SEYFARTH SHAW

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# DEVELOPMENT AUTHORITIES AND FINANCING ECONOMIC DEVELOPMENT

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# GLOSSARY- DEFINITIONS

- Authority includes a DA, a DDA and a JDA.
- CID = Community Improvement District
- Constitutional = created by an LCA
- DA = development authority
- DAL = the Development Authorities Law
- DDA = downtown development authority
- IGA = intergovernmental agreement
- JDA = joint development authority
- LCA = local constitutional amendment
- Local Government = city or county
- P3 = public/private partnership
- PILOTs = payments in lieu of taxes
- SSD = special service district; i.e., a special district that can levy special taxes or assessments
- Statutory = created under the Development Authorities Law or the Downtown Development Authorities Law
- TAD = tax allocation district
- TEBs = tax-exempt bonds

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# GLOSSARY-ANTONYMS

| THIS | IS THE OPPOSITE OF | THIS |
|---|---|---|
| GIFT/GRATUITY | …….. | BARGAIN |
| GENERAL OBLIGATION BOND/G.O. BOND | …….. | REVENUE BOND |
| PUBLIC PROJECT (LIKE CITY HALL) | …….. | PRIVATE PROJECT (LIKE A MANUFAC-TURING PLANT) |
| PUBLIC OFFERING (BONDS SOLD TO THE PUBLIC) | …….. | PRIVATE PLACEMENT (BONDS SOLD PRIVATELY) |

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# GLOSSARY-SYNONYMS

| THIS | IS THE SAME AS | THIS |
|---|---|---|
| GIFT/GRATUITY | …….. | INCENTIVE (that is not a “bargain”) |
| | | |
| | | |
| | | |

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# MODULE 1

WHY WE HAVE AUTHORITIES

WHERE THEY CAME FROM

HOW THEY ARE GOVERNED

WHERE THEY CAN ACT

WHERE THEIR FUNDING COMES FROM

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# WHY WE HAVE AUTHORITIES

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# PROTECT LOCAL GOVERNMENT

**THE CITY OR COUNTY IS NOT LIABLE FOR THE AUTHORITY'S DEBTS OR CONTRACTS.**

No bonds or other obligations of and no indebtedness incurred by any authority shall constitute an indebtedness or obligation of the State of Georgia or of any county, municipal corporation, or political subdivision thereof, nor shall any act of any authority in any manner constitute or result in the creation of n indebtedness of this state or of ny such county, municipal corporation, or political subdivision.

O.C.G.A. Sec. 36-62-10

Note: A few LCAs require the local government to impose millage to repay bonds issued by its Constitutional development authority. Always check the LCA.

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# PROTECT LOCAL GOVERNMENT

MEMBERS OF AUTHORITIES ARE APPOINTED, NOT ELECTED. THEY BUFFER THE ELECTED OFFICIALS FROM TEMPORARY POLITICAL PRESSURE.

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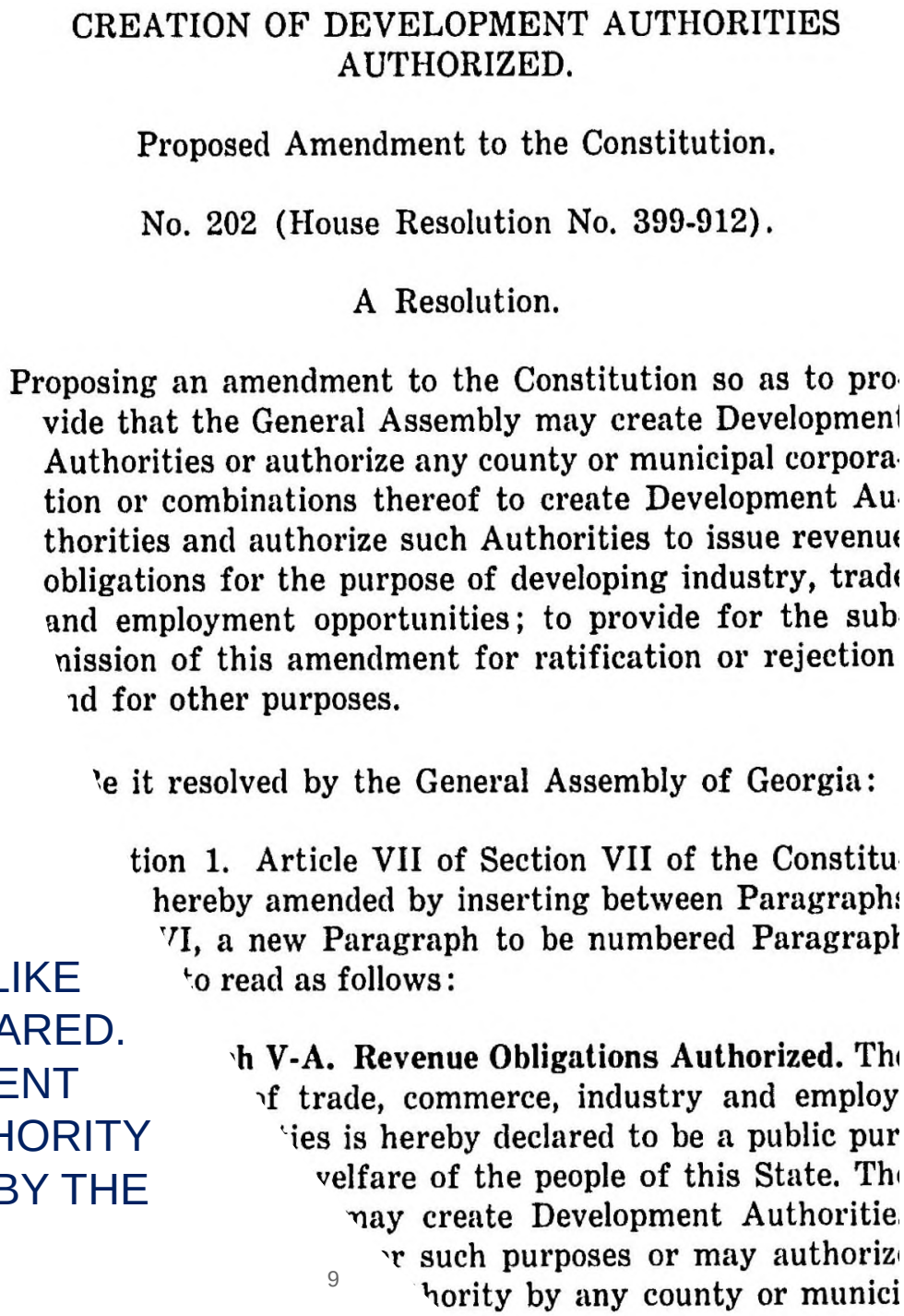
# ADD POWERS

THE GEORGIA CONSTITUTION AUTHORIZES ECONOMIC DEVELOPMENT POWERS FOR AUTHORITIES THAT LOCAL GOVERNMENTS DON'T HAVE.

SOME OTHER POWERS (LIKE REDEVELOPMENT) ARE SHARED. IF THE LOCAL GOVERNMENT WORKS THROUGH THE AUTHORITY INSTEAD, IT IS PROTECTED BY THE AUTHORITY.



