

The House Committee on State Planning and Community Affairs - Local Legislation offers the following substitute to SB 58:

A BILL TO BE ENTITLED
AN ACT

1 To create the Board of Commissioners of Lumpkin County to be composed of a chairperson
2 and four commissioners; to provide that the chairperson shall be elected from the county at
3 large; to provide that the commissioners shall each reside in one of four districts and be
4 elected at large; to provide for terms of office; to provide for qualifications; to provide for
5 commissioner districts; to provide for a county manager and the selection, compensation,
6 powers, and duties thereof; to provide for a clerk; to provide for filling of vacancies; to
7 provide for oaths of office and surety bonds; to provide for the compensation and expenses
8 of the chairperson and members of the board; to provide for a vice chairperson; to provide
9 for regular meetings, work sessions, and other meetings; to provide for the powers, duties,
10 and authority of the chairperson and members of the board; to provide for formal bids for
11 certain purchases; to provide for the appointment, removal, and compensation of employees
12 and department heads; to provide for the preparation, submission, review, adoption, and
13 amendment of budgets; to provide for expenditures of county funds; to provide for audits of
14 county finances and financial records; to provide for submission of this Act pursuant to
15 Section 5 of the federal Voting Rights Act of 1965, as amended; to provide for a referendum;
16 to provide for other related matters; to provide for effective dates and automatic repeal; to
17 repeal in its entirety an Act creating the office of commissioner of Lumpkin County,
18 approved March 7, 1955 (Ga. L. 1955, p. 2892), as amended, if more than one-half of the
19 votes cast in a special referendum election are for approval of changing the governing
20 authority of Lumpkin County to a five-member board of commissioners; to repeal
21 conflicting laws; and for other purposes.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I

SECTION 1-1.

(a) There is created the Board of Commissioners of Lumpkin County to be elected and organized as provided for in this Act. The board of commissioners shall be the successor to the office of commissioner of Lumpkin County and shall continue to have the obligations and liabilities of the commissioner of Lumpkin County as they existed immediately prior to January 1, 2005. The board of commissioners shall constitute the governing authority of Lumpkin County and shall exercise the powers, duties, and responsibilities vested in and upon said officers by the provisions of this Act. The term "board," whenever used in this Act, shall mean the Board of Commissioners of Lumpkin County, including the chairperson and all members.

(b) The Board of Commissioners of Lumpkin County shall consist of a chairperson and four district commissioners. The four district commissioners shall be residents of their respective commissioner districts described in subsection (c) of this section but shall be elected at large as provided in Section 1-2 of this Act. The chairperson shall be elected at large as provided in Section 1-2 of this Act.

(c) For the purpose of electing members of the board of commissioners, Lumpkin County shall be divided into four commissioner districts. One member of the board shall be elected for each such district. Those districts shall consist of the described territory of Lumpkin County contained in the description attached to this Act and made a part hereof and further identified as: "Operator: local Client: lumpkin Plan: lumpcc01."

(d) For purposes of the commissioner districts described as provided by subsection (c) of this section:

(1) The terms "Tract," "Block," and "Block Group" shall mean and describe the same geographical boundaries as provided in the report of the Bureau of the Census for the United States decennial census of 1990 for the State of Georgia;

(2) Any part of Lumpkin County which is not included in any commissioner district described as provided by subsection (c) of this section shall be included within that commissioner district contiguous to such part which contains the least population according to the United States decennial census of 1990 for the State of Georgia; and

(3) Any part of Lumpkin County which is described as provided by subsection (c) of this section as being included in a particular commissioner district shall nevertheless not be included within such commissioner district if such part is not contiguous to such commissioner district. Such noncontiguous part shall instead be included with that commissioner district contiguous to such part which contains the least population according to the United States decennial census of 1990 for the State of Georgia.

SECTION 1-2.

(a) No person shall be a member of the board if that person is ineligible for such office pursuant to Code Section 45-2-1 of the O.C.G.A. or any other general law.

(b) In order to be elected as a member of the board for a commissioner district, a person must be 21 years of age or older, must reside in that district, must have resided in Lumpkin County for at least 12 months prior to election to such office, and must receive the requisite number of votes cast for that office by the electors of the entire county. At the time of qualifying for election as a candidate for such office, each candidate shall specify the commissioner district for which that person is a candidate. A person elected as a member of the board for a commissioner district must continue to reside in that district during that person's term of office or that office shall thereupon become vacant.

