

SENATE BILL 62¹: COUNTIES AND MUNICIPAL CORPORATIONS; CERTAIN
LOCAL ORDINANCES OR POLICIES RELATING TO PUBLIC CAMPING OR
SLEEPING; PROHIBIT

Amending Titles 31, 36, and 50 of the O.C.G.A

First signature: Senator Summers (13th).

Co-Sponsors: Senator Robertson (29th), Senator Tillery (19th), Senator Dugan (30th), Senator Ginn (47th), Senator Williams (25th), Senator Walker (20th), Senator Hickman (4th), Senator Goodman (8th), Senator Anderson (24th), Senator Burns (23rd), Senator Still (48th), Senator Beach (24th), and Representative Dempsey (13th).

Summary: “A BILL to be entitled an Act to amend Chapter 60 of Title 36 of the O.C.G.A., relating to general provisions applicable to counties and municipal corporations, so as to prohibit certain local ordinances or policies relating to public camping or sleeping; to provide for enforcement; to amend Title 50 of the O.C.G.A., relating to state government, so as to provide for a performance audit by the state auditor on public spending on homeless programs; to provide for related matters; to repeal conflicting laws; and for other purposes.”²

Status: This Bill became effective on July 1st, 2023³

TEXT OF SENATE BILL 62⁴

SECTION 1.

Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by adding a new Code section to read as follows:

"31-7-23.1.

(a) As used in this Code section, the term:

(1) 'Area of operation' shall, for the purpose of hospitals owned or operated by hospital authorities, have the same meaning as defined in paragraph (1)

¹ S.B. 62, 157th Gen. Assemb., Reg. Sess. (Ga. 2023), <https://legiscan.com/GA/text/SB62/id/2762609/Georgia-2023-SB62-Enrolled.pdf> (last visited Sep. 29, 2023)

² 2022-2023 Regular Session- S.B. 62, *Counties and Municipal Corporations; certain local ordinances or policies relating to public camping or sleeping; prohibit*, GA GEN. ASSEM., <https://www.legis.ga.gov/legislation/63809> (last visited Sep. 29, 2023) [hereinafter S.B. 62 Status Sheet].

³ *Id.*

⁴ S.B. 62, *supra* note 1.

of Code Section 31-7-71 and, for purposes of all other hospitals, shall be the county in which the hospital is located.

(2) 'Drop off' means the act of transporting a patient to a location different from the location where such patient received health care services or treatment, and shall include but not be limited to directly providing or funding the transportation of such patient to such different location.

(3) 'Homeless individual' means a person who has no access to or can reasonably be expected not to have access to either traditional or permanent housing which can be considered safe, sanitary, decent, and affordable.

(4) 'Hospital' means a publicly or privately owned hospital which is permitted to operate by the department pursuant to this article.

(5) 'Hospital authority' means a hospital authority created pursuant to Article 4 of this chapter.

(b) No hospital shall drop off a patient who is known to the hospital to be a homeless individual outside its area of operation unless:

(1) Such drop-off location is in the county where such homeless individual was a resident prior to receiving health care services or treatment from such hospital; or

(2) Such a drop off is at a facility or with a person, business, or organization that has agreed to accept the patient.

(c) A hospital that violates this Code section shall be liable to any state or local governmental entity for any costs incurred by such entity in providing services for a homeless individual as a result of such violation."

SECTION 2.

Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended by adding a new Code section to read as follows:

"36-60-30.

(a) A county or municipal corporation shall not adopt or enforce any written policy under which the county or municipal corporation prohibits the enforcement of any order or ordinance prohibiting unauthorized public camping, sleeping, or obstruction of sidewalks.

(b) A county or municipal corporation shall not adopt a written policy prohibiting a peace officer or prosecuting attorney who is employed by or otherwise under the direction or control of such county or municipal corporation from enforcing any order or ordinance prohibiting unauthorized public camping, sleeping, or obstruction of sidewalks.

(c) The provisions of this Code section shall not be construed to prohibit a county or municipal corporation from adopting a policy that encourages diversion programs or that offers the provision of services in lieu of citation or arrest.

(d)(1) The Attorney General shall be authorized to bring a civil action in any court of competent jurisdiction against any county or municipal corporation to enjoin a violation of this Code section.

(2) The Attorney General may recover reasonable expenses incurred in any successful civil action brought pursuant to this Code section, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition costs.

(3) A person may bring a writ of mandamus for a violation of this Code section for the person and for the state. The person may recover court expenses and fees if successful in their writ."

SECTION 3.

Said title is further amended by adding a new Code section to read as follows:
"36-80-29.

(a) As used in this Code section, the term:

(1) 'Drop off' means the act of transporting an individual to a location different from the location where the party transporting such individual assumed custody, control, or care of or provided treatment to such individual, and shall include but not be limited to directly providing or funding the transportation of such individual to such different location.