CREATION OF DEVELOPMENT AUTHORITIES AUTHORIZED.

Proposed Amendment to the Constitution.

No. 202 (House Resolution No. 399-912).

A Resolution.

Proposing an amendment to the Constitution so as to pro
vide that the General Assembly may create Development
Authorities or authorize any county or municipal corpora
tion or combinations thereof to create Development Au
thorities and authorize such Authorities to issue revenue
obligations for the purpose of developing industry, trade
and employment opportunities; to provide for the sub
mission of this amendment for ratification or rejection
nd for other purposes.

e it resolved by the General Assembly of Georgia:

tion 1. Article VII of Section VII of the Constitu
hereby amended by inserting between Paragraphs
VI, a new Paragraph to be numbered Paragraph
o read as follows:

h V-A. **Revenue Obligations Authorized.** The
f trade, commerce, industry and employ
ies is hereby declared to be a public pur
velfare of the people of this State. The
nay create Development Authorities
r such purposes or may authorize
hority by any county or munici

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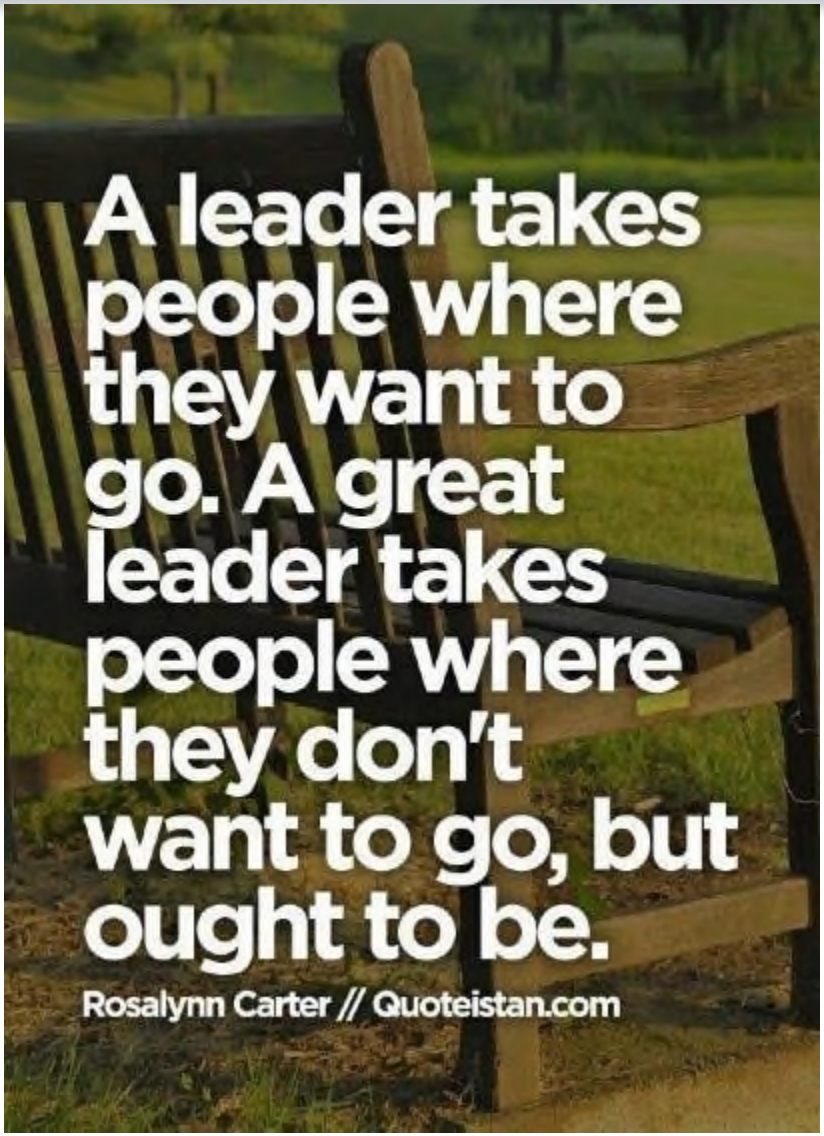
# BECOME EXPERTS

- THE AUTHORITY BOARD IS LIKE A "SUBJECT MATTER EXPERT"
- THE SUBJECT IS ECONOMIC DEVELOPMENT.

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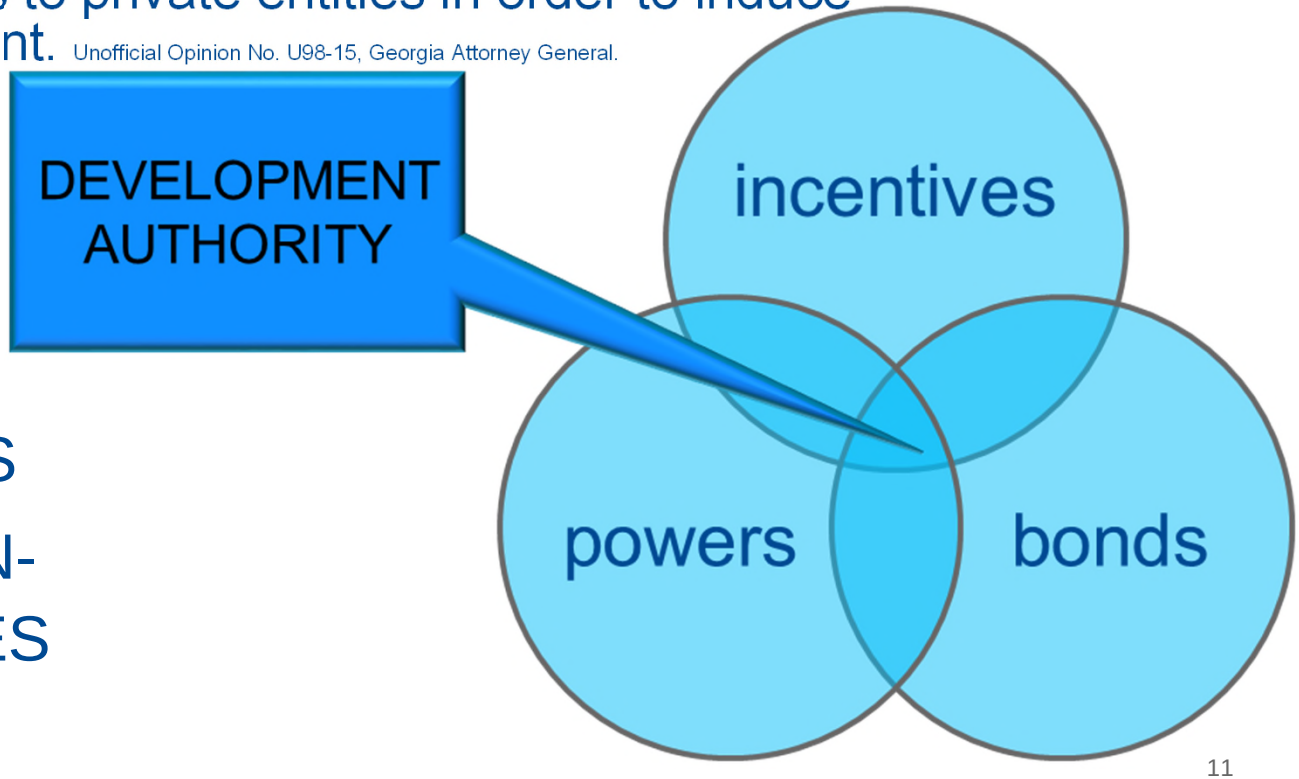
# IF GEORGIA DID NOT HAVE DEVELOPMENT AUTHORITIES….

