

House Bill 1811

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

A BILL TO BE ENTITLED  
AN ACT

1 To amend an Act creating the board of commissioners of Dade County, approved April 4,  
2 1991 (Ga. L. 1991, p. 3893), as amended, particularly by an Act approved April 13, 1992  
3 (Ga. L. 1992, p. 6131), so as to revise the districts for the election of members of the board  
4 of commissioners; to provide for the composition and membership of the board of  
5 commissioners; to provide for the manner of election; to provide for qualifications; to  
6 provide for compensation; to provide for submission of this Act for preclearance pursuant  
7 to Section 5 of the federal Voting Rights Act of 1965, as amended; to provide for related  
8 matters; to provide for effective dates; to provide for a referendum; to repeal conflicting  
9 laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**PART I**

**SECTION 1-1.**

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12  
13 An Act creating the board of commissioners of Dade County, approved April 4, 1991  
14 (Ga. L. 1991, p. 3893), as amended, particularly by an Act approved April 13, 1992  
15 (Ga. L. 1992, p. 6131), is amended by striking Section 2 and inserting in lieu thereof new  
16 Section 2 to read as follows:

"SECTION 2.

17  
18 (a) The board of commissioners of Dade County shall consist of five members. Four  
19 members shall be elected from districts and one member, who shall be the  
20 chairperson/county executive, shall be elected at large by vote of all of the qualified  
21 electors of the county.

22 (b) For the purposes of electing the members of the board of commissioners, except for  
23 the chairperson/county executive, Dade County is divided into four commissioner districts  
24 described by the following boundaries:

1 Commissioner District No. 1. Beginning at the intersection of the east brow of Sand  
2 Mountain with the Georgia-Tennessee state line; thence east along the state line to the  
3 west brow of Lookout Mountain; thence southerly along the brow of Lookout Mountain  
4 to its intersection with the centerline of the Burkhalter Gap Road, County Road Number  
5 175; then along the centerline of Burkhalter Gap Road to its intersection with McClain  
6 Branch; thence west along the center of McClain Branch to the east brow of Sand  
7 Mountain; thence north along the brow of Sand Mountain to the Georgia-Tennessee state  
8 line which is the point of beginning.

9 Commissioner District No. 2. Beginning at the intersection of the Georgia, Alabama, and  
10 Tennessee state lines; thence east along the Georgia-Tennessee state line to the east brow  
11 of Sand Mountain; thence southerly along the east brow of Sand Mountain to its  
12 intersection with the Georgia-Alabama state line; thence north along the  
13 Georgia-Alabama state line to its intersection with the Tennessee state line which is the  
14 point of beginning.

15 Commissioner District No. 3. Beginning at the intersection of the east brow of Sand  
16 Mountain and McClain Branch; thence east along the center of McClain Branch to its  
17 intersection with Burkhalter Gap Road, County Road Number 175; thence northeasterly  
18 along the center line of Burkhalter Gap Road to the west brow of Lookout Mountain;  
19 thence southerly along the west brow of Lookout Mountain to its intersection with the  
20 TVA transmission line; thence west along the TVA transmission line to the east brow of  
21 Sand Mountain; thence northerly along the east brow of Sand Mountain to its intersection  
22 with McClain Branch which is the point of beginning.

23 Commissioner District No. 4. Beginning at the intersection of the west brow of Lookout  
24 Mountain with the Georgia-Tennessee state line; thence east along the state line to the  
25 Dade-Walker County line; thence southwesterly along the Dade-Walker County line to  
26 its intersection with the Georgia-Alabama state line; thence north along the  
27 Georgia-Alabama state line to its intersection with the east brow of Sand Mountain;  
28 thence northerly along the east brow of Sand Mountain to its intersection with the TVA  
29 transmission line; thence east along the TVA transmission line to its intersection with the  
30 west brow of Lookout Mountain; thence northeasterly along the west brow of Lookout  
31 Mountain to its intersection with the Georgia-Tennessee state line which is the point of  
32 beginning.

33 (c) Each commissioner shall be a citizen of this state, at least 21 years of age, and shall  
34 have been a resident of the respective commissioner district for at least one year

1 immediately prior to taking office. Each commissioner, except the chairperson/county  
2 executive, shall be elected by the qualified electors voting within the respective  
3 commissioner districts. The chairperson/county executive shall be elected by the qualified  
4 voters of the entire county. Any commissioner who ceases to be a resident of his or her  
5 respective commissioner district during his or her term of office shall thereby vacate his  
6 or her seat on the board. All members of the board shall be nominated and elected pursuant  
7 to the provisions of Chapter 2 of Title 21 of the O.C.G.A., the 'Georgia Election Code,' as  
8 now or hereafter amended."