(2) 'Homeless individual' means a person who has no access to or can reasonably be expected not to have access to either traditional or permanent housing which can be considered safe, sanitary, decent, and affordable.

(b) No county, municipal corporation, political subdivision, local authority, or other local governmental unit shall drop off an individual known to be a homeless individual outside its jurisdiction unless:

(1) Such drop-off location is in the county where such homeless individual was a resident prior to coming under the custody, control, or care of or receiving treatment from such local government or local authority; or

(2) Such a drop off is at a facility or with a person, business, or organization that has agreed to accept such homeless individual.

(c) A county, municipal corporation, political subdivision, local authority, or other local governmental unit that violates this Code section shall be liable to any state or local governmental entity for any costs incurred by such entity in providing services for a homeless individual as a result of such violation."

SECTION 4.

Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended in Article 1 of Chapter 6, relating to general

provisions relative to the Department of Audits and Accounts, by adding a new Code section to read as follows:

"50-6-10.

The state auditor shall conduct a performance audit of spending on homeless programs and services in this state, including expenditures by the state, expenditures by municipalities and counties with substantial homeless populations, expenditures of federal funds allocated to the state for homeless programs, and expenditures by state and local law enforcement agencies to address homelessness. All local governments and instrumentalities of the state shall cooperate with the state auditor and grant access, at no cost, to all financial records and other programmatic information necessary to the completion of the performance audit. The audit shall examine the awarding of contracts and grants relating to homeless services and supports, the metrics used to determine success of the expenditures, whether the metrics are met by the contractors and grantees, and the efficacy of the use of the Georgia Homeless Management Information System (HMIS) in relation to such programs. The audit shall be provided to the Governor, Lieutenant Governor, and Speaker of the House of Representatives no later than December 31, 2023."

SECTION 5.

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

SPONSOR'S RATIONALE

Senator Carden Summers (hereinafter referred to as "Senator Summers"), of the 13th District, sponsored Senate Bill 62 with the aim of safeguarding Georgia's cities and counties from situations similar to those in California and Texas concerning outdoor homeless camping.⁵ Furthermore, the Bill aims to enhance the distribution of funds to unhoused individuals in Georgia's districts by conducting a statewide audit of public funds that are currently allocated for addressing homelessness, with the goal of improving equity and efficiency through a more comprehensive framework.⁶ Senator Summers sponsored this legislation for the second consecutive year, driven by his concern over a 50% increase in Georgia's homeless rate in recent years.⁷ His previous effort, Senate Bill 535, led to the establishment of the

⁵ Senate Committee on State and Local Governmental Affairs, YOUTUBE, (Feb. 13, 2023), <https://www.youtube.com/watch?v=tetEUyMStsQ>.

⁶ *Id.*

⁷ Dave Williams, *Bill Requiring Counties to Enforce Local Bans on Homeless Campers*

Senate Study Committee on Unsheltered Homelessness (hereinafter referred to as “SSCUH”), with Senator Summers serving as the study committee’s chairman.⁸ The SSCUH was created specifically to determine what, if any, legislation was needed in regard to homelessness.⁹

The Georgia Senate tasked Senator Summers and the members of the SSCUH with determining the scope of Georgia’s homeless issue—including the approximate number of homeless individuals residing in the state, their specific needs, and what measures were being taken to address these needs.¹⁰ The study found that, in January of 2020, Georgia had approximately 10,234 people experiencing homelessness, with 864 consisting of family households, 764 being veterans, and 504 being unaccompanied young people between the ages of 18-24.¹¹ The study also found that Atlanta homeless shelters were at an approximate 50 percent capacity.¹² Additionally, the study uncovered that much of Georgia’s remedial measures for homelessness are undertaken by local advocacy groups, which are mostly supported by federal funds.¹³ This finding led the SSCUH to recommend that the state “conduct a comprehensive audit of all state and federal funding of 501(c)(3)s¹⁴ in Georgia to determine how money is spent and to ensure that funds reach the unsheltered homeless population, as intended.”¹⁵

After the SSCUH study commenced, Senator Summers drafted Senate Bill 62 to accomplish two primary objectives: 1) to force cities and counties to enforce their ordinances on street camping, which will encourage the homeless to use the jurisdictions’ services, and 2) to audit the money being spent on the homeless issue, which will establish transparency and a more equitable distribution of funds to more effectively address the

Clears General Assembly, CAPITOL BEAT NEWS (Mar. 28, 2023), <https://capitol-beat.org/2023/03/bill-requiring-counties-to-enforce-local-bans-on-homeless-campers-clears-general-assembly>.