You requested my opinion whether the Georgia Constitution permits "the use of public funds for incentives to directly benefit private corporations to spur economic development"....As you surmised, the prohibition against governmental gratuities has been interpreted to preclude direct grant payments *to private entities in order to induce* economic development. Unofficial Opinion No. U98-15, Georgia Attorney General.

**NO** DEVELOPMENT AUTHORITY…

**NO** PROPERTY TAX INCENTIVES

**NO** CASH OR IN-KIND INCENTIVES

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# WHERE AUTHORITIES CAME FROM

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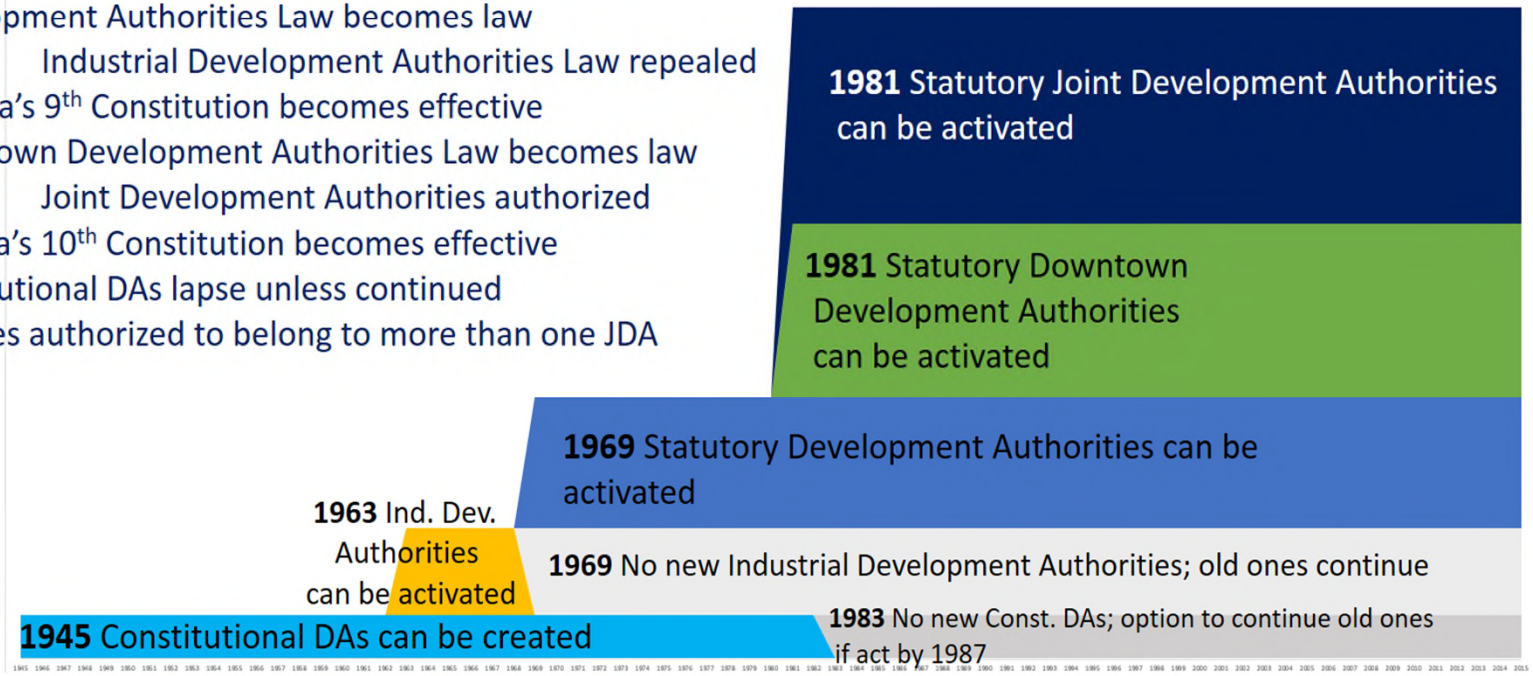
# THE DEVELOPMENT OF DEVELOPMENT AUTHORITIES IN GEORGIA

TIMELINE

| | |
|---|---|
| 1945 | Georgia's 8th Constitution becomes effective |
| 1963 | Industrial Development Authorities Law becomes law |
| 1968 | Georgia Constitution amended to authorize development authorities |
| 1969 | Development Authorities Law becomes law |
| | Industrial Development Authorities Law repealed |
| 1976 | Georgia's 9th Constitution becomes effective |
| 1981 | Downtown Development Authorities Law becomes law |
| | Joint Development Authorities authorized |
| 1983 | Georgia's 10th Constitution becomes effective |
| 1987 | Constitutional DAs lapse unless continued |
| 2004 | Counties authorized to belong to more than one JDA |

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# THE GOVERNANCE OF DEVELOPMENT AUTHORITIES

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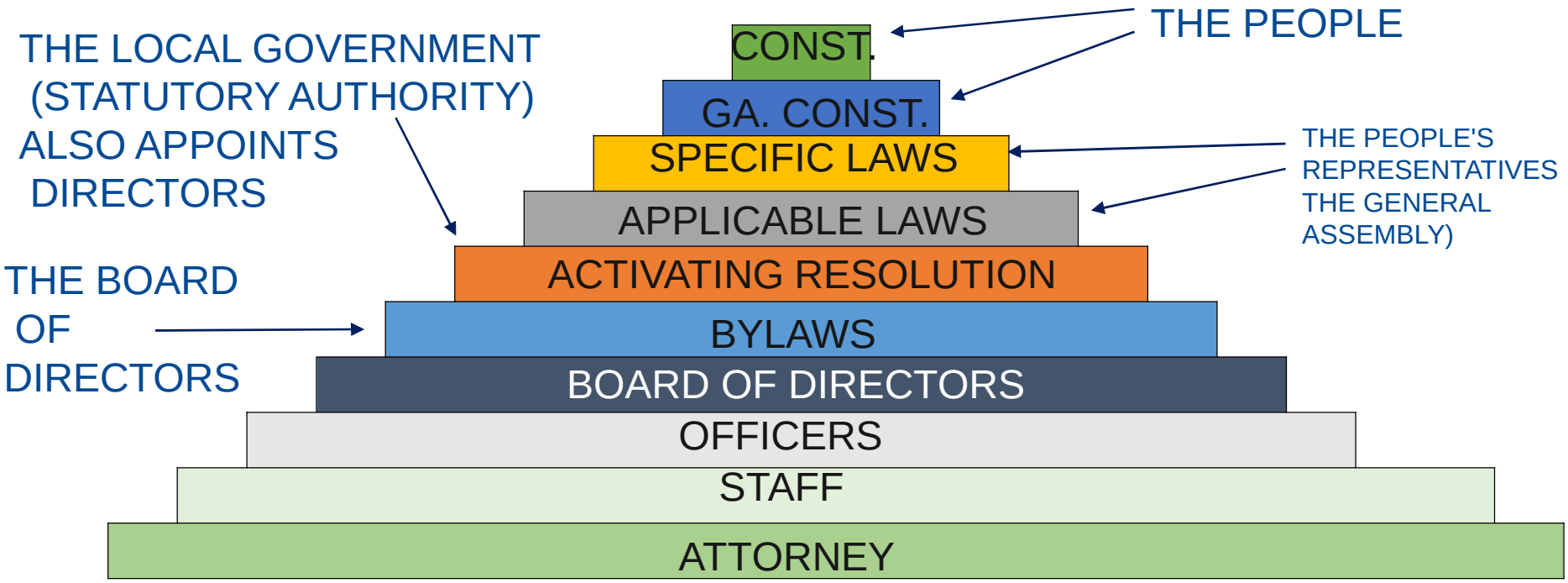
We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.




