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## State Government SB 86

Georgia State University Law Review

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## STATE GOVERNMENT

***Department of Community Affairs: Amend Title 50 of the Official Code of Georgia Annotated, Relating to State Government, so as to Revise Definitions; Provide for the Development of Basic Local Plans; Provide for Procedures and Status Regarding Such Plans; Modify the Manner of Review of Developments of Regional Impact; Provide for Related Matters; Provide Definitions; Establish the Georgia Certified Retirement Community Program; Provide for Purposes for Such Program; Provide for Evaluation Criteria; Provide for Certification; Provide for Related Matters; Provide for an Effective Date; Repeal Conflicting Laws; and for Other Purposes.***

CODE SECTIONS:	O.C.G.A. §§ 50-8-2, -7.1, -31, (amended); 50-8-35.1, -240 (new)
BILL NUMBER:	SB 86
ACT NUMBER:	N/A
GEORGIA LAWS:	N/A
SUMMARY:	The bill would have simplified the definition of a “qualified local government” and comprehensive plan requirements for local jurisdictions. It would have changed the requirement from a comprehensive plan to a basic local plan, which may or may not be developed by the regional commission. It would have changed the guidelines for the process by which local governments submit for review developments of regional impact. The bill also would have established the Georgia Certified Retirement Community Program. It would have provided for the purpose of this program and outlined the requirements

by which communities may apply for Georgia certified retirement community status.

EFFECTIVE DATE: N/A

### *History*

The primary purpose of SB 86 was to reform planning mandates for local governments, providing them with flexibility to develop and implement plans more appropriate to their community.<sup>1</sup>

In an effort to emphasize advanced regional planning, the legislature enacted the Georgia Planning Act<sup>2</sup> in 1989.<sup>3</sup> At the time, Georgia enjoyed significant growth, and the State sought a way to plan for growth in a way that benefited local communities, their regions, and the state.<sup>4</sup> The Georgia Planning Act created a process for every local government—large and small—to develop a comprehensive plan.<sup>5</sup> A comprehensive plan is a land use document that provides the framework and direction for land use decisions, which affect an entire community—the people, environment, natural resources, economy, etc.<sup>6</sup> The plans were intended to guide policy and development decisions.<sup>7</sup> By developing plans every ten years, and updating the plans every five years, local governments were able to qualify for Qualified Local Government (QLG) status.<sup>8</sup> QLG status made local governments eligible to receive funding from the State of Georgia for their general development projects.<sup>9</sup>

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1. *See Comprehensive Planning Legislation Continues to Draw Attention*, ASSOC. CNTY. COMM'RS OF GA., <http://www.accg.org/content.asp?contentid=1606> (last visited May 5, 2011); *Legislation Introduced to Relieve Local Governments of Some Mandates*, ASSOC. CNTY. COMM'RS OF GA., <http://www.accg.org/content.asp?contentid=1600> (last visited May 5, 2011) [hereinafter *Legislation Introduced*].

2. O.C.G.A. § 45-12-2 (2011).

3. Maria Saporta, *Georgia's Communities May Lose Ground in Planning for Their Future*, SAPORTAREPORT, <http://saportareport.com/blog/2011/02/georgias-communities-should-not-lose-ground-in-planning-for-its-future/> (Feb. 21, 2011) [hereinafter *Georgia's Communities*].

4. *Id.*

5. *Georgia's Communities*, *supra* note 3.

6. Interview with Sen. Frank Ginn (R-47th) (Mar. 29, 2011) [hereinafter *Ginn Interview*] (on file with the Georgia State University Law Review).

7. *Comprehensive Planning Legislation Continues to Draw Attention*, ASSOC.

CNTY. COMM'RS OF GA., <http://www.accg.org/content.asp?contentid=1606> (last visited May 5, 2011).

