

**A RESOLUTION BY  
FINANCE/EXECUTIVE COMMITTEE**

**A RESOLUTION OPPOSING HOUSE BILL 406  
NOW BEING CONSIDERED BY THE GEORGIA  
GENERAL ASSEMBLY; AND FOR OTHER  
PURPOSES.**

**WHEREAS**, House Bill 406 has been introduced during the 2009 session of the Georgia General Assembly and was adopted by the Georgia House of Representatives; and

**WHEREAS**, House Bill 406 amends the Service Delivery Act by allowing the State of Georgia to issue permits and provide financing for new water system projects without the consent of existing local water service providers already operating in the same area leading to wasteful duplication of services; and

**WHEREAS**, House Bill 406 requires counties to force all local governments in the Service Delivery Agreement to accept changes to water service areas including new reservoirs and related systems without the consent of or compensation for local governments with existing water utility operations in those same areas – leading to the confiscation of water customers and water revenue streams from existing water service providers; and

**WHEREAS**, House Bill 406 could destabilize water/wastewater revenue bonds Statewide when bond markets react negatively to Georgia laws that allow existing revenue streams to be taken from existing water/wastewater service providers without their consent; and

**WHEREAS**, a destabilized bond market will lead to downgraded bond ratings and higher capital costs for water service providers; and

**WHEREAS**, House Bill 406 encourages existing water service providers to neglect water infrastructure in areas threatened by projects allowed to move forward by this change in law and could thus, lead to waste of water, service interruptions and costly regulatory enforcement actions as existing systems fall into disrepair; and

**WHEREAS**, the City of Atlanta (“City”), pursuant to its Charter and for over one hundred thirty years has had the authority and responsibility to provide water and sewer services to its customers, and for over ninety years has had the authority and responsibility to provide water service to its customers both inside and outside its municipal boundaries; and

**WHEREAS**, the City's investments in water and sewer infrastructure inside and outside the City's municipal boundaries has made possible the prosperous development of the Greater Metropolitan Atlanta Area; and

**WHEREAS**, the City currently is the water service provider for two areas outside of its City limits – a majority portion of Sandy Springs and most of South Fulton; and

**WHEREAS**, the City has constructed and fully developed a water distribution system in South Fulton that serves retail customers in unincorporated South Fulton, City of Chattahoochee Hills, and portions of Palmetto, Union City and Fairburn recently annexed by those Cities; and

**WHEREAS**, a pending permit for South Fulton's proposed Bear Creek reservoir threatens to cherry-pick Atlanta's existing South Fulton customers and its entire South Fulton water system without Atlanta's consent; and

**WHEREAS**, the City has outstanding water and sewer revenue bond debt of approximately \$2.6 billion and the City is obligated to repay this debt through the revenues generated by operating the City's regional wastewater and water treatment and distribution systems; and

**WHEREAS**, to raise the aforementioned debt in a timely manner and under reasonable repayment terms in the capital markets, the City has pledged all of its revenues from operating its wastewater and water systems as security for the bonds; and

**WHEREAS**, the service areas of South Fulton and Sandy Springs represent approximately thirty-two percent (32%) of the City's drinking water customers, approximately thirteen percent (13%) of the City's annual water revenues and approximately \$550-600 million in bonding capacity to fund capital improvements; and

**WHEREAS**, the additional financial pressure of possibly losing water service areas and water infrastructure, especially in conjunction with the current drought conditions, the current economic crisis, and the City's Consent Decree obligations could pose undue financial stress on the City's water and wastewater system; and

**WHEREAS**, any limitation on the City's water and sewer revenues will negatively impact the City's ability to fulfill its Consent Decree obligations, which may require taking legal action in federal court to enjoin any such state laws or to impose liability on the State of Georgia; and

**WHEREAS**, House Bill 406 is not in the best interests of the City and could adversely affect Atlanta residents, other municipalities in Fulton County, other water and wastewater service providers in Georgia, other jurisdictions downstream of the City, and the State of Georgia.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY RESOLVES**, that it opposes House Bill 406.

**BE IT FURTHER RESOLVED**, that all resolutions or parts of resolutions in conflict herewith are hereby waived to the extent of the conflict.

**BE IT FINALLY RESOLVED**, that the clerk of Council is hereby instructed to immediately transmit an official copy of this Resolution to the members of the Atlanta-Fulton County delegations to the Georgia House of Representatives and the Georgia Senate.

House Bill 406 (COMMITTEE SUBSTITUTE)

By: Representatives Coan of the 101<sup>st</sup>, McCall of the 30<sup>th</sup>, Ehrhart of the 36<sup>th</sup>, Amerson of the 9<sup>th</sup>, and Smith of the 70<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 36-70-27 of the Official Code of Georgia Annotated, relating to  
2 limitation of funding for projects inconsistent with service delivery strategies, so as to  
3 provide an exception for certain drinking water projects; to provide an effective date; to  
4 repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 SECTION 1.

7 Code Section 36-70-27 of the Official Code of Georgia Annotated, relating to limitation of  
8 funding for projects inconsistent with service delivery strategies, is amended by revising  
9 subsection (a) as follows:

10 ~~“(a)(1) On and after July 1, 1999, no~~ No state administered financial assistance or grant,  
11 loan, or permit shall be issued to any local government or authority which is not included  
12 in a department verified strategy or for any project which is inconsistent with such  
13 strategy; provided, however, that a municipality or authority located or operating in more  
14 than one county shall be included in a department verified strategy for each county  
15 wherein the municipality or authority is located or operating.

16 “(2) Paragraph (1) of this subsection shall not apply to any drinking water project of the  
17 Georgia Environmental Facilities Authority or of any local government or authority if  
18 such project is a proposed drinking water supply reservoir or any water withdrawal,  
19 treatment, distribution, or other potable water facility associated with such reservoir and  
20 the project shall furnish potable water to wholesale users in incorporated areas in one or  
21 more counties. Within one year after such proposed drinking water supply reservoir  
22 becomes operational, the local governments and authorities in the affected county or  
23 counties shall update their service delivery strategy or strategies to be consistent with  
24 water supply arrangements resulting from the operation of such reservoir.”

25

**SECTION 2.**

26 This Act shall become effective upon its approval by the Governor or upon its becoming law  
27 without such approval.

28

**SECTION 3.**

29 All laws and parts of laws in conflict with this Act are repealed.