9 **SECTION 1-2.**

10 Said Act is further amended by striking Section 3 and inserting in lieu thereof a new  
11 Section 3 to read as follows:

12 "SECTION 3.

13 (a) The members of the board of commissioners who are in office on January 1, 2004, and  
14 any persons filling vacancies in such offices shall remain in office until December 31,  
15 2004, at which time their terms of office shall end.

16 (b) The first members of the reconstituted board of commissioners of Dade County from  
17 Commissioner Districts 1 and 2 shall be elected at the state-wide general election in 2004.  
18 Such members shall take office on January 1 following their election for terms of two years  
19 and until their successors are elected and qualified.

20 (c) The first members of the reconstituted board of commissioners of Dade County from  
21 Commissioner Districts 3 and 4 shall be elected at the state-wide general election in 2004.  
22 Such members shall take office on January 1 following their election for terms of four  
23 years and until their successors are elected and qualified.

24 (d) The first chairperson/county executive of the reconstituted board of commissioners of  
25 Dade County shall be elected at the state-wide general election in 2004. Such  
26 chairperson/county executive shall take office on January 1 following such election for a  
27 term of four years and until his or her successor is elected and qualified.

28 (e) Successors to members elected under subsections (b), (c), and (d) of this section shall  
29 be elected at the state-wide general election next preceding the expiration of such terms of  
30 office and shall take office on January 1 following their election for terms of four years and  
31 until their successors are elected and qualified.

32 (f) Before entering upon the duties of office, each member of the board shall take and  
33 subscribe to an oath for the faithful performance of that member's duties and shall give  
34 bond to and be approved by the judge of the Probate Court of Dade County in the amount  
35 of \$10,000.00 each, with good and sufficient security, conditioned upon the faithful

1 performance of that member's duties and the faithful accounting for all property and funds  
2 coming into that member's hands by virtue of that member's office."

3 **SECTION 1-3.**

4 Said Act is further amended by striking Section 4 and inserting in lieu thereof a new  
5 Section 4 to read as follows:

6 "SECTION 4.

7 The person elected as chairperson/county executive shall devote full time to the business  
8 and interests of Dade County in the performance of the chairperson/county executive's  
9 duties. The chairperson/county executive shall have and maintain an office for the  
10 transaction of county business at the courthouse of Dade County. Such office shall remain  
11 open during regular hours of business on all days except Saturdays, Sundays, and legal  
12 holidays. The chairperson/county executive shall preside over the meetings of the board  
13 and shall be a full-voting member of the board but shall not have any veto power. The  
14 chairperson/county executive shall call meetings of the board as provided in this Act and  
15 as required by a majority of the members of the board. The chairperson/county executive  
16 shall also appoint members and chairpersons of all committees of the board. The  
17 chairperson/county executive shall be recognized as the official head of Dade County by  
18 state, federal, and other authorities for military and ceremonial functions."

19 **SECTION 1-4.**

20 Said Act is further amended by striking subsection (a) of Section 8 and inserting in lieu  
21 thereof a new subsection (a) to read as follows:

22 "(a) The chairperson/county executive shall receive an annual salary in an amount \$500.00  
23 greater than the annual salary received by the highest paid county officer of Dade County;  
24 provided, however, that such salary shall not be reduced in the event that the salary of the  
25 highest paid county officer of Dade County upon which such salary is based is reduced for  
26 any reason. Each member of the board, other than the chairperson/county executive, shall  
27 receive an annual salary of \$4,000.00. Such salaries shall be paid in equal monthly  
28 installments from the funds of Dade County."

29 **PART II**

30 **SECTION 2-1.**

31 There is created the office of commissioner of Dade County as the governing authority of  
32 Dade County. The commissioner shall exercise the powers and duties and be charged with

1 the responsibilities imposed upon said officer by this Act and the Constitution and laws of  
2 the State of Georgia.

3 **SECTION 2-2.**

4 (a) The first commissioner of Dade County provided for by this Act shall be elected at the  
5 November general election to be held on the Tuesday next following the first Monday in  
6 November, 2004, and shall take office on the first day of January, 2005, for a term of office  
7 ending December 31, 2008, and until a successor is elected and qualified. Thereafter,  
8 successors shall be elected at the general election immediately preceding the expiration of  
9 the term of office and shall take office on the first day of January immediately following the  
10 election for a term of four years and until a successor is elected and qualified.

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

14 **SECTION 2-3.**

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

20 (b) From the date of the occurrence of the vacancy until such vacancy is filled by special  
21 election as provided in subsection (a) of this section, the judge of the Probate Court of Dade  
22 County shall be vested with and exercise the powers and duties of the commissioner of Dade  
23 County.

24 **SECTION 2-4.**

25 Before entering upon the discharge of the commissioner's duties, a person elected  
26 commissioner shall subscribe to an oath before the judge of the Probate Court of Dade  
27 County for the true and faithful performance of duties as commissioner and that the person  
28 is not the holder of any unaccounted for public funds.