⁸ GEORGIA STATE SENATE STUDY COMM. ON UNSHELTERED HOMELESSNESS, S. 156-659, 2022 Leg. Sess., at 2-14 (2022).

⁹ Zoom Interview with Senator Jackson, of the 41st District, (October 11, 2023).

¹⁰ GEORGIA STATE SENATE STUDY COMM. ON UNSHELTERED HOMELESSNESS, *supra* note 8.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ A 501(c)(3) is a group meant for purposes such as charity, religious, education, scientific research, literary, testing for public safety, fostering national or international amateur sports competition, and preventing cruelty to children or animals.

¹⁵ GEORGIA STATE SENATE STUDY COMM. ON UNSHELTERED HOMELESSNESS, *supra* note 8.

problem.¹⁶ To accomplish this, the original version of Senate Bill 62 offered several provisions: measures that prohibited local jurisdictions from discouraging or prohibiting the enforcement of local ordinances regarding homeless street camping, if they have such ordinances; a cause of action brought by a private citizen on behalf of the state for a refusal to enforce an ordinance; the establishment of designated homeless encampments to be managed by the local jurisdictions; and an incorporation of a statewide audit to determine the scope and proper distribution of state and federal funds.¹⁷ During his presentation of Senate Bill 62 to both the Senate floor and the House Governmental Affairs State and Local Governments Committee, Senator Summers stressed that the Bill is “not perfect” but that it is “desperately needed” and “a Bill that gets something started, something that we can hopefully add to over time.”¹⁸

Senator Summers received a plethora of support during Senate Bill 62’s journey through the legislative process. Most of this support came from his fellow Republicans.¹⁹ Senator Frank Ginn (47th District) is the Chairman of the Senate Committee on State & Local Governmental Operations and co-sponsored Senate Bill 62.²⁰ Senator Ginn opined that “we have a duty as good stewards of the state to determine where the money is and to see that it is being responsibly spent” when speaking of the Bill’s audit provision.²¹ In addition, Representative Katie Dempsey (13th District) also co-sponsored the Bill, and she and Representative John LaHood (175th District) described the audit provision as the most important function of the Bill, an assertion Senator Summers repeated during his presentation of the Bill to the Senate.²² The audit provision was even enough to sway Representative Meisha Mainor, a House Democrat at the time, to vote in favor of the Bill. “In my district, the city of Atlanta, the state gave nearly 1 million dollars to homeless programs, but I have no way of knowing where those million dollars went. But, with

¹⁶ Governmental Affairs State and Local Governments Subcommittee, YOUTUBE, (Mar. 15, 2023), <https://www.youtube.com/watch?v=wc1pnmnmqeg&t=982s>.

¹⁷ S.B. 62, 157th Gen. Assemb., Reg. Sess. (Ga. 2023), <https://legiscan.com/GA/text/SB62/id/2674280/Georgia-2023-SB62-Introduced.pdf> (last visited Sep. 29, 2023).

¹⁸ Georgia State Senate, Legislative day 39 (Part 3), VIMEO, (Mar. 27, 2023), <https://vimeo.com/showcase/10107159/video/812163051>.

¹⁹ Senate Committee on State and Local Governmental Affairs, *supra* note 5.

²⁰ S.B. 62, *supra* note 17.

²¹ Telephone Interview with Senator Frank Ginn, Chairman of the Senate Committee on State and Local Governmental Affairs, (Sep. 19, 2023).

²² Georgia State House of Representatives, House Chamber Day 39 (Part 1), YOUTUBE, (Mar. 27, 2023), [https://www.youtube.com/watch?v=9AW0USa2vic&t=1165s](https://www.youtube.com/watch?v=9AW0USa2vic&t=1165s;); and Georgia State Senate, *supra* note 16.

this bill, I can now see where that money went.”²³

While Senator Summers was able to appease Representative Mainor, he had to make compromises with others, including those from his own party.²⁴ Section 3 of the Bill, which contained the Bill’s provision regarding the establishment of designated campgrounds for the homeless, was taken out.²⁵ Democrats insisted the measure would result in segregation of the homeless, and there was concern on both sides of the aisle that homeless encampments would negatively impact nearby property values.²⁶ Senate Bill 62 ultimately evolved into a significantly different piece of legislation in its final version. Through amendments and adopted substitutes, the final version of the Bill included provisions legislating that local hospitals and jurisdictions could not drop a homeless individual off in another jurisdiction, that all jurisdictions and 501(c)(3)s must comply with the statewide audit, that jurisdictions must not adopt “a written policy prohibiting enforcement” rather than simply “discouraging enforcement,” and that a “writ of mandamus” would be a citizen’s remedy against his or her jurisdiction rather than a “cause of action.”²⁷

