

House Bill 1800

By: Representative Joyce of the 1<sup>st</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To create the office of commissioner of Dade County as the governing authority of said  
2 county; to provide for the election and term of office of the commissioner; to provide for  
3 filling of vacancies in the office of commissioner; to provide for oaths; to provide for bonds;  
4 to provide for the compensation of the commissioner; to provide for the powers, duties, and  
5 responsibilities of the commissioner; to provide reports on financial affairs; to provide for  
6 county employees and certain appointments; to provide for budgeting and auditing; to  
7 provide for the expenditure of county funds; to provide for related matters; to repeal an Act  
8 creating the Board of Commissioners of Dade County, approved April 4, 1991 (Ga. L. 1991,  
9 p. 3893), as amended; to provide for a referendum; to provide for automatic repeal; to  
10 provide for submission of this Act for approval under the federal Voting Rights Act of 1965,  
11 as amended; to provide for effective dates; to repeal conflicting laws; and for other purposes.

12 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

13 **SECTION 1.**

14 There is created the office of commissioner of Dade County as the governing authority of  
15 Dade County. The commissioner shall exercise the powers and duties and be charged with  
16 the responsibilities imposed upon said officer by this Act and the Constitution and laws of  
17 the State of Georgia.

18 **SECTION 2.**

19 (a) The first commissioner of Dade County provided for by this Act shall be elected at the  
20 November general election to be held on the Tuesday next following the first Monday in  
21 November, 2004, and shall take office on the first day of January, 2005, for a term of office  
22 ending December 31, 2008, and until a successor is elected and qualified. Thereafter,  
23 successors shall be elected at the general election immediately preceding the expiration of  
24 the term of office and shall take office on the first day of January immediately following the  
25 election for a term of four years and until a successor is elected and qualified.

1 (b) The commissioner shall be elected by the qualified voters of Dade County on a  
2 county-wide basis. The commissioner shall be nominated and elected in accordance with the  
3 provisions of Chapter 2 of Title 21 of the O.C.G.A., known as the "Georgia Election Code."

#### 4 **SECTION 3.**

5 (a) In the event a vacancy occurs for any reason in the office of commissioner of Dade  
6 County, such vacancy shall be filled for the unexpired term of office by special election.  
7 Such special election shall be called by the election superintendent of Dade County within  
8 ten days after the date of the vacancy and shall be held in accordance with the applicable  
9 provisions of Chapter 2 of Title 21 of the O.C.G.A., known as the "Georgia Election Code."

10 (b) From the date of the occurrence of the vacancy until such vacancy is filled by special  
11 election as provided in subsection (a) of this section, the judge of the probate court of Dade  
12 County shall be vested with and exercise the powers and duties of the commissioner of Dade  
13 County.

#### 14 **SECTION 4.**

15 Before entering upon the discharge of the commissioner's duties, a person elected  
16 commissioner shall subscribe to an oath before the judge of probate court of Dade County  
17 for the true and faithful performance of duties as commissioner and that the person is not the  
18 holder of any unaccounted for public funds.

#### 19 **SECTION 5.**

20 The commissioner shall give a satisfactory surety bond approved by the judge of probate  
21 court of Dade County and payable to said officer and filed in the office of the judge of  
22 probate court in the sum of \$50,000.00, conditioned upon the faithful performance of the  
23 duties of the commissioner's office. The cost of such bond shall be paid from the funds of  
24 Dade County.

#### 25 **SECTION 6.**

26 (a) The Commissioner of Dade County shall receive an annual salary in an amount \$500.00  
27 greater than the annual salary received by the highest paid county officer of Dade County;  
28 provided, however, that such salary shall not be reduced in the event that the salary of the  
29 highest paid county officer of Dade County upon which such salary is based is reduced for  
30 any reason. Such salary shall be paid from the funds of Dade County.

31 (b) The commissioner may be reimbursed from county funds for all actual and necessary  
32 expenses incurred by that officer in the performance of the official duties of the office of  
33 commissioner.

**SECTION 7.**

(a) The commissioner shall devote full time to the business and interests of Dade County in the performance of the commissioner's duties.

(b) The commissioner shall have and maintain an office for the transaction of county business at the courthouse of Dade County. The office of the commissioner shall remain open during regular hours of business on all days except Saturdays, Sundays, and legal holidays.