29 **SECTION 2-5.**

30 The commissioner shall give a satisfactory surety bond approved by the judge of the Probate  
31 Court of Dade County and payable to said officer and filed in the office of the judge of the  
32 probate court in the sum of \$50,000.00, conditioned upon the faithful performance of the

1 duties of the commissioner's office. The cost of such bond shall be paid from the funds of  
2 Dade County.

3 **SECTION 2-6.**

4 (a) The commissioner of Dade County shall receive an annual salary in an amount \$500.00  
5 greater than the annual salary received by the highest paid county officer of Dade County;  
6 provided, however, that such salary shall not be reduced in the event that the salary of the  
7 highest paid county officer of Dade County upon which such salary is based is reduced for  
8 any reason. Such salary shall be paid in equal monthly installments from the funds of Dade  
9 County.

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

13 **SECTION 2-7.**

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

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

20 **SECTION 2-8.**

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

- 27 (1) To levy taxes;
- 28 (2) To make appropriations;
- 29 (3) To fix rates and charges for services provided by the county;
- 30 (4) To authorize the incurring of indebtedness;
- 31 (5) To order work done where the cost is to be assessed against benefited property and  
32 to fix the basis for such assessment;
- 33 (6) To authorize and enter into contracts;

- 1 (7) To establish, alter, open, close, build, repair, or abolish public roads, private ways,  
 2 bridges, and ferries, according to law;
- 3 (8) To establish, abolish, or change militia districts according to law;
- 4 (9) To allow the insolvent lists for the county;
- 5 (10) To accept for the county the provisions of any optional statute where the statute  
 6 permits its acceptance by the governing authority of the county;
- 7 (11) To create and change the boundaries of special taxing districts as authorized by law;
- 8 (12) To fix the bonds of county officers where same are not fixed by statute;
- 9 (13) To enact any ordinances, resolutions, or other legislation the county may be given  
 10 authority to enact;
- 11 (14) To determine the priority of capital improvements;
- 12 (15) To call bond elections; and
- 13 (16) To exercise all of the power and authority delegated by law to the governing  
 14 authority of Dade County or to the governing authorities of counties generally.

15 **SECTION 2-9.**

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

18 **SECTION 2-10.**

- 19 (a) The commissioner shall have the exclusive power and authority to appoint, remove, and  
 20 fix the compensation of all employees of the county.
- 21 (b) The appointment and removal of and the compensation to be paid to persons filling  
 22 offices and positions created by state statute, where not otherwise prescribed by such statute,  
 23 shall be made and fixed by the commissioner.

24 **SECTION 2-11.**

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

28 **SECTION 2-12.**

29 The expenditures of county funds shall be made in accordance with the county budget or  
 30 amendments thereto adopted by the commissioner. The commissioner shall enforce  
 31 compliance with this requirement by all departments of county government, including the  
 32 departments of the elected county officers, and, to this end, the commissioner shall institute

1 a system to control county purchasing and to account for the expenditure of all funds  
2 budgeted and appropriated by the commissioner.

3 **SECTION 2-13.**

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

9 **SECTION 2-14.**

10 An Act creating the board of commissioners of Dade County, approved April 4, 1991  
11 (Ga. L. 1991, p. 3893), as amended, is hereby repealed in its entirety on January 1, 2005.

12 **PART III**

13 **SECTION 3-1.**

14 Unless otherwise prohibited by the federal Voting Rights Act of 1965, as amended, the  
15 election superintendent of Dade County shall call and conduct an election on the date of the  
16 2002 state-wide general election as provided in this section for the purpose of submitting this  
17 Act to the electors of Dade County for approval or rejection. The election superintendent  
18 shall issue the call and conduct that election as provided by general law. The superintendent  
19 shall cause the date and purpose of the election to be published once a week for two weeks  
20 immediately preceding the date thereof in the official organ of Dade County. The ballot shall  
21 have written or printed thereon the words:

22 "QUESTION NO. 1

- 23 ( ) YES Shall the form of the governing authority of Dade County be changed either
- 24 to a board consisting of four members elected by district and a chairperson
- 25 ( ) NO elected at large or to a sole commissioner form of government?

26 QUESTION NO. 2

27 If a majority of the votes cast on Question No. 1 are in favor of changing the  
28 form of the governing authority of Dade County, select the form of the  
29 governing authority which you favor by placing a check (✓) mark or (X) in  
30 the appropriate space below. Vote for only one of the options below:



1 **SECTION 3-3.**

2 Except as otherwise provided in Section 3-1 of this Act, this Act shall become effective upon  
3 its approval by the Governor or its becoming law without such approval.

4 **SECTION 3-4.**

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