Senate Bill 62’s supporters consistently stressed that “nobody should be threatened” or interpret the Bill as an attempt to criminalize homelessness.²⁸ Representative Dempsey exclaimed that the Bill simply “forces local governments to enforce their ordinances, if they have them.”²⁹ Senator Summers and the Bill’s co-sponsors also lauded the Bill’s intent to help the homeless rather than harm them, and they claim that the Bill’s provisions are designed to accomplish this goal.³⁰ According to many of the Bill’s supporters, by forcing the jurisdictions to enforce their outdoor camping ordinances, a collateral consequence is that jurisdiction’s must direct unhoused individuals to shelters or other areas where they may find

²³ *Id.*

²⁴ House Committee on Governmental Affairs, YOUTUBE, (Mar. 15, 2023), <https://www.youtube.com/watch?v=wc1pmnmmqeg&t=982s>.

²⁵ Georgia State Senate, Legislative day 27 (Part 3), VIMEO, (Mar. 2, 2023), <https://vimeo.com/showcase/10107159/video/804107021>.

²⁶ Madgie Robinson, *Georgia Senate Passes Bill Targeting Homelessness*, Fresh Take Georgia, (Mar. 6, 2023), <https://freshtakegeorgia.org/georgia-senate-passes-bill-targeting-homelessness/>; Senate Committee on State and Local Governmental Affairs, *supra* note 5; Phone Interview with Senator Jason Esteves, of the 6th District, (October 5, 2023).

²⁷ S.B. 62, *supra* note 1.

²⁸ Georgia State Senate, *supra* note 22.

²⁹ Georgia State House of Representatives, *supra* note 19.

³⁰ *Id.*; Georgia State Senate, *supra* note 22.

services.³¹

According to Judge Glock, of the Cicero Institute, cities such as Los Angeles and Austin, began experiencing mass homeless encampments when the cities refused to enforce homeless camping ordinances, and he believes Georgia's cities must be more proactive to ensure that the homeless situation does not become uncontrollable.³² Glock believes this legislation is a start to that.³³ Glock pointed to the high rate of death and disease of homeless individuals in cities that have either failed to enforce or have repealed their ordinances (e.g., San Francisco) and stressed that this Bill will serve to protect the homeless population from a similar fate.³⁴ Additionally, by allowing the citizens of a jurisdiction to file a writ of mandamus with the Attorney General, the supporters of the Bill believe that jurisdictions will be held accountable by their citizens.³⁵ When the possibility of cities or counties simply repealing their homeless ordinances in order to avoid the writs arose, Senator Randy Robertson (29th District) countered, stating "the recklessness and irresponsibility of that will be up to the taxpayers and voters to deal with."³⁶

While the Bill's co-sponsors are mostly from lesser populated districts which, consequently, have smaller numbers of homeless individuals, the co-sponsors insist that this should not distract from the Bill's intent.³⁷ Instead, certain supporters from smaller districts believe that the provisions of the Bill will be beneficial in addressing their specific concerns related to homelessness.³⁸ Primary concerns shared by some of Georgia's smaller districts include the unauthorized dropping off of homeless individuals in their districts and the insufficient allocation of state or federal funds to tackle the homelessness problem in their areas.³⁹ Representative Rick Townsend (179th District) spoke highly of the efforts his district is putting forth for the Glenn County homeless: "We have several non-profits that have come together to serve the homeless. We are working together on this issue to help

³¹ *Id.*, Georgia State House of Representatives, *supra* note 19; Georgia State Senate, *supra* note 22.

³² Senate Committee on State and Local Governmental Affairs, *supra* note 5.

³³ *Id.*

³⁴ *Id.*

³⁵ Georgia State House of Representatives, *supra* note 19.

³⁶ Senate Committee on State and Local Governmental Affairs, *supra* note 5.

³⁷ Georgia State Senate, *supra* note 22; Georgia State House of Representatives, *supra* note 19; Senate Committee on State and Local Governmental Affairs, *supra* note 5.

³⁸ Georgia State House of Representatives, *supra* note 19.

³⁹ *Id.*

our community out. We are having trouble in Brunswick from other jurisdictions bringing people in and dropping them off because they heard we have great services. We even started a village for homeless veterans down there.”⁴⁰ Representative Townsend felt that Senate Bill 62 allows him and his district to keep “helping ourselves” rather than deplete resources on, what he feels, is another jurisdiction’s responsibility.⁴¹

During the Bill’s presentation to the House Committee on Governmental Affairs, Senator Summers explained that “his district is massive” and that the district gets next to nothing in funding for the homeless issue.⁴² Representative Dempsey noted that the audit will help determine “the who, the what, and the how” in budgeting and allocating an equitable distribution of support for every jurisdiction’s homeless issue.⁴³ She explained that once the audit determines the extent of the issues, actions requested by the Bill’s opponents, such as providing affordable housing to previously evicted individuals, raising the minimum wage, and issuing state IDs to unhoused individuals, may start being addressed.⁴⁴