(c) The chairperson of the board must be 25 years of age or older, must have resided in Lumpkin County for at least 12 months prior to election to such office, may reside anywhere within Lumpkin County, and must receive the requisite number of votes cast for that office by the electors of the entire county. The chairperson must continue to reside within Lumpkin County during that person's term of office or that office shall thereupon become vacant.

SECTION 1-3.

(a) At the general election held in November, 2004, the chairperson and commissioners for all commissioners districts shall be elected. The chairperson and commissioners for Commissioner District No. 1 and Commissioner District No. 2 elected in 2004 shall take office on the first day of January in the year following their election and shall serve for terms of four years and until their successors are duly elected and qualified. The commissioners for Commissioner District No. 3 and Commissioner District No. 4 elected in 2004 shall take office on the first day of January in the year following their election and shall serve for initial terms of two years and until their successors are duly elected and qualified. Those and all future successors to the chairperson and commissioners for commissioner districts whose terms of office are to expire shall be elected at the general state-wide election immediately preceding the expiration of such terms, shall take office on the first day of January in the year following that election, and shall serve for terms of four years and until their successors are duly elected and qualified.

(b) The chairperson and all members of the board who are elected thereto shall be nominated and elected in accordance with Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code."

SECTION 1-4.

(a) In the event of a vacancy occurring in the membership of the board on or after the date the first members of the board take office, whether the vacancy is in the office of chairperson or any other member, for any reason other than expiration of term, that vacancy shall be filled as provided in this section.

(b) In the event a vacancy occurs on the board of commissioners when 90 days or more remain in the unexpired term of office, the election superintendent of Lumpkin County, within 15 days after the vacancy occurs, shall issue the call for a special election to fill the vacancy for the remainder of the unexpired term. Such special election shall be called and conducted as provided in Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code," as now or hereafter amended. Any person elected in a special election to fill such a vacancy shall take office immediately upon certification of the results of such special election and qualification. If such vacancy is in the office of chairperson of the board of commissioners, the vice chairperson of the board shall exercise the powers and duties of the chairperson for the period beginning on the date the vacancy occurs and ending on the date the successor chairperson takes office for the remainder of the unexpired term following the special election provided for in this subsection.

(c) In the event a vacancy occurs on the board of commissioners when less than 90 days remain in the unexpired term of office, the position shall remain vacant until the election. Immediately after being elected, the newly elected commissioner to an office that has been vacated shall be sworn in and take office. If such vacancy is in the office of chairperson of the board of commissioners, the vice chairperson of the board shall exercise the powers and duties of the chairperson for the period beginning on the date the vacancy occurs and ending on the date the successor chairperson takes office.

(d) A vice chairperson serving as chairperson shall not be authorized to vote as a member of the board of commissioners during such service unless the vice chairperson's vote would affect the outcome of any vote or issue before the board.

SECTION 1-5.

Before entering upon the discharge of their duties, the chairperson and commissioners shall subscribe an oath before the judge of the probate court of said county for the true and faithful performance of their duties and that they are not the holders of any public funds unaccounted for. In addition, the chairperson and each commissioner shall further give a satisfactory surety bond to the judge of the probate court of the county and payable to the judge of the probate court or that judge's successor in office and filed in the office of the judge of the probate court, in the sum of \$10,000.00, conditioned upon the faithful performance of the duties of the office. The costs of said bonds shall be paid out of the county treasury.

SECTION 1-6.

(a) Commissioners, other than the chairperson, shall serve on a part-time basis and be paid a salary of \$800.00 per month. Such compensation shall be paid in equal monthly installments from the funds of Lumpkin County. Each such commissioner shall also receive reimbursement for actual and necessary expenses incurred for travel in the performance of his or her duties which has been approved in advance, in writing, by the chairperson upon presentation of a signed voucher setting forth the expenses anticipated for such travel. Reimbursement will be made upon presentation to and approval by the board of a signed voucher with receipts attached setting forth the expenses incurred in such travel.

(b) The chairperson shall serve in such capacity on a part-time basis and shall be paid a salary of \$1,250.00 per month. Such compensation shall be paid in equal monthly installments from the funds of Lumpkin County. The chairperson shall also receive reimbursement for actual and necessary expenses incurred for travel in the performance of his or her duties upon presentation to and approval by the board of a signed voucher with receipts attached setting forth the expenses incurred in such travel.