## THE HIERARCHY OF A DEVELOPMENT AUTHORITY

MOST "IN CHARGE" AT THE TOP

LEAST "IN CHARGE" AT THE BOTTOM

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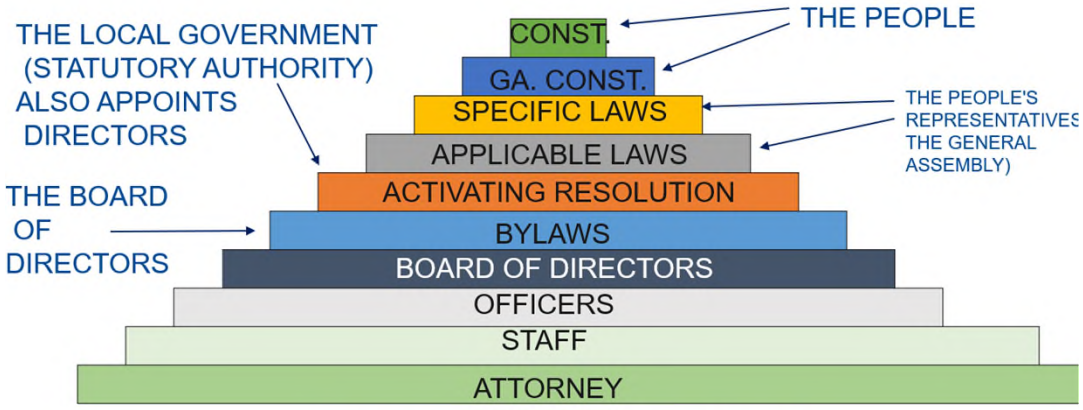
# DON'T FORGET THE COURT SYSTEM

## ESPECIALLY THE SUPREME COURT AND THE COURT OF APPEALS




**THE HIERARCHY OF A DEVELOPMENT AUTHORITY**

MOST "IN CHARGE" AT THE TOP

LEAST "IN CHARGE" AT THE BOTTOM

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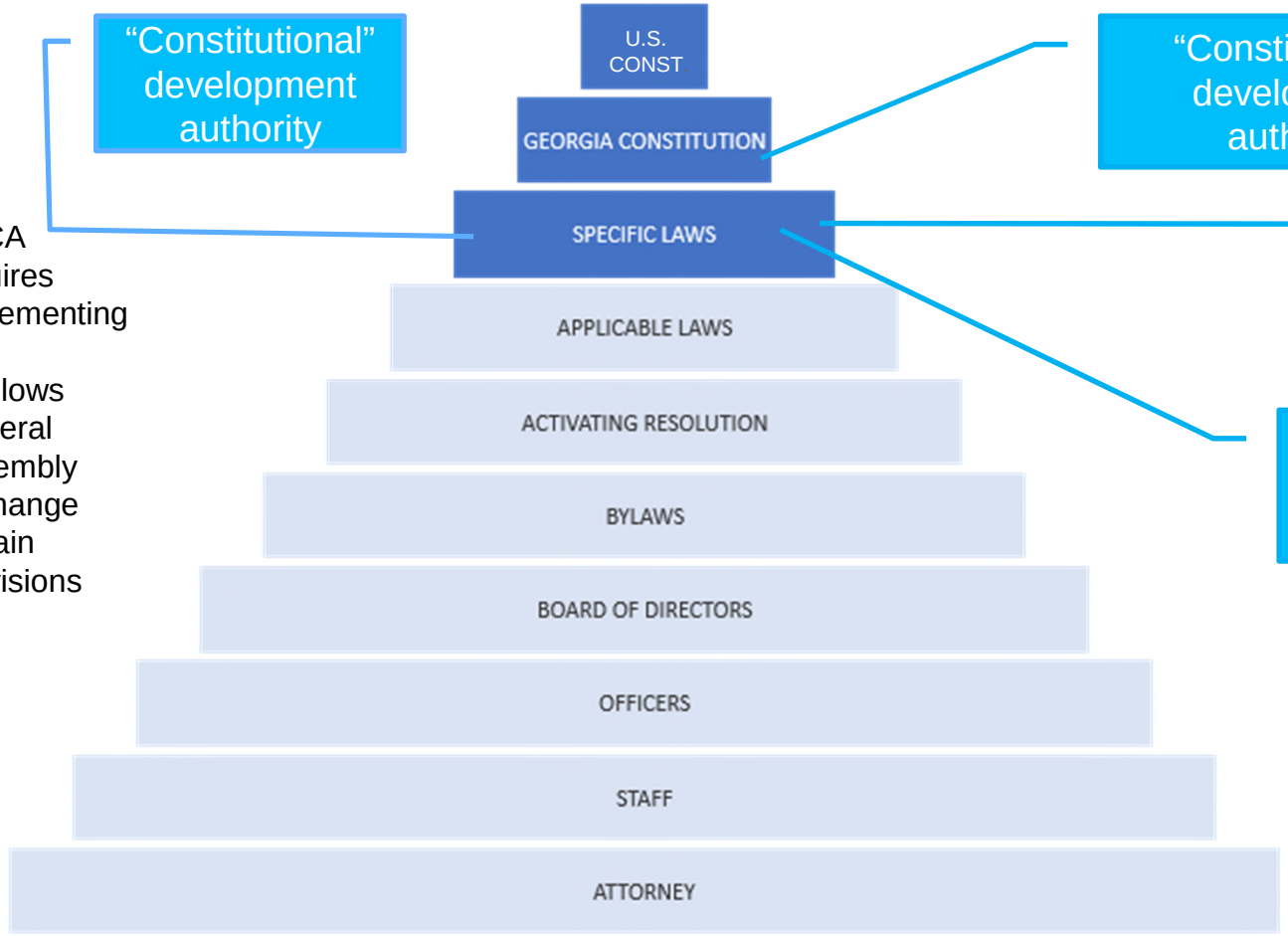
# WHERE TO FIND THE LAW FOR YOUR AUTHORITY




"Constitutional" development authority

if LCA requires implementing act or allows General Assembly to change certain provisions

"Constitutional" development authority

"statutory" development authority

"local act" authority

no local or special law in any case for which provision has been made by an existing general law