OPPOSITION’S RATIONALE

Senator Kim Jackson (41st District) and Senator Jason Esteves (6th District) were some of the Bill’s most vocal opponents, yet they each conceded that a statewide audit was needed.⁴⁵ Senator Jackson even made an attempt to amend the Bill on the Senate floor by striking nearly every portion, leaving only the audit provision.⁴⁶ This amendment vote failed along party lines, but Senator Josh McClaurin (14th District) nonetheless advocated for the amendment.⁴⁷ Senator McClaurin wanted to “pause” on the issue by using the audit to better inform the legislative body’s decisions.⁴⁸ Senator McClaurin compared passing the other provisions of Senate Bill 62 to a situation in which “a house is on fire; there is no water around, but there is a tub of gasoline. It is like saying, ‘we have a fire, we don’t have any water,

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² House Committee on Governmental Affairs, *supra* note 21.

⁴³ Georgia State House of Representatives, *supra* note 19.

⁴⁴ *Id.*

⁴⁵ Zoom Interview with Senator Jackson, *supra* note 9; Phone Interview with Senator Jason Esteves, *supra* note 26.

⁴⁶ Georgia State Senate, *supra* note 16.

⁴⁷ *Id.*

⁴⁸ *Id.*

but we have to throw something on it. We might as well throw this.”⁴⁹

A consistent criticism of Senate Bill 62 was its failure to incorporate recommendations from SSCUH.⁵⁰ Out of the 26 recommendations made by SSCUH, only one, which pertained to the audit provision, was actually included in the final Bill.⁵¹ Kaitlyn Molloy, a member of the Public Policy Council from the Southern Center Human Rights, opined that she would “prefer to see more proactive recommendations from the study committee implemented.”⁵² This was echoed through the Senate and House chambers.⁵³ Senator Jackson, a member of the SSCUH, conveyed her disappointment that the most consistent issues arising in the study committee, such as affordable housing and mental health services, were completely absent from the Bill.⁵⁴ “Time and time again, affordable housing was the issue that kept coming up. I am disappointed we did not address that issue,” Senator Jackson stated.⁵⁵ While Senator Jackson was disappointed in the lack of SSCUH recommendations incorporated in the Bill, she was “not surprised” by their absence, pointing out that the Chair of the Committee, Senator Summers, did not vote to approve the SSCUH recommendations.⁵⁶ Senator Jackson further addressed her frustration with the lack of SSCUH recommendations on the Senate floor: “Isn’t it true, that in the many meetings and hours spent in the study committee, that we never had any discussions about hospitals dropping off patients, and this bill suddenly is talking about hospitals dropping off patients that are homeless?”⁵⁷

Senator McClaurin supported Senator Jackson’s criticism by pointing out that the Bill provides for exceptions to the drop off provision, essentially providing a pathway for jurisdictions to transplant homeless individuals to jurisdictions in which the individuals have no resources.⁵⁸ “What this Bill will do is legitimize a system of drop off that local governments could justify. I mean, there are real false imprisonment and 4th Amendment seizure issues

⁴⁹ *Id.*

⁵⁰ *Id.*; See also Georgia State House of Representatives, *supra* note 19; Governmental Affairs State and Local Governments Subcommittee, *supra* note 14; and GEORGIA STATE SENATE STUDY COMM. ON UNSHELTERED HOMELESSNESS, *supra* note 8.

⁵¹ *Id.*; S.B. 62, *supra* note 1.

⁵² Senate Committee on State and Local Governmental Affairs, *supra* note 5.

⁵³ Georgia State House of Representatives, *supra* note 19; Georgia State Senate, *supra* note 16.

⁵⁴ Zoom Interview with Senator Jackson, of the 41st District, (October 11, 2023).

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ Georgia State Senate, *supra* note 16.

⁵⁸ *Id.*

that go into transporting human beings.”⁵⁹ Representative Mary Oliver (82nd District) echoed her party’s sentiment in regard to the drop-off provision, pointing to the complexity of both her district’s geography and its allocation of service departments: “My district has seven police districts, a hospital in the city of Atlanta, one in unincorporated DeKalb, and a hospital in the city of Decatur. Explain to me how this dumping provision works for me in my district. Who can take whom where?”⁶⁰ Representative Demsey conveyed that the application of Senate Bill 62’s drop-off provision in Atlanta’s districts will be complicated, to which Representative Oliver countered: “The word is not ‘complicated.’ The word is ‘unworkable.’”⁶¹