**SECTION 8.**

The commissioner shall have the power to fix and establish policies, rules, and regulations governing all matters within the commissioner's jurisdiction as the governing authority of the county. The commissioner may exercise the powers and shall be subject to the duties and responsibilities now or hereafter provided by the Constitution and general laws of this state relative to county governing authorities. Without limiting the generality of the foregoing, the following specific powers are vested in the commissioner:

(1) To levy taxes;

(2) To make appropriations;

(3) To fix rates and charges for services provided by the county;

(4) To authorize the incurring of indebtedness;

(5) To order work done where the cost is to be assessed against benefitted property and to fix the basis for such assessment;

(6) To authorize and enter into contracts;

(7) To establish, alter, open, close, build, repair, or abolish public roads, private ways, bridges, and ferries, according to law;

(8) To establish, abolish, or change militia districts according to law;

(9) To allow the insolvent lists for the county;

(10) To accept for the county the provisions of any optional statute where the statute permits its acceptance by the governing authority of the county;

(11) To create and change the boundaries of special taxing districts as authorized by law;

(12) To fix the bonds of county officers where same are not fixed by statute;

(13) To enact any ordinances, resolutions, or other legislation the county may be given authority to enact;

(14) To determine the priority of capital improvements;

(15) To call bond elections; and

(16) To exercise all of the power and authority delegated by law to the governing authority of Dade County or to the governing authorities of counties generally.

**SECTION 9.**

The commissioner is authorized to require all county officers to report on the general or specific conduct of the financial affairs of their respective offices.

**SECTION 10.**

(a) The commissioner shall have the exclusive power and authority to appoint, remove, and fix the compensation of all employees of the county.

(b) The appointment and removal of and the compensation to be paid to persons filling offices and positions created by state statute, where not otherwise prescribed by such statute, shall be made and fixed by the commissioner.

**SECTION 11.**

The commissioner shall comply with the budgeting and auditing procedures and requirements set forth in Chapter 81 of Title 36 of the O.C.G.A., relative to budgets and audits of local governments.

**SECTION 12.**

The expenditures of county funds shall be made in accordance with the county budget or amendments thereto adopted by the commissioner. The commissioner shall enforce compliance with this requirement by all departments of county government, including the departments of the elected county officers, and, to this end, the commissioner shall institute a system to control county purchasing and to account for the expenditure of all funds budgeted and appropriated by the commissioner.

**SECTION 13.**

The members of the Board of Commissioners of Dade County in office on February 1, 2003, shall continue to serve as such until December 31, 2004, at which time their terms of office shall expire. The office of commissioner created by this Act shall be the successor in all respects to the board of commissioners and to all rights, claims, actions, orders, contracts, and legal and administrative proceedings of the board of commissioners.

**SECTION 14.**

An Act creating the Board of Commissioners of Dade County, approved April 4, 1991 (Ga. L. 1991, p. 3893), as amended, is repealed in its entirety.

**SECTION 15.**

Unless otherwise prohibited by the federal Voting Rights Act of 1965, as amended, the election superintendent of Dade County shall call and conduct an election on the date of the 2002 state-wide general election as provided in this section for the purpose of submitting this Act to the electors of Dade County for approval or rejection. The election superintendent shall issue the call and conduct that election as provided by general law. The superintendent shall cause the date and purpose of the election to be published once a week for two weeks immediately preceding the date thereof in the official organ of Dade County. The ballot shall have written or printed thereon the words:

"( ) YES Shall the Act be approved which provides for a sole commissioner form of  
( ) NO government for Dade County?"

All persons desiring to vote for approval of the Act shall vote "Yes," and all persons desiring to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on such question are for the approval of the Act, Sections 1 through 14 shall become of full force and effect on January 1, 2004, for the sole purpose of electing the commissioner of Dade County in 2004, and Sections 1 through 14 of this Act shall become effective for all purposes on January 1, 2005. If more than one-half of the votes cast on such question are for the approval of the Act, no elections shall be conducted in 2004 for members of the Board of Commissioners of Dade County which is to be abolished under the provisions of this Act. If the Act is not approved or if the election is not conducted as provided in this section, Sections 1 through 14 shall not become effective and this Act shall be automatically repealed on the first day of January immediately following that election date. The expense of such election shall be borne by Dade County. It shall be the duty of the election superintendent of Dade County to certify the results thereof to the Secretary of State.

**SECTION 16.**

It shall be the duty of the attorney for the governing authority of Dade County to submit this Act for preclearance pursuant to Section 5 of the federal Voting Rights Act of 1965, as amended.

**SECTION 17.**

Except as otherwise provided in Section 15 of this Act, this Act shall become effective upon its approval by the Governor or its becoming law without such approval.

**SECTION 18.**

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