SECTION 1-7.

At the first regular meeting of each year, the board of commissioners shall elect from its members a vice chairperson. In the event of death, disqualification, or resignation of the chairperson, the vice chairperson shall perform the duties and exercise the authority of the chairperson until a new chairperson is chosen as provided in this Act. The vice chairperson shall preside at meetings of the board of commissioners in the absence of the chairperson and shall serve for the calendar year in which elected. When the vice chairperson presides at a meeting, he or she shall be entitled to vote on a question only if the vote would affect the outcome of a vote or an issue before the board. In the event of a vacancy in the office of vice chairperson, the board of commissioners shall elect a new vice chairperson to serve for the remainder of the calendar year.

SECTION 1-8.

The board of commissioners shall hold a minimum of one regular meeting and one work session each month at the county seat, which meeting shall be open to the public. The time, date, and place of the meetings shall be determined by the board in the first meeting of the year. Any resolution passed by the board regarding the date, time, and place of its monthly meetings shall be published in the official county organ once a week for two weeks during a period of 30 days immediately following the passage of the resolution. The board of commissioners may hold such additional meetings as shall be necessary when called by the chairperson or any three commissioners, provided all members of the board of

1 commissioners shall have been notified of such special meeting which is open to the public.
 2 Any three commissioners or the chairperson and any two commissioners shall constitute a
 3 quorum. No official action shall be taken except upon the affirmative vote of at least three
 4 members of the board of commissioners and except upon compliance with Chapter 14 of
 5 Title 50 of the O.C.G.A., relating to open meetings. The chairperson shall be entitled to vote
 6 on a question only if the chairperson's vote would affect the outcome of any vote or issue
 7 before the board. All regular and called meetings shall be conducted according to Robert's
 8 Rules of Order.

9 **SECTION 1-9.**

10 The chairperson shall preside over the meetings of the board of commissioners. The duties
 11 of the chairperson shall include, but shall not be limited to, the following:

- 12 (1) Calling meetings of the board as provided in Section 1-8 of this Act;
- 13 (2) Presiding at meetings of the board;
- 14 (3) Representing the county government at ceremonial functions;
- 15 (4) Being empowered to submit motions to the board of commissioners for action;
- 16 (5) Appointing members and chairpersons to all committees of the board with the
 17 approval of the board of commissioners; and
- 18 (6) Performing such other duties as shall be delegated to the chairperson by the board of
 19 commissioners or as provided by law or ordinance.

20 **SECTION 1-10.**

21 The board of commissioners shall have the power and authority to fix and establish, by
 22 appropriate resolution entered on its minutes, policies, rules, and regulations governing all
 23 matters reserved to its exclusive jurisdiction. Such policies, rules, and regulations, when so
 24 adopted with proper entry thereof made on the minutes of the board of commissioners, shall
 25 be conclusive and binding. The board of commissioners shall exercise only those
 26 administrative powers which are necessarily and properly incident to its functions as a
 27 policy-making or rule-making body or which are necessary to compel enforcement of its
 28 adopted resolutions. The following powers are vested in the board of commissioners and
 29 reserved to its exclusive jurisdiction:

- 30 (1) To levy taxes;
- 31 (2) To fix fees;
- 32 (3) To make appropriations;
- 33 (4) To fix rates and charges for services provided by the county;
- 34 (5) To authorize the incurring of indebtedness;

- 1 (6) To order work done where the cost is to be assessed against benefitted property and
 2 to fix the basis for such assessment;
- 3 (7) To authorize and provide for the execution of contracts;
- 4 (8) To establish, alter, open, close, build, repair, or abolish public roads, bridges, and
 5 ferries, according to law; provided, however, that the chairperson shall have the authority
 6 to adopt subdivision plats when the requirement established by the board of
 7 commissioners for subdivisions have been met;
- 8 (9) To accept for the county the provisions of any optional statute where the statute
 9 permits its acceptance by the governing authority of the county;
- 10 (10) To exercise all powers, duties, and authority in respect to zoning and planning;
- 11 (11) To create and change the boundaries of special taxing districts authorized by law;
- 12 (12) To fix the bonds of county officers where same are not fixed by statute;
- 13 (13) To enact any ordinances or other legislation which the county may be given
 14 authority to enact;
- 15 (14) To determine the priority of capital improvements;
- 16 (15) To call elections for the voting of bonds;
- 17 (16) Except as otherwise provided in this Act, to exercise all of the power and authority
 18 which may be delegated by law to the governing authority of the county, by whatever
 19 name designated;
- 20 (17) To appoint retained legal counsel and an independent county auditor and provide
 21 for their compensation; and
- 22 (18) To hire a county manager and provide for his or her compensation.