8. *Id.*

9. O.C.G.A. § 50-8-8(a) (2011).

The Georgia Planning Act also implemented a means to protect communities in a specific region from harm due to Developments of Regional Impact (DRIs).<sup>10</sup> DRIs are “large-scale developments that are likely to have regional effects beyond the local government jurisdiction in which they are located.”<sup>11</sup> A DRI, such as an airport, waste disposal plant, or asphalt plant, can negatively impact the growth of surrounding communities as a result of traffic, water, and/or pollution, among other effects.<sup>12</sup> The Georgia Planning Act authorized the Department of Community Affairs (DCA) to establish procedures to review DRIs.<sup>13</sup> These procedures are supposed to improve communications between affected governments and provide for a review of the DRI by the regional commission.<sup>14</sup> During Governor Roy Barnes’s administration, the legislature gave the state the power to veto any DRIs in order to limit automobile traffic that could trigger the loss of federal transportation funds.<sup>15</sup>

John Sibley, director of the Growth Strategies Commission, which was formed to study planning in the late 1980s, stated that the Georgia Planning Act was the “‘first critical step’ in Georgia’s ‘long, slow progress toward thinking about transportation investments and land use in a coordinated way.’”<sup>16</sup> The Georgia Planning Act brought the State of Georgia to the forefront of local planning. Governor Joe Frank Harris, who served in the late 1980s, even won the annual award of the American Planning Association for his leadership in passing the Act.<sup>17</sup>

Under the Georgia Planning Act, however, if a dispute arises between the local government and the regional commission or the DCA in regards to the DRI, and the local government fails to participate in the dispute resolution process, the local government can

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10. *Georgia’s Communities*, *supra* note 3; see also GA. COMP. R. & REGS. 110-12-3 (2011).

11. *Developments of Regional Impact*, GA. DEP’T OF CMTY. AFFAIRS <http://www.dca.ga.gov/development/PlanningQualityGrowth/programs/regionalimpact.asp> (last visited May 5, 2011) [hereinafter *Developments of Regional Impact*].

12. See *Georgia’s Communities*, *supra* note 3; see also *Developments of Regional Impact*, *supra* note 11.

13. *Developments of Regional Impact*, *supra* note 11.

14. *Id.*

15. Walter C. Jones, *Georgia Senate Bill Would End Costly Mandates on Local Governments, Sponsors Say*, FL. TIMES UNION, Feb. 15, 2011, available at <http://jacksonville.com/news/georgia/2011-02-15/story/georgia-senate-bill-would-end-costly-mandates-local-governments>.

16. See *Georgia’s Communities*, *supra* note 3.

17. See *id.*

lose its QLG status.<sup>18</sup> This can effectively cut the local government's access to state funding.

Senator Frank Ginn (R-47), a freshman legislator, introduced SB 86 as part of a broader package of legislation aimed at eliminating unnecessary local government reporting requirements.<sup>19</sup> A comprehensive plan can cost a local government, such as Franklin County, approximately \$100,000.<sup>20</sup> Like the related bills, SB 86 would have reduced such costs to local governments and provide for existing resources to help local governments plan their communities.<sup>21</sup>

SB 86 was an attempt "to fit local government planning to the size and needs of the community."<sup>22</sup> The aim of the bill was to make actual use of the plans developed by local communities, since as Senator Ginn has said, "most local plans sit on a bookshelf gathering dust."<sup>23</sup> Under SB 86, local governments would still have to draft plans, but the plans would not have had to follow the format required by the State.<sup>24</sup> Rather, the purpose was to leave the decision-making to local government officials.<sup>25</sup> As Senator Ginn stated at a press conference: "We elect people at home to do what's best for their community . . . [t]hose elected officials need to decide without having input that ties their hands up."<sup>26</sup>

### *Bill Tracking of SB 86*

#### *Consideration and Passage by the Senate*

Senators Frank Ginn (R-47th), Butch Miller (R-49th), Tommie Williams (R-19th), Chip Rogers (R-21st), Jack Murphy (R-27th), and

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18. See O.C.G.A. § 50-8-2(a)(18) (2011); GA. COMP. R. & REGS. 110-12-3-.04(5) (2011).

