisions that might have a significant fiscal impact. Furthermore, ACCG proposes that the monetary threshold for requiring fiscal analysis of a bill before the General Assembly (currently set at $5 million aggregate statewide impact) be lowered to $1 million if a proposed mandate would affect counties alone, rather than in combination with cities and schools.

Miscellaneous

Authorize Non-Attorneys to File Garnishment Answers

The Georgia Supreme Court has recently adopted a rule that answering garnishment actions involves the practice of law. As such, the new mandates that garnishees, including counties, use lawyers when answering garnishments instead of administrative staff or paralegals. In order to avoid significantly increasing the cost of filing answers to local taxpayers, ACCG proposes that the General Assembly, to the extent authorized under the state constitution, enact legislation to repeal the Court's rule and authorize non-attorneys to file garnishment answers.

Enhance the School and Local Government Partnership

Planning for student population growth should be a joint effort between the county, city, and school board. The county and municipalities located within the geographic area of a school district and the local board of education that is experiencing or anticipating growth in student population (to the extent that additional schools or classrooms may need to be constructed) should hold one or more public hearings as needed and enter into an intergovernmental agreement with the district school board that jointly establishes the specific ways in which planning for growth, including school facility siting, shall be coordinated and how infrastructure to support expansion should be financed. Otherwise, the school boards often build a school and then come back and ask for additional infrastructure, at county expense, after the fact.

State and Local Election Runoffs

Georgia is one of the few states that require runoffs for state and local elections. Runoffs are costly to candidates and the public. They require additional election dates and extend the election process several weeks whenever runoffs become necessary. In addition, results may be skewed by low voter turnout in runoffs. As such, ACCG proposes that the General Assembly reduce the likelihood of runoffs by lowering the majority needed for election to state and county offices to 45 percent of votes cast from the current 50 percent. In the alternative, runoffs could be eliminated by allowing for a winner-take-all system.

Building Inspections: Public Duty Doctrine

Traditionally, under the public duty doctrine, local governments have not been held liable for damages to private parties resulting from improperly constructed buildings that were subject to a county's or city's building inspection program. That doctrine, as it applies to local building inspection programs, has been overruled by the Courts. This ruling potentially subjects counties to costly negligent inspection lawsuits when an inspector fails to find code violations by conducting a proper inspection. Given that the cost of supporting a building inspection program adequate to avoid liability for poorly constructed buildings, ACCG proposes that the General Assembly correct the decision of the Court and legislatively reinstate the public duty doctrine to local government building inspection operations.

Authorize Counties to Eliminate Elected Office of County Surveyor

If counties want to keep the elected office, they can. Or they can eliminate the office and hire private surveyors should the need arise. Currently, counties have to go through local legislation to eliminate the office.

EPD Wastewater Discharge Permits: Antidegradation Rule and Administrative Appeal Procedures

ACCG supports reforming the process by which EPD permit appeals are resolved at the administrative level. Due the complexity and specialized nature of cases arising from the EPD and DNR, administrative

appeals from EPD and DNR should be removed from the Office of State Administrative Hearings. Instead, the Board of Natural Resources should be authorized to establish its own, internal hearing procedures consistent with the Georgia Administrative Procedures Act.

Under the current process, EPD and DNR permits are stayed pending resolution of administrative appeals, subjecting counties to unreasonable permit delays on wastewater and other DNR/EPD permit applications. This puts Georgia at a competitive disadvantage, often leading to lengthy delays on projects that are essential for a community's development and unnecessarily increasing costs to Georgia counties and taxpayers.

Eliminate Requirement for Duplicative Environmental Assessments

State agencies have differing requirements for environmental studies for local government projects. State agencies should coordinate requirements for environmental assessments so that local governments can submit one study that meets all requirements.