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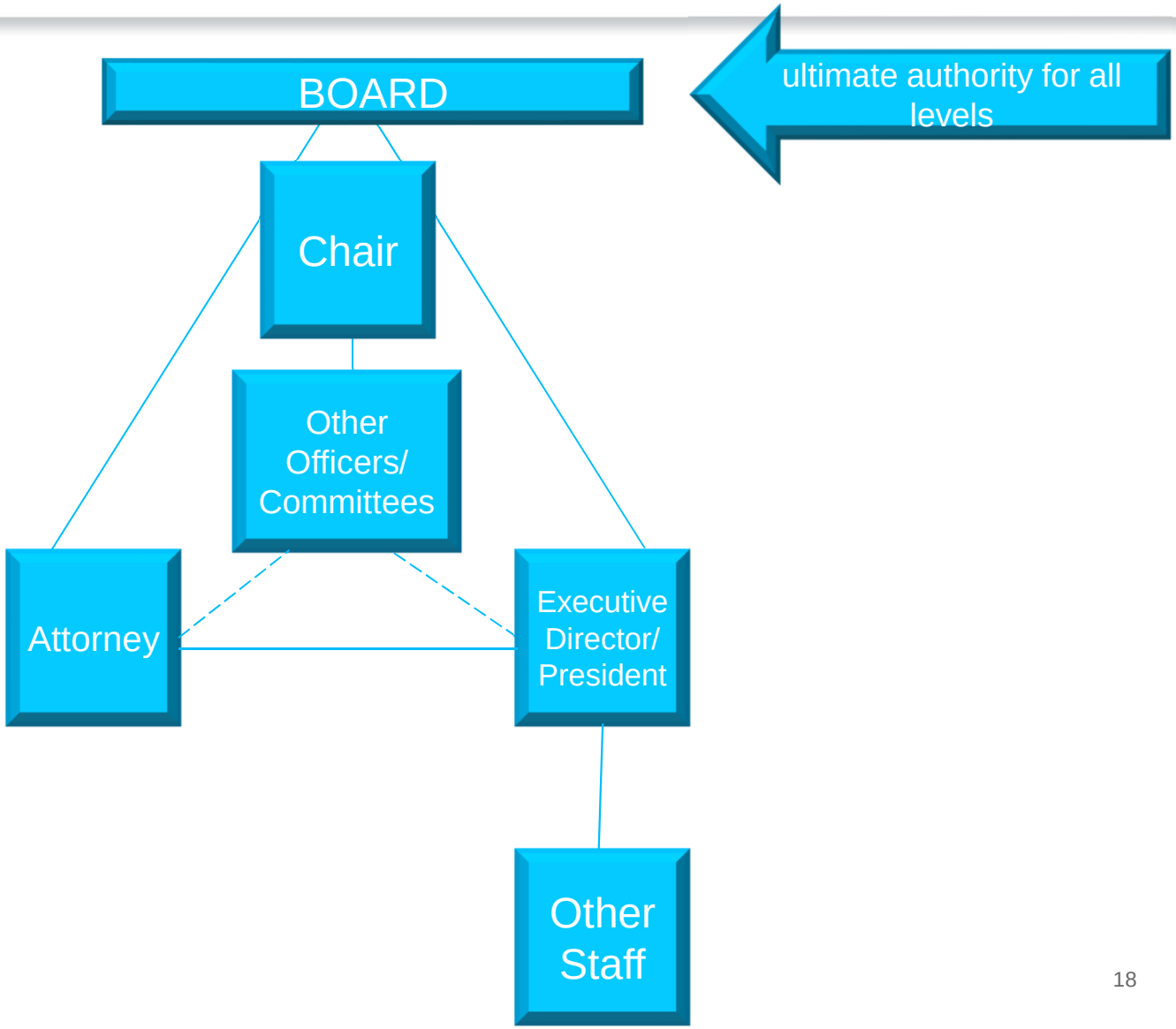
# SPECIMEN OPERATIONAL FLOWCHART

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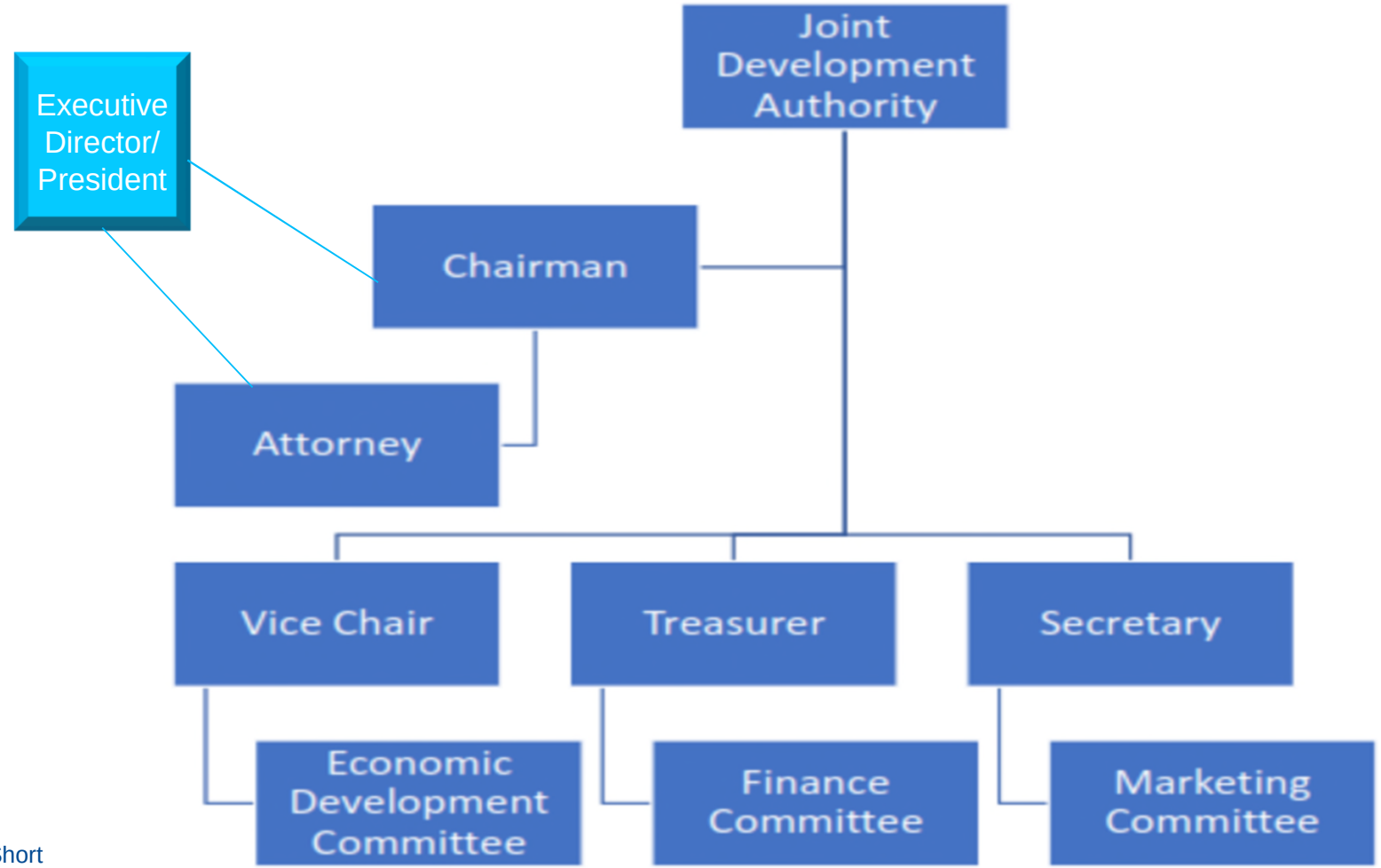
# ANOTHER EXAMPLE- JDA