19. Janel Davis, *Bill Seeks to Put an End to State's Mandatory Comprehensive Plans*, ATLANTA J.-CONST., Feb. 22, 2011, at B3. The other bill seeks to make solid waste planning optional, eliminate the requirement to publish annual financial statements in a newspaper, and eliminate an annual 911 audit listing expenses and collections. *Id.*

20. See Ginn Interview, *supra* note 6.

21. Video Recording of Senate Proceedings, Mar. 8, 2011 at 4 hr., 4 sec. (remarks by Sen. Frank Ginn (R-47th)), <http://www.gpb.org/general-assembly> [hereinafter 2011 Senate Floor Video].

22. See Ginn Interview, *supra* note 6.

23. See *id.*

24. See Jones, *supra* note 15.

25. See Ginn Interview, *supra* note 6.

26. Jones, *supra* note 15.

Steve Gooch (R-51st) sponsored SB 86.<sup>27</sup> On February 15, 2011, the Senate read the bill for the first time and Lieutenant Governor Casey Cagle (R) assigned it to the Senate State and Local Government Operations Committee.<sup>28</sup>

The bill, as originally introduced, would have repealed the term “qualified local government” from Code section 50-8-2 and removed all references to QLG status.<sup>29</sup> Specifically, the bill would have taken away the DCA’s power and authority to certify a local government as a QLG and condition any state funding on QLG status.<sup>30</sup> The DCA would have no power to penalize a local government for not creating a comprehensive plan.<sup>31</sup> Rather, the bill would have provided each local government with full discretion in deciding whether to prepare a comprehensive plan.<sup>32</sup> Another significant focus of the bill was limiting the DCA’s control over DRIs.<sup>33</sup> First, the bill would have amended Code section 50-8-7.1 to repeal the DCA’s mandate to develop procedures for reviewing and determining projects that constitute DRIs and to publicly communicate its findings to all local governments within the effected region as to whether “the action will be in the best interest of the region and state.”<sup>34</sup> Local governments would no longer have been required to submit for review to the regional commission any proposed action that would constitute a DRI, nor would the local governments be required to submit to alternative dispute resolution.<sup>35</sup> Instead, the bill would have required the DCA to establish procedures for providing communities with notice of its new standards and procedures to be used by local governments in developing and implementing their plans.<sup>36</sup>

The State and Local Government Operations Committee offered a substitute to SB 86.<sup>37</sup> The substitute bill would have amended, but

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27. SB 86, as introduced, 2011 Ga. Gen. Assem.

28. State of Georgia Final Composite Status Sheet, SB 86, May 24, 2011.

29. See SB 86, as introduced, §§ 1-5, pp. 1-9, ln. 12-20, 36-37, 46, 51, 55, 159, 169, 179-80, 184, 185, 193, 195, 196, 206, 211, 213, 220, 259, 262, 269, 305-13, 2011 Ga. Gen. Assem.

30. *Id.* §§ 2, 4, pp. 2, 6, ln. 36-37, 179-80.

31. *Id.* § 3, p. 3, ln. 74-75.

32. *Id.* § 3, p. 3, ln. 69-73.

33. See Ginn Interview, *supra* note 6.

34. See SB 86, as introduced, § 3, pp. 3-4, ln. 95-104, 2011 Ga. Gen. Assem.

35. *Id.* § 2, p. 2, ln. 132-42, 143-45.

36. *Id.* at ln. 107-10.

37. SB 86 (SCS), 2011 Ga. Gen. Assem.

not repealed, the definition of a QLG.<sup>38</sup> This change would have only required local governments, or the regional commission after request by a local government, to prepare a “basic local plan” instead of a comprehensive plan.<sup>39</sup> Senator Ginn, the sponsor of the bill, agreed this language would still have required local governments to continue planning in Georgia, but at a more basic level.<sup>40</sup> Further, while the substitute bill would still have required the submission of a proposed action for a DRI, this submission would have been the responsibility of the local government and not the regional commission.<sup>41</sup> Also, in accordance with the bill, as originally introduced, the substitute bill would have removed the mandate for the DCA to establish whether “the action will be in the best interest of the region and state” and the mandate that any conflict be resolved through alternative dispute resolution.<sup>42</sup> Lastly, the substitute would have removed the DCA’s power to decertify a local government as a QLG for not participating in the previously defined alternative dispute resolution mandate.<sup>43</sup>