Several public interest organizations and advocacy groups also stood in opposition to Senate Bill 62, as well as several law firms and individual attorneys.⁶² Representative Shea Roberts (52nd District), who is also a lawyer, exclaimed that “under Georgia code, a mandamus may issue if there is no other specific legal remedy, and you have specific legal remedies in this bill, so this is in conflict with our Georgia code.”⁶³ She went on to say, “if it’s not legal on its face, I am going to raise it every time. Because I hate that we end up in litigation that the taxpayers pay for because we keep passing bills that are illegal.”⁶⁴ Advocacy groups raised concerns about the possibility that requiring jurisdictions to enforce ordinances that could lead to arrests for non-compliance may constitute violations of the 4th, 8th, and 14th Amendments of the U.S.⁶⁵ Constitution. Isabel Ortero, the Georgia Policy Director for SPLC Action Fund, raised concerns that this Bill will keep Georgia cities and counties in a constant state of “double litigation” as a result of writs of mandamuses and federal lawsuits for 4th, 8th, and 14th Amendment violations being simultaneously levied against them.⁶⁶ “The way this bill is written, you’re going to either be sued by a private citizen on behalf of the state or someone trying to enforce federal law,” Ortero claimed.⁶⁷

Representative Omari Crawford (84th District) provided a scathing

⁵⁹ *Id.*

⁶⁰ Georgia State House of Representatives, *supra* note 19.

⁶¹ *Id.*

⁶² Senate Committee on State and Local Governmental Affairs, *supra* note 5; Governmental Affairs State and Local Governments Subcommittee, *supra* note 14; House Committee on Governmental Affairs, *supra* note 21.

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ Senate Committee on State and Local Governmental Affairs, *supra* note 5.

⁶⁶ *Id.*

⁶⁷ *Id.*

criticism of Senate Bill 62's ability to remedy the homeless issue, pointing out several of the SSCUH's unincorporated recommendations.⁶⁸ "We have the resources to help. We can address the affordable housing crisis. We can raise the minimum wage. We can expand Medicaid and increase funding for mental health. We can do all of these things before we pass Senate Bill 62."⁶⁹ Representative Crawford also pointed out the irony that many of the Bill's supporters experience minimal exposure to the homeless population, stating "70 percent of Homeless people in GA live in metro Atlanta. Many of the people in this room who are about to vote on this bill do not have a large homeless population in their districts. In fact, the only interaction you have with the homeless population is when you come to the state capitol."⁷⁰

IMPLICATIONS IN GEORGIA

Senate Bill 62, like many pieces of legislation, has the potential to partially accomplish its intended goal—and possibly have unintended consequences.⁷¹ While providing citizens with an option to file a writ of mandamus against their jurisdiction may encourage the jurisdiction to enforce local ordinances, the provision may underestimate the political resolve of disgruntled constituents.⁷² Citizens that have an unfavorable view of their local government's handling of its homeless may frivolously exercise the mandamus provision as a form of political protest, thus wasting the time and resources of the Attorney General and Georgia taxpayers.⁷³ Senator Jackson is of the opinion that this was likely the intent of the drafters, as this would force local jurisdiction to capitulate to the demands of only a handful of citizens.⁷⁴ Additionally, jurisdictions may repeal any existing homeless ordinances in order to avoid civil actions, like the city of Austin in 2019.⁷⁵ This could exacerbate the homeless issue rather than remedying it. Judge Glock, an Austin native, conveyed this sentiment when he noted that "The city of Austin, in 2019, repealed their existing bans on street camping and street sleeping. Immediately, you saw a 45 percent increase in unsheltered homelessness and you saw a 20 percent decrease in sheltered homelessness, implying that people were clearly moving from the shelters into the streets.

⁶⁸ Georgia State House of Representatives, *supra* note 19.

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ S.B. 62, *supra* note 1.

⁷² *Id.*

⁷³ *Id.*

⁷⁴ Zoom Interview with Senator Jackson, *supra* note 9.

⁷⁵ Senate Committee on State and Local Governmental Affairs, *supra* note 5.

And you saw a drastic increase in deaths and violent crimes of the homeless.”⁷⁶ While Glock made this statement in support of Senate Bill 62, if cities and counties repeal their ordinances to avoid litigation, Senate Bill 62 could create the scenario it aimed to avoid.⁷⁷ As Senator Esteves conveyed, S.B. 62 “may actually complicate things” more than it helps.⁷⁸