Credit:
Shane Short

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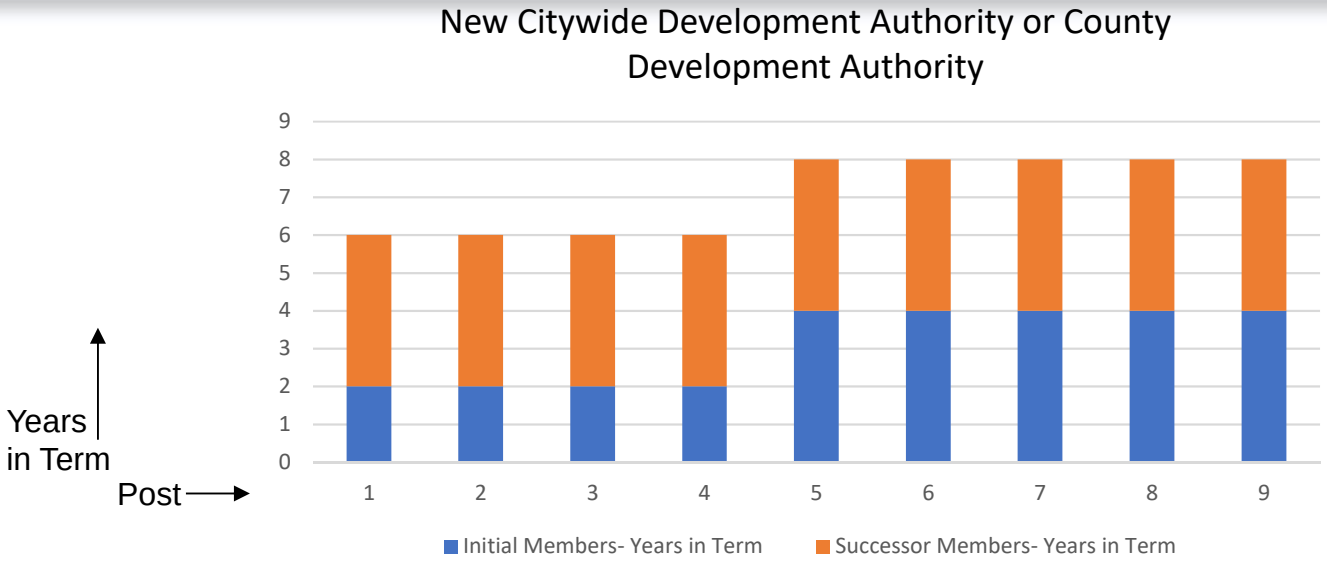
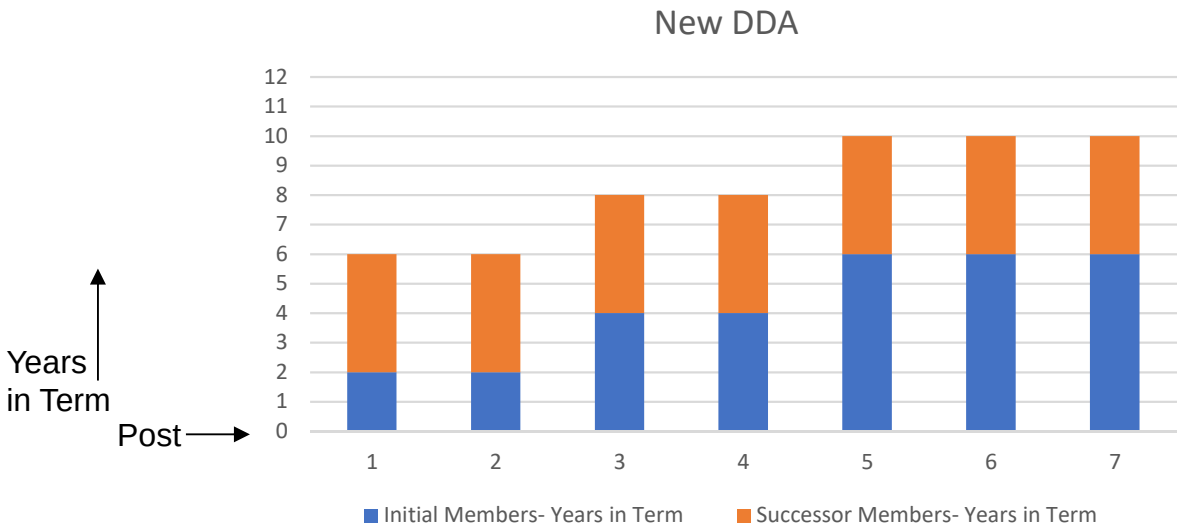
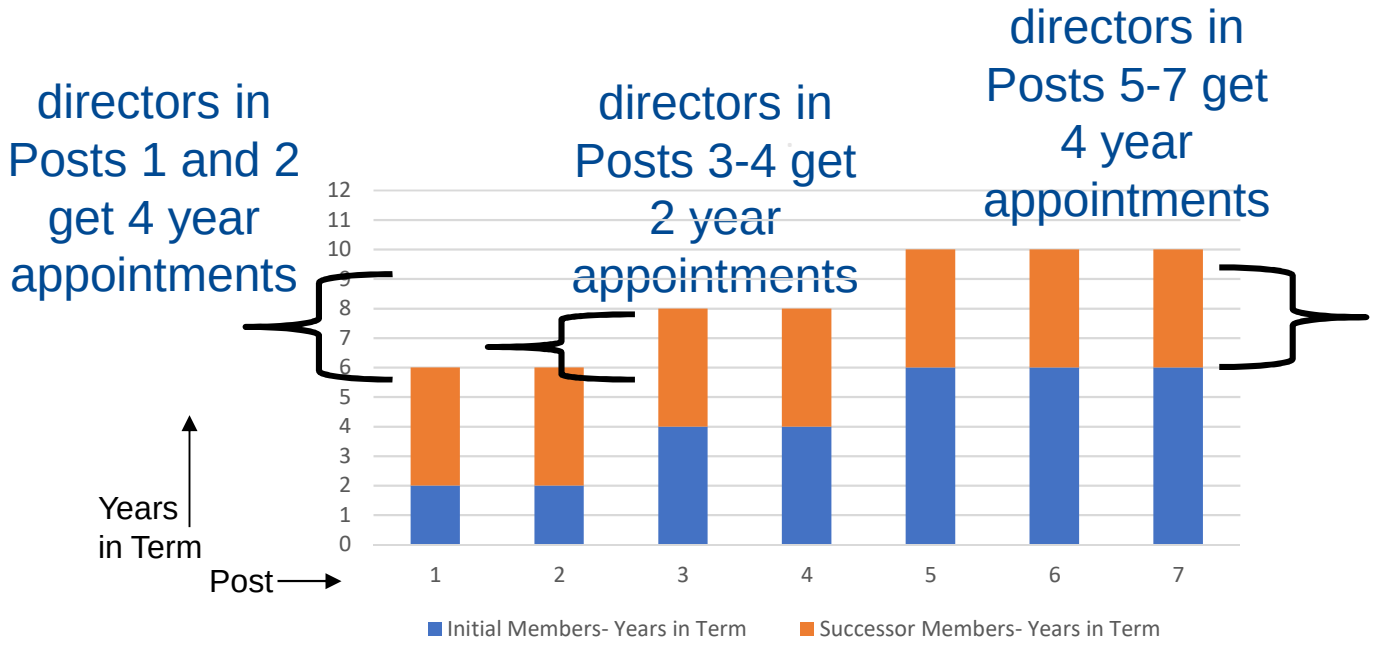
# HOW A LOCAL GOVERNMENT MAKES BOARD APPOINTMENTS FOR NEW AUTHORITIES