The State and Local Government Operations Committee reported favorably the Committee substitute.<sup>44</sup> The Senate read the bill for the second time on March 4, 2011.<sup>45</sup> Then, the Senate read the bill for the third time on March 8, 2011, and it passed 38 to 10.<sup>46</sup>

### *Consideration and Passage by the House*

The bill was first introduced and read to the House on March 10, 2011,<sup>47</sup> and Speaker of the House David Ralston (R-7th) assigned it

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38. *See id.* § 1, p. 1, ln. 10–20, (revising the definition of a QLG to include any county or municipality “which has adopted a basic local plan, which shall, upon request by a county or municipality, be developed by the state’s regional commissions utilizing existing resources”).

39. *Id.*

40. *See* Video Recording of Governmental Affairs Committee, Mar. 23, 2011 at 2 min., 40 sec. (remarks by Sen. Ginn (R-47th)), [http://www1.legis.ga.gov/legis/2011\\_12/house/Committees/govAffairs/govArchives.htm](http://www1.legis.ga.gov/legis/2011_12/house/Committees/govAffairs/govArchives.htm) [hereinafter Committee Video].

41. *See* SB 86 (SCS), § 2, p. 2, ln. 29–35, 2011 Ga. Gen. Assem.

42. *Id.* § 3, p. 2, ln. 32–38.

43. *See id.* § 3, p. 2, ln. 39–45.

44. State of Georgia Final Composite Status Sheet, SB 86, May 24, 2011.

45. *Id.*

46. *Id.* Georgia Senate Voting Record, SB 86 (Mar. 8, 2011).

47. State of Georgia Final Composite Status Sheet, SB 86, May 24, 2011.

to the House Committee on Governmental Affairs.<sup>48</sup> The House read the bill for a second time on March 11, 2011.<sup>49</sup> The House Committee on Governmental Affairs favorably reported a substitute on March 28, 2011.<sup>50</sup> The substitute made several substantive changes to the substitute bill passed by the Senate and added a section to the bill establishing the Georgia Certified Retirement Community Program.<sup>51</sup>

In section 1, the House Committee substitute would have further amended the definition of QLG to the following: “(18) ‘Qualified local government’ means a county or municipality which has adopted a *basic local plan*.”<sup>52</sup>

The House Committee substitute also would have amended Code section 50-8-7.1 to require submission of any proposed action of a DRI to the regional commission, of which the local government is a member.<sup>53</sup> The House Committee substitute would have required the local government to seek “public comment.” Relatedly, the House Committee substitution would have required the regional commission to “notify the affected jurisdictions and encourage them to provide comments [on the proposed action] to the local government.”<sup>54</sup> In addition, like the original Senate version of the bill, the House Committee substitute would have repealed parts four and five of Code section 50-8-7.1.<sup>55</sup>

Further, section 4 of the House Committee substitute would have added a new Code section that provided for the procedures and status regarding a *basic local plan*.<sup>56</sup> First, the section would have designated either the local government or the regional commission, at

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48. *Id.*

49. *Id.*

50. *Id.*

51. *See* SB 86 (HCS), 2011 Ga. Gen. Assem.

52. *Id.* § 1, p. 1, ln. 13–21 (emphasis added).

53. *Compare id.* § 2, p. 2, ln. 16–39, 2011 Ga. Gen. Assem. (requiring submission of the local plan to the DCA), *with* SB 86 (SCS), § 2, p. 2, ln. 25–35, 2011 Ga. Gen. Assem. (requiring submission of the local plan to the regional commission of which the local government is a member).

54. *See* SB 86 (HCS), § 2, p. 2, ln. 26–39, 2011 Ga. Gen. Assem.