23 **SECTION 1-11.**

24 Formal sealed bids shall be received for all purchases in amounts over \$2,500.00.
 25 Advertisements for such bids shall be published for two consecutive weeks in the official
 26 organ of Lumpkin County. The need for such bids may be dispensed with by the board of
 27 commissioners if it decides that an emergency exists which will not permit a delay. Notice
 28 of such emergency expenditures shall be published in the official organ of Lumpkin County
 29 within two weeks of the expenditure.

30 **SECTION 1-12.**

31 The internal organization of the county government shall be established and altered by the
 32 board of commissioners. Existing departments may be abolished and their function
 33 transferred to other departments, additional departments may be created, and any two or
 34 more departments may be consolidated.

SECTION 1-13.

The board of commissioners shall employ a county manager having at least a bachelor's degree in public administration or a related field and at least four years experience in county or city management. The county manager shall serve at the pleasure of the board of commissioners, shall receive such salary as determined by the board of commissioners, shall not be an elected official of any county or municipality, and shall have the following duties, powers, and authority:

(1) To supervise the administration of the affairs of the county and to see that the ordinances, resolutions, and regulations of the board of commissioners and the laws of the state are faithfully executed and enforced;

(2) To employ and remove all department heads of the county under the jurisdiction of the board of commissioners and staff employees of the county manager pursuant to policies established by the board, except for the county attorney, county auditor, and members of all the boards, commissions, and authorities who shall be appointed and removed by the board of commissioners pursuant to law or county ordinance;

(3) To exercise managerial authority and supervision over the county manager's staff and all department heads under the jurisdiction of the board of commissioners;

(4) To require reports from heads of departments and other employees entrusted with administrative duties or exercising discretion. The county manager shall have at all times the authority to examine all books and records of every officer and department of the county under the jurisdiction of the board of commissioners;

(5) To attend all meetings of the board of commissioners with a right to take part in the discussions, but having no vote; and to prepare an agenda for each meeting of both new and unresolved business that includes issues recommended by individual commissioners;

(6) To recommend to the board of commissioners for adoption such measures as the county manager may deem necessary or expedient;

(7) To supervise the performance of all contracts made by any person, company, or corporation with the county for work done for the board of commissioners;

(8) To submit to the board of commissioners for approval, prior to July 31 of each year, a proposed operating budget for the next fiscal year showing budget revenues and expenditures during the preceding fiscal year; appropriations and estimated revenue and recommended expenditures for the next fiscal year; recommended tax levies; and such other information and data as may be considered necessary by the board of commissioners;

(9) To keep the board of commissioners fully advised as to the financial condition and needs of the county;

1 (10) To make or cause to be made a full written report to the board of commissioners
 2 each month showing the operations and expenditures of each department of the county
 3 government for the preceding month;

4 (11) To delegate purely administrative duties to department heads or subordinates in the
 5 county government whose work the county manager shall supervise and direct; provided,
 6 however, that the delegation or assignment of duties to subordinates shall not relieve the
 7 county manager from responsibility for administration of such position;

8 (12) To act as the clerk of the Board of Commissioners of Lumpkin County with the
 9 authority to delegate the administrative duties of such position;

10 (13) To perform such other duties as may be prescribed by this Act or as may, from time
 11 to time, be required by the board of commissioners; and

12 (14) To cooperate with elected and appointed county officers in management of the
 13 county's affairs.

14 **SECTION 1-14.**

15 The clerk of the board of commissioners shall keep a proper and accurate book of minutes.
 16 The book of minutes of the board of commissioners shall contain all the acts, orders, and
 17 proceedings of the board of commissioners in chronological order. The minutes book of the
 18 board of commissioners shall be open to the public for inspection at all times during regular
 19 office hours; and certified copies of any entries in the minutes book shall be furnished by the
 20 clerk to any person requesting same upon payment of a reasonable fee, to be paid into the
 21 county treasury as are other funds, to be assessed by the board of commissioners in an
 22 amount sufficient to defray the cost of preparing same.