# HOW THE CITY "REINSTATES" A DORMANT AUTHORITY

DDA example assuming:
DDA goes dormant as of Year 6
All director positions are vacant (resigned, lost their qualifications, etc.)
No elected official has been a director or will be appointed now



# THE LEVELS OF AUTHORITY

## BOARD

- Statutory DA: 7-9 members; set by local government (can include 1 local government member); term (after first appointments) 4 years; majority of whole board to pass resolution
- Statutory DDA: 7 members (can include 1 local government member); term (after first appointments) 4 years
- Statutory JDA: all set by concurrent activating resolutions of local governments
- Constitutional authority- all set by LCA

## BYLAWS

- Adopted by board
- Best practice: include only matters not dictated by governing law, such as officer terms, calling special meetings, meeting schedule
- Directors must comply with procedures in bylaws such as notice required before amending bylaws

The authority's rules say that even when fewer than all seven members of the board are present at a meeting, an item must get the majority of the full seven- member board — at least four votes — to pass.

Floor & Decor will get another shot before the authority at a special called meeting Nov. 5.

Source: Marietta Daily Journal

## OFFICERS

- Statutory DA, JDA and DDA: Chair and Vice Chair (both members), Secretary and Treasurer or Secretary-Treasurer (membership optional)
- Constitutional authority- all per LCA

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# YOU HAVE TO GET ALONG WITH YOUR STAKEHOLDERS

- The stakeholders for an Authority vary from community to community
- Typical Authority stakeholders include-
  - Its parent Local Government
  - Local Government Manager/Administrator
  - Local Government offices like planning & zoning, building permits
  - Chamber of Commerce
  - If the Authority is a City Authority, then the County (not always the case)

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# STAKEHOLDERS

- Other Local Authorities and Local Officials
- The Public
- The State
  - Georgia Department of Community Affairs
  - Georgia Department of Economic Development (and other statewide economic developers, like utilities)
- State Legislative Delegation
- Federal Legislative Delegation

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# WHERE AUTHORITIES CAN ACT

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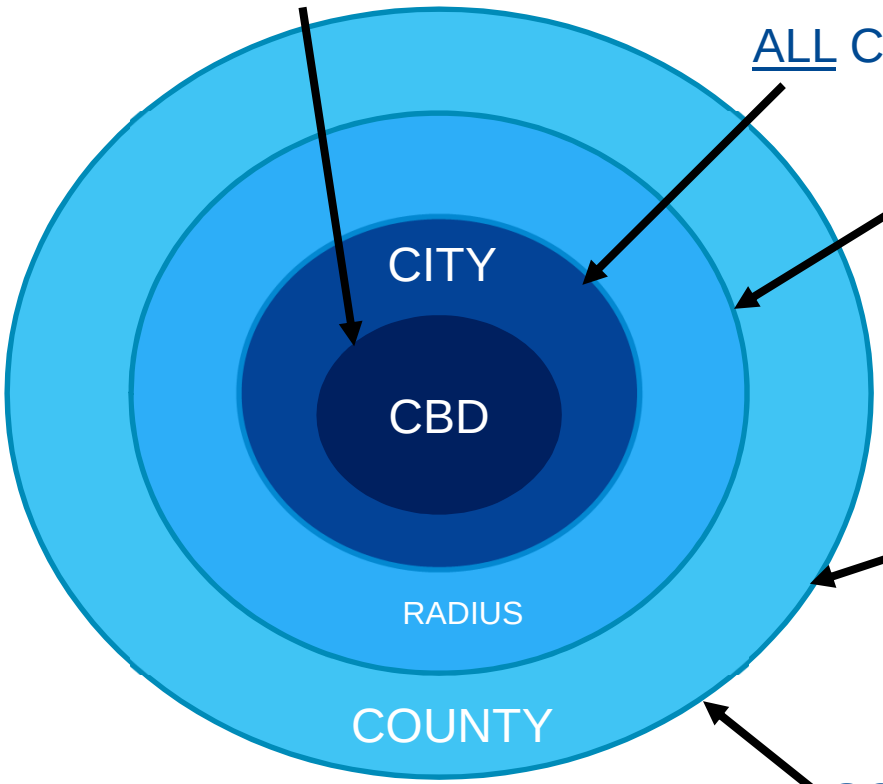
# THE LIMITS OF JURISDICTION

jurisdiction begins at center and extends to where arrow points




ALL DDAs

ALL CITY DEVELOPMENT AUTHORITIES

SOME CONSTITUTIONAL CITY DEVELOPMENT AUTHORITIES AND DDAs

ALL COUNTY DEVELOPMENT AUTHORITIES

SOME CONSTITUTIONAL CITY DEVELOPMENT AUTHORITIES

Statutory DDAs have citywide jurisdiction for certain PACE-type projects. JDAs- see next slide

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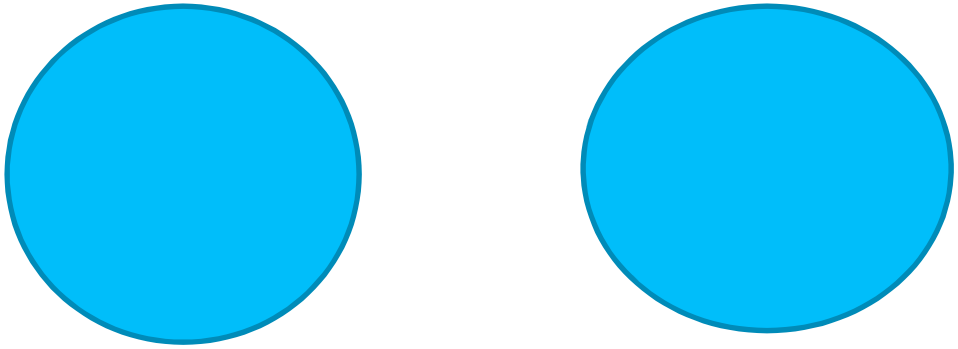
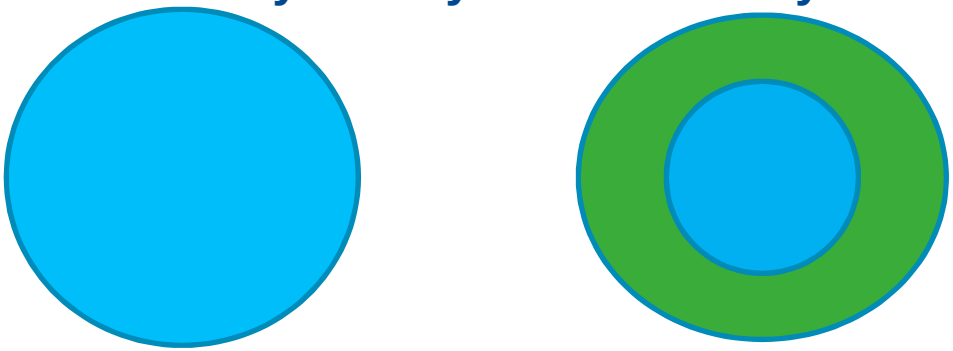
# JOINT DEVELOPMENT AUTHORITIES