55. *Id.* § 2, p. 2, ln. 40–49 (amending the Code’s requirement that any issue between the local governments and the regional commission or DCA be submitted to alternative dispute resolution and the DCA’s power to remove a local government’s QLG status for failure to submit to alternative dispute resolution).

56. *See id.* § 4, p. 3, ln. 66–74 (emphasis added).



the request of the local government, to develop a plan.<sup>57</sup> The section also would have allowed local governments to retain QLG status during the development of a basic local plan, and would have provided local governments that are currently qualified as QLGs with the presumption the plan meets the standards of a basic local plan until the next plan recertification is due.<sup>58</sup>

Lastly, Representative Rusty Kidd (I-141st) offered an amendment that would have added a new Code article establishing the Georgia Certified Retirement Community Program;<sup>59</sup> the purpose of which was “to encourage retirees and those planning to retire to make their homes in Georgia.”<sup>60</sup> The article also would have provided for evaluation and certification criteria for the program.<sup>61</sup> Representative Timothy Bearden (R-68th), Chairman of the House Committee on Governmental Affairs, addressed concern as to whether this amendment would “become an impediment to this bill.”<sup>62</sup> In response, Representative Kidd stated that “[i]f [the amendment] was to slow the bill down in any way, we would take it off.”<sup>63</sup> The amendment was adopted and incorporated into the Committee substitute.

On March 28, 2011, the House Committee on Governmental Affairs favorably reported the Committee substitute.<sup>64</sup> The bill was read for the third time on March 30, 2011, and on the same day, the House passed SB 86 by a vote of 159 to 7.<sup>65</sup>

#### *Reconsideration by the Senate*

On April 14, 2011, the Senate passed the House substitute by a vote of 47 to 0.<sup>66</sup>

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57. *Id.* § 4, p. 3, ln. 66–68.

58. *See id.* § 4, p.3, ln. 69–74.

59. *Id.* § 4, p.3, ln. 4–6. *See* SB 86 (HCS), § 5, p. 3, 2011 Ga. Gen. Assem.

60. *Id.* § 5, p. 3, ln. 86–87.

61. *See id.* § 5, p. 4–5, ln. 118–146.

62. Committee Video, *supra* note 40, at 13 min., 43 sec. (remarks from Rep. Tim Bearden (R-68th)).

63. *Id.* at 13 min., 52 sec. (remarks from Rep. E. Culver “Rusty” Kidd (I-141st)).

64. State of Georgia Final Composite Status Sheet, SB 86, May 24, 2011.

65. *Id.*; Georgia House Voting Record, SB 86 (Mar. 30, 2011).

66. *See* State of Georgia Final Composite Status Sheet, SB 86, May 24, 2011; Georgia Senate Voting Record, SB 86 (Apr. 14, 2011).

*Governor Deal's Veto*

On May 13, 2011, Governor Deal vetoed the bill.<sup>67</sup>

*The Bill*

The bill would have amended section 8 of Title 50 of the Official Code of Georgia Annotated in several ways that would work together to change the requirements for a county or municipality to get QLG status.<sup>68</sup>

The bill would have changed the definition of QLG by amending Code section 50-8-2(18) to “a county or municipality which has adopted a basic local plan.”<sup>69</sup> It would have changed the review requirements of Code section 50-8-7.1, such that the DCA’s rules and procedures that would “affect regionally important resources or further any development of regional impact” would be submitted for “public comment.”<sup>70</sup> Further, the proposed actions would have needed to be submitted to the regional committee (unless the actions were proposed by the regional committee itself), but only so the regional committee could notify any affected jurisdictions so that they would have been able to offer comment if they had wished.<sup>71</sup> The bill would have deleted the further conflict review requirements and penalties for failure to abide by the conflict management guidelines.<sup>72</sup> The definition of QLG as it relates to the regional commission guidelines in Code section 50-8-31 would have been changed to expressly have the same meaning as that of the bill’s proposed change to Code section 50-8-2.<sup>73</sup>

The bill would have added a new Code section 50-8-35.1.<sup>74</sup> This new section would have provided guidelines by which regional commissions could have created a basic plan if requested.<sup>75</sup> It also

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67. State of Georgia Final Composite Status Sheet, SB 86, May 24, 2011. *See infra* notes 115-19 and accompanying texts.