Georgia cities, such as Athens and Augusta, may see an influx of writs filed in response to S.B. 62, as reports of unsanctioned homeless encampments have been rampant over the past three years.⁷⁹ Athens, which held Georgia’s only sanctioned homeless encampment, has seen an uptick in complaints of homeless camping since reports of the sanctioned encampment’s pending closure arose.⁸⁰ The sanctioned camp, “First Step,” closed in December, 2023.⁸¹ The closure’s timing comes at the heels of a reported 20 percent increase in homelessness in Athens in 2023.⁸² Similarly, Augusta residents report unsanctioned encampments surrounding their properties.⁸³ “There’s a large population that lives behind my fence. These folks need help,” said Cheryl Tyson, a property owner in Augusta.⁸⁴ While Tyson may be sympathetic to the homeless population in Augusta, other residents may not be so gracious, and they will now have the ability to file a writ of mandamus to force Augusta officials to remedy the unsanctioned encampments.⁸⁵

On the other hand, Senate Bill 62 will provide the state with a more comprehensive framework regarding the issue of homelessness through the audit provision.⁸⁶ Georgia is not the only state to recently legislate an audit

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ Phone Interview with Senator Jason Esteves, of the 6th District, (October 5, 2023)

⁷⁹ Ryan Zickgraf, *Athens’ Homeless Camp Could Be a First Step for Georgia or a Step Backward*, FLAGPOLE MAG., (December 20, 2023, 3:15 p.m.), <https://flagpole.com/news/news-features/2023/06/07/athens-homeless-camp-could-be-a-first-step-for-georgia-or-a-step-backward>; and Craig Allison, *Where is Augusta headed with latest homeless initiative?*, WRDW/WAGT, (December 20, 2023, 3:11 p.m.), <https://www.wrdw.com/2023/07/25/augustans-seek-clarity-new-washington-road-homeless-initiative>.

⁸⁰ *Athens’ Homeless Camp Could Be a First Step for Georgia or a Step Backward*, *supra* note 79.

⁸¹ *Id.*

⁸² *Id.*

⁸³ *Where is Augusta headed with latest homeless initiative?*, *supra* note 79.

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ S.B. 62, *supra* note 1; Senate Committee on State and Local Governmental Affairs, *supra* note 5; Georgia State House of Representatives, *supra* note 19.

to account for its homeless spending, which totaled 62 million dollars in 2023, as California’s legislature unanimously voted to audit its own 20.6 billion dollars in homeless spending in early 2023.⁸⁷ California’s audit concluded in October 2023, with the report still pending as of the time of this writing.⁸⁸ Georgia’s audit will evaluate the effectiveness of local groups in managing the homeless problem, as well as where money is being both over and underspent.⁸⁹ Senator Summers points out that, while not as populous as metro Atlanta, his district is of a “significant size” and has its own homeless issue.⁹⁰ Senator Summers also claims that his district receives little to no federal or state support despite the district’s sizable issues with homelessness.⁹¹ Senate Bill 62’s audit may help rectify these issues in District 13 and other districts, bringing transparency and accountability to the issue of homeless spending, and the Bill will hopefully provide a more equitable distribution of funds so that Georgia’s entire homeless population will be served rather than those solely in Atlanta’s metro area.⁹²

S.B. 62’s “drop-off” provision may be beneficial for Georgia’s smaller districts, but the provision may be rather useless in larger districts. Senator Esteves was startled by the ambiguity in the language of the drop off provision and stated that determining a homeless individual’s “place of residence,” as required by the provision, is a “detail hospitals will likely try to avoid.”⁹³ Other opponents of the Bill, such as Senator Jackson, feel this part of the Bill only serves small pockets of Georgia, as the “dropping off” of homeless in other districts is not a typical occurrence in the metro area.⁹⁴ In regards to metro Atlanta’s law enforcement dropping homeless individuals off in other districts, Senator Jackson stated, “It just doesn’t happen. We don’t have the resources, with the hospital populations being what they are, to

⁸⁷ John Hirschauer, *Georgia Shows the Way on Homelessness*, COMPACT MAG., (June 13, 2023) <https://compactmag.com/article/georgia-shows-the-way-on-homelessness>; Marissa Kendall, *California lawmakers want to know why billions in spending isn’t reducing homelessness*, THE PRESS DEMOCRAT, (April 17, 2023), <https://www.pressdemocrat.com/article/news/california-lawmakers-want-to-know-why-billions-in-spending-isnt-reducing-h>.

⁸⁸ *Id.*

⁸⁹ *Id.*; Senate Committee on State and Local Governmental Affairs, *supra* note 5; Governmental Affairs State and Local Governments Subcommittee, *supra* note 14; and House Committee on Governmental Affairs, *supra* note 21.

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Id.*; S.B. 62, *supra* note 1.

⁹³ Phone Interview with Senator Jason Esteves, *supra* note 26.