**Joint development authority for East County and West County**



**JDA has jurisdiction over all blue areas (both counties and all cities)**
**Note- sometimes jurisdiction is limited in concurrent activating resolutions**

**Joint development authority for city in East County and for West County**



**JDA has jurisdiction over all blue areas (West County and all cities in West County, plus city in East County)**

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# WHERE AUTHORITY FUNDING COMES FROM

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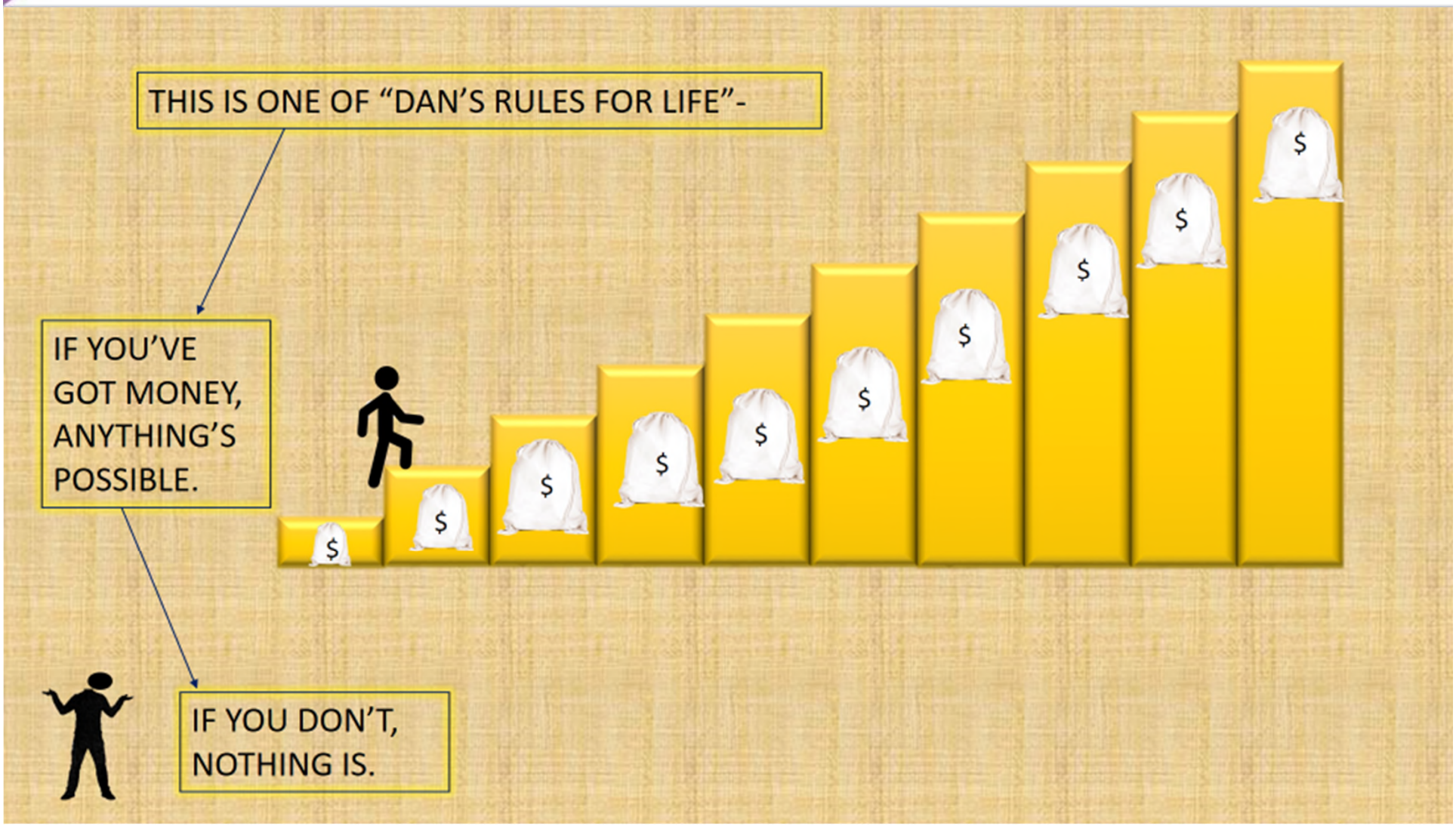
# “ONE OF “DAN’S RULES FOR LIFE ”

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# THE "POWER OF THE PURSE"

- DEVELOPMENT AUTHORITIES HAVE NO TAXING POWER
  - A FEW LCAs  AUTHORIZE OR MANDATE LOCAL GOVERNMENT FINANCIAL SUPPORT OF ITS DEVEVOPMENT AUTHORITY
  - SOME CONSTITUTIONAL DDAs CAN LEVY TAXES OR ASSESSMENTS WITHIN THEIR AREA OF OPERATIONS
- MOST DEVELOPMENT AUTHORITIES DEPEND ON THEIR LOCAL GOVERNMENTS FOR VOLUNTARY FINANCIAL SUPPORT
  - INITIAL "SEED MONEY" GRANT
  - ANNUAL APPROPRIATION
  - MULTIYEAR CONTRACT (IGA)
    - CITY AUTHORITIES- 3 MILL LIMITATION. O.C.G.A. Sec. 48-5-350
    - COUNTY AUTHORITIES- 1 MILL LIMITATION. O.C.G.A. Sec. 48-5-220(20)

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# THE "POWER OF THE PURSE"

- AUTHORITIES CAN ALSO EARN FEES FROM TRANSACTIONS SUCH AS BOND ISSUES
  - CITY DA AND DDA TREND- "PROFIT SHARING" FROM SPECIAL PAYMENTS THROUGHOUT "ABATEMENT" PERIOD
- STATE GRANTS AND LOANS ARE SOMETIMES AVAILABLE FOR PROGRAMS AND SPECIFIC PROJECTS
- PRIVATE SECTOR GRANTS ARE SOMETIMES AVAILABLE
  - CORPORATION FOUNDATIONS
  - IN-KIND CONTRIBUTIONS
    - BUILDINGS
      - SPLIT SALE/DONATION
      - NEED ENVIRONMENTAL DUE DILIGENCE

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# CONCLUSION

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# MORE INFORMATION

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# QUESTIONS?

If you have any questions or comments on this presentation, please do not hesitate to let me know.

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