68. Ginn Interview, *supra* note 6; SB 86, as passed, §§ 1-4, p. 1-3, ln. 1-74, 2011 Ga. Gen. Assem.

69. SB 86, as passed, § 1, p. 1, ln. 14-21, 2011 Ga. Gen. Assem.

70. *Id.* § 2, p. 2, ln. 26-29.

71. *Id.* § 2, p. 2, ln. 37-39.

72. *Id.* § 2, p. 2, ln. 40-49.

73. *Id.* § 3, p. 2, ln. 53-62.

74. *Id.* § 4, p. 3, ln. 64-74.

75. SB 86, as passed, § 4, p. 3, ln. 66-68, 2011 Ga. Gen. Assem.

would have specified that QLG status would not have been lost during development of a basic local plan by the regional commission and adoption by the requesting government.<sup>76</sup> Finally, it would have provided that any government that has an approved comprehensive plan would have been presumed to have met the basic plan requirement, at least until the required recertification.<sup>77</sup>

Further, the bill would have added a new Code section, 50-8-240, which would have established the Georgia Certified Retirement Community Program.<sup>78</sup> It would have empowered the DCA to coordinate with other departments in order to further and promote the program.<sup>79</sup> The purpose of this new section would have been to encourage retirees to reside in Georgia, and would have allowed the DCA to undertake several types of activities to this end: portray Georgia as a desirable retirement destination, advise communities that desire to market themselves as retirement destinations, advise in the development of retirement communities, and create an application fee for interested counties.<sup>80</sup> The DCA would have been empowered to consider factors of interest to retirees and use these factors in deciding whether a county applicant would have qualified as a certified retirement community. The bill would have provided a non-exhaustive list of such factors for the DCA to consider.<sup>81</sup>

The bill would have allowed the DCA to establish requirements to be met to attain Georgia certified retirement community status, but would have specified certain criteria that would have been prerequisites to meeting the DCA's requirements. These criteria would have included the need to: garner the support of local organizations such as churches and media whose endorsement would have helped in promoting the community as a retirement destination; establish a retirement attraction committee, which would have needed to fulfill specified requirements in the bill; send the required application fee as well as the completed marketing and public relations plan; and submit a long-term plan explaining steps the

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76. *Id.* § 4, p. 3, ln. 69–79.

77. *Id.* § 4, p. 3, ln. 71–74.

78. *Id.* § 5, p. 3–5, ln. 78–146.

79. *Id.* § 5, p. 3–5, ln. 82–85.

80. *Id.* § 5, p. 3–4, ln. 86–98.

81. SB 86, as passed, § 5, p. 4, ln. 99–117, 2011 Ga. Gen. Assem.

community would undertake to maintain and improve its desirability as a retirement destination.<sup>82</sup>

### *Analysis*

Opponents of the bill largely expressed concerns that it would defeat the purposes of the 1989 Georgia Planning Act.<sup>83</sup> They believe the Georgia Planning Act had significant positive effects on planning in Georgia,<sup>84</sup> for example by helping to maintain a balance between the quality of life for residents and the counties' or cities' interest in continuing to develop and bring jobs and income to their communities.<sup>85</sup> The Georgia Chapter of the American Planning Association has also expressed concern that removing the comprehensive planning requirements will eliminate a strong factor for judges tasked with reviewing a challenge to a local government's zoning decision, which could result in too much power for developers.<sup>86</sup>

The bill's supporters express a desire to give more power for making zoning decisions and decisions regarding the types of developments that are considered DRIs into the hands of the local governments themselves.<sup>87</sup> The governments of other potentially affected regions would have been encouraged to submit comments regarding DRIs to the government proposing the action,<sup>88</sup> but it does not seem that the proposing government would have been required to take the comments into consideration.<sup>89</sup> Considering that DRIs by definition affect communities other than those in which they will potentially be constructed,<sup>90</sup> opponents are very concerned with the

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82. *Id.* § 5, p. 5, ln. 118–46.