23 **SECTION 1-15.**

24 (a) The county will comply with Chapter 81 of Title 36 of the O.C.G.A., relating to local
 25 government budgets and audits, as well as the following provisions of this section.

26 (b) At the time the proposed budget is submitted to the board, the county manager shall
 27 cause to be published in the official organ of Lumpkin County a copy of the proposed budget
 28 along with the public notices required by subsection (e) of Code Section 36-81-5 of the
 29 O.C.G.A. It shall be the duty of the board to hold a meeting at the time and place specified
 30 in the notice for the purpose of conducting such public hearing. The board shall review the
 31 proposed budget at such public hearing and may adopt the same as submitted by the county
 32 manager or make such amendments thereto as the board may deem necessary to maintain the
 33 county in sound financial condition. The board may continue the hearing on the proposed
 34 budget from time to time, but the time of and the place where the hearing is continued shall
 35 be publicly announced at the previous hearing. The board shall adopt the proposed budget

1 as submitted or as amended by the board as the budget for the county for the following fiscal
2 year to which it applies.

3 (c) The final budget adopted by the board shall constitute the board's appropriation of all
4 funds for the fiscal year covered by the budget. The budget may be amended during the
5 fiscal year which it covers upon the board's taking formal action for such purpose at a regular
6 meeting of the board. Prior to taking such action, the board shall cause to be published in the
7 official organ of Lumpkin County a notice setting forth the proposed changes in the budget
8 and a summary of the reasons therefor. Said notice shall also state the time and place of the
9 regular meeting of the board at which action to amend the budget is to be taken. Said notice
10 shall be published at least ten days prior to the date of the meeting. No increase in
11 appropriation shall be made without provision also being made to finance such increase.

12 (d) A copy of the final budget adopted by the board and any amendment to or revision of the
13 budget shall be transmitted by the county manager to the grand jury of the Superior Court of
14 Lumpkin County then in session.

15 **SECTION 1-16.**

16 No expenditures of county funds shall be made except in accordance with the county budget,
17 or amendments thereto, adopted by the board of commissioners. The county manager shall
18 enforce compliance with this provision by all departments of county government and to this
19 end shall institute a system of allotments of all moneys appropriated and budgeted.

20 **SECTION 1-17.**

21 The board of commissioners shall on or before the final day of the month following the end
22 of each fiscal year employ a certified public accountant for the making of an annual
23 continuous audit of county finances and financial records. The accountant so employed shall
24 be paid out of county funds and shall perform a complete audit of the financial records of the
25 county for the preceding year, pointing out any irregularities found to exist, and reporting the
26 results of such audit to the board of commissioners. Each annual report submitted to the
27 board of commissioners shall be made available for public inspection as are other records in
28 such office. The board of commissioners shall cause to be published in the official organ of
29 Lumpkin County and posted at the courthouse door a statement of the financial condition of
30 the county as of December 31 of each year. Said accountant shall transmit to the grand jury
31 of the Superior Court of Lumpkin County a copy of each annual report furnished by said
32 accountant to the board of commissioners.

1 **PART II**

2 **SECTION 2-1.**

3 It shall be the duty of the governing authority of Lumpkin County to require the attorney
4 therefor to submit this Act, pursuant to Section 5 of the federal Voting Rights Act of 1965,
5 as amended, to the United States Attorney General for approval.

6 **SECTION 2-2.**

7 Unless prohibited by the federal Voting Rights Act of 1965, as amended, the election
8 superintendent of Lumpkin County shall call and conduct an election as provided in this
9 section for the purpose of submitting this Act to the electors of Lumpkin County for
10 approval or rejection. The election superintendent shall conduct this election on the date
11 provided by law for the conduct of special elections in November, 2002. The election
12 superintendent shall issue the call and conduct that election as provided by general law. The
13 superintendent shall cause the date and purpose of the election to be published once a week
14 for two weeks immediately preceding the date thereof in the official organ of Lumpkin
15 County. The ballot shall have written or printed thereon the words:

16 "() YES Shall the governing