⁹⁴ Zoom Interview with Senator Jackson, *supra* note 9.

transport all of these people.”⁹⁵ However, Senator Jackson capitulated to the fact that a rural district could benefit from this provision, if the “dropping off” of homeless individuals was a rampant occurrence in those jurisdictions.⁹⁶ For rural districts, such as Representative Townsend’s, the drop off provision of S.B. 62 could be beneficial by preventing the depletion of resources that small districts have allocated for their respective homeless issues.⁹⁷

Senator Jackson and Senator Esteves, along with many of S.B. 62’s opponents, conveyed that S.B. 62 was a “missed opportunity.”⁹⁸ Both Senator Jackson and Senator Esteves agree that homelessness is an issue that requires legislation, and each agree that S.B. 62 is a far cry from meaningful action.⁹⁹ Senator Esteves felt that, other than the audit, S.B. 62 had no redeemable qualities because “The state should be attacking the homeless issue by addressing mental health and affordable housing.”¹⁰⁰ Despite the opponent’s legitimate concerns, S.B. 62’s audit can hopefully provide crucial information as to where money can be better allocated in the future, thus paving the way for more proactive legislation regarding some of the issues raised in the SSCUH study committee.¹⁰¹ The availability of financial resources was raised each time a recommendation was made in the SSCUH study committee, and the results of the audit should provide clarity as to the scope of the homeless issue and the feasibility of enacting the SSCUH recommendations.¹⁰² When both the scope of the homeless issue and the money available to address it become clear, opponents of S.B. 62 will have the opportunity to set forth legislation that addresses issues such as affordable housing and access to mental health services.¹⁰³

LEGISLATIVE GENEALOGY

Senate Bill 62 entered into the Senate Hopper on January 31, 2023.

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ Georgia State House of Representatives, *supra* note 19.

⁹⁸ Zoom Interview with Senator Jackson, *supra* note 9; Phone Interview with Senator Jason Esteves, *supra* note 26.

⁹⁹ *Id.*; and Zoom Interview with Senator Jackson, *supra* note 9.

¹⁰⁰ Phone Interview with Senator Jason Esteves, *supra* note 26.

¹⁰¹ GEORGIA STATE SENATE STUDY COMM. ON UNSHELTERED HOMELESSNESS, *supra* note 7.

¹⁰² *Id.*; Zoom Interview with Senator Jackson, of the 41st District, (October 11, 2023).

¹⁰³ S.B. 62, *supra* note 1; GEORGIA STATE SENATE STUDY COMM. ON UNSHELTERED HOMELESSNESS, *supra* note 7.

Senate first readers took place on February 1, 2023, and the Bill was referred to the Senate Committee on State and Local Governmental Affairs that same day.¹⁰⁴ On February 14, 2023, the Committee favorably reported by substitute, finding that removing the “cause of action” language and amending it to “writ of mandamus” was preferable, in addition to removing Section 3 of the Bill.¹⁰⁵ Senate second readers took place on February 15, 2023.¹⁰⁶ The Senate tabled Senate Bill 62 on March 2, 2023, and the Senate took the Bill from the table and placed it through third readers on that same day.¹⁰⁷ Following the third reading, the Senate Committee substitute passed, 49-7, on March 2, 2023.¹⁰⁸ Senate Bill 62 went through House first readers on March 6, 2023, and the Bill was referred to the House Committee on Governmental Affairs.¹⁰⁹ Senate Bill 62’s second readers occurred on March 7, 2023.¹¹⁰ The House Committee on Governmental Affairs reported favorably by substitute, adding language that compels local jurisdictions and 501(c)(3) recipients to comply with the statewide audit and also adding the “drop off” provision. Senate Bill 62 went through House third readers on March 27, 2023.¹¹¹ The House Committee on Governmental Affairs’ substitute to Senate Bill 62 passed 99-76.¹¹² The House sent its substitute to the Senate on March 27, 2023, and an amendment to strike lines 1-90 failed on the Senate Floor, 22-32.¹¹³ The House substitute to Senate Bill 62 passed in the Senate, 36-20, on March 27, 2023.¹¹⁴ The Georgia Senate sent Senate Bill 62 to the Governor for signature on April 5, 2023.¹¹⁵ The Governor signed Senate Bill 62 into law, rendering it “Act 274,” on May 3, 2023.¹¹⁶ The legislation went into effect on July 1, 2023.¹¹⁷

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¹⁰⁴ S.B. 62 Status Sheet, *supra* note 2.

¹⁰⁵ *Id.*; and Senate Committee on State and Local Governmental Affairs, *supra* note 5.

¹⁰⁶ S.B. 62 Status Sheet, *supra* note 2.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ *Id.*; and House Committee on Governmental Affairs, *supra* note 21.

¹¹² S.B. 62 Status Sheet, *supra* note 2; and Georgia State Senate, *supra* note 16.

¹¹³ S.B. 62 Status Sheet, *supra* note 2.

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ *Id.*