83. *Georgia's Communities*, *supra* note 3; *SB 86 Legislative Alert*, AM. PLANNING ASSOC., GA. CHAPTER, <http://georgiaplanning.org/georgia-planning-news/sb-86-legislative-alert/> (last visited Mar. 31, 2011).

84. *See SB 86 Legislative Alert*, *supra* note 83.

85. *Georgia's Communities*, *supra* note 3.

86. *See SB 86 Legislative Alert*, *supra* note 83.

87. 2011 Senate Floor Video, *supra* note 21, at 4 hr., 35 sec. (“The review and input for a DRI should be done by the community where that development takes place.”).

88. SB 86, as passed, § 2, p. 2, ln. 37–39, 2011 Ga. Gen. Assem. (“The regional commission shall notify the affected jurisdictions and encourage them to provide comments to the local government proposing to take action which would affect regionally important resources.”).

89. *Id.*

90. *See Georgia's Communities*, *supra* note 3.

lack of a requirement to consider the comments of other local governments concerning the impact of a DRI on their community.<sup>91</sup>

Senator Frank Ginn (R-47th) and other supporters of SB 86 stressed that comprehensive plans are extremely costly—plans from private firms can run around \$100,000<sup>92</sup>—especially considering the plans often resulted in elements that smaller municipalities found unnecessary, and thus ignored.<sup>93</sup> Moreover, supporters consider the loss of QLG status under the old review process to disproportionately hurt local governments that may have ignored recommendations simply because they were attempting to help their own citizens.<sup>94</sup> They argue the basic plan requirement will actually encourage sharing between communities and encourage plans like recycling.<sup>95</sup> The bill would have allowed small municipalities to make basic plans on their own.<sup>96</sup> However, they would have been allowed to do so with much less input and insight from regional committees.<sup>97</sup> Consequently, less consideration would be given to the regional effects of their local plans.

### *Effect on Planning*

Proponents of SB 86 stress that it does not eliminate planning.<sup>98</sup> Removing the requirement for comprehensive plans, they say, does not eliminate the need for planning or the reasons plans are made and implemented in the first place.<sup>99</sup> Counties and cities still desire

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91. *March 2011 - Monthly eNewsletter*, AM. PLANNING ASSOC., GA. CHAPTER, available at <http://us1.campaign-archive2.com/?u=e247c2901bcd7801bdea249ee&id=5c1a37e9d6>.

92. Ginn Interview, *supra* note 6.

93. *Id.*; Davis, *supra* note 19, at B3.

94. 2011 Senate Floor Video, *supra* note 21, at 4 hr., 7 min., 3 sec.

95. Ginn Interview, *supra* note 6.

96. SB 86, as passed, § 4, p. 3, ln. 66–68, 2011 Ga. Gen. Assem. (“A basic local plan shall, upon request by a county or municipality, be developed by the regional commission of which the county or municipality is a member, utilizing existing resources of the regional commission.”) (emphasis added).

97. Compare *id.* § 2, p. 2, ln. 26–39 (proposed process for review of DRIs, consisting of the regional commission encouraging affected localities to offer comments), with O.C.G.A. § 50-8-7.1(d)(3) (requirements of submission for review to the regional commission and a public finding by the regional commission regarding whether the proposed project will be in the best interests of the region or state).

98. Ginn Interview, *supra* note 6; see also *SB 86 Talking Points*, ASSOC. CNTY. COMM’RS OF GA., <http://www.ciclt.net/ul/accg/SB%2086%20Talking%20PointsII-040111.pdf>.

99. Interview with Todd Edwards, Associate Legislative Director, Association County Commissioners of Georgia (May 11, 2011) [hereinafter Edwards Interview] (on file with the Georgia State University Law Review).

economic growth and development. Instead, the bill simply would have allowed communities to develop plans that only contain the elements that are germane to their own communities, rather than all of the extensive requirements of a comprehensive plan.<sup>100</sup> Supporters of the bill maintain this will result in plans that are actually followed instead of plans that are simply paid for in order to get money from the government.<sup>101</sup> Moreover, the basic, individualized plans will allow communities to put planning resources into areas where they are truly needed instead of attempting to follow a generic, rigid plan.<sup>102</sup> As Senator Ginn analogizes, you are going to make completely different plans when thinking of dinner for yourself than for a dinner of 10,000.<sup>103</sup>

On the other side are fears that the bill would have permitted governments to ignore the compelling reasons why such planning was implemented in Georgia in the first place.<sup>104</sup> As originally written, the final version would have required a basic plan instead of the elimination of all planning requirements.<sup>105</sup> However, the Georgia Planning Act grew out of a desire to develop and implement plans on more than just an individual community level.<sup>106</sup> Opponents of the bill still consider planning on all levels necessary for the continued development of Georgia.<sup>107</sup> They believe regional plans grow out of local plans, and that local plans still require the full “comprehensive set of elements” for maximum effectiveness.<sup>108</sup>

### *The Certified Retirement Community Program*

This section is germane to the original bill because both involve the DCA.<sup>109</sup> Moreover, it can be said to focus on planning, similar to

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100. *Legislation Introduced*, *supra* note 1.

101. *See* Edwards Interview, *supra* note 99.

102. *See id.*

103. Committee Video, *supra* note 40, at 6 min., 25 sec.

104. *Georgia's Communities*, *supra* note 3.

105. SB 86, as passed, § 1, p. 1, ln. 13–21, 2011 Ga. Gen. Assem.

106. *Georgia's Communities*, *supra* note 3.

107. *Id.*

108. *Id.*

109. Committee Video, *supra* note 40, at 11 min., 9 sec. (remarks by Rep. E. Culver “Rusty” Kidd (I-141st)).

SB 86 in its original form.<sup>110</sup> The proponents of this section, however, believe it is important because it will encourage retirees to stay in or even relocate to Georgia.<sup>111</sup> It is supposed that for every two retirees that relocate to the state, three jobs will be created.<sup>112</sup> This addition to the bill also had the support of the DCA.<sup>113</sup> The application fee of \$2,000 would go to the DCA itself, and was considered necessary in the long run, particularly as the State would have to advertise in order to promote the state as a retirement destination.<sup>114</sup>

### *Governor Deal's Veto*

Despite sizeable voting support in both the House and the Senate,<sup>115</sup> Governor Nathan Deal vetoed the bill on May 13, 2011.<sup>116</sup> Governor Deal expressed doubt that change to the CLG process was necessary, saying, "While I am sympathetic to the desires of cities and counties to more easily attain such status, the DCA through the promulgation of its own internal rules and regulations, is already attempting to meet their needs."<sup>117</sup> Senator Ginn has said he is "very disappointed" with the veto<sup>118</sup> and he plans to soon meet with the Governor to discuss the Governor's objections.<sup>119</sup>

*Ryan Harbin & Adam Sonenshine*

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110. *Id.* at 12 min., 7 sec. (remarks by Rep. Mary Margaret Oliver (D-83rd)).

111. *Id.* at 9 min., 12 sec. (remarks by Rep. E. Culver "Rusty" Kidd (I-141st)).

112. *Id.* at 9 min., 19 sec.

113. *Id.* at 9 min., 28 sec.

114. *Id.* at 10 min., 1 sec.

115. State of Georgia Final Composite Status Sheet, SB 86, May 24, 2011.

116. *Id.*; Maria Saporta, *Planners Pleased with Gov. Deal's Veto of Senate Bill 86*, SAPORTAREPORT, May 19, 2011, <http://saportareport.com/blog/2011/05/planners-pleased-with-gov-deals-veto-of-senate-bill-86/>.

117. *Id.*

118. Mark Beardsley, *Updated: Ginn's Bill Vetoed by Governor Deal*, MADISON J. TODAY, June 1, 2011, available at <http://www.madisonjournaltoday.com/archives/4096-Ginns-bill-vetoed-by-Gov.-Deal.html>.

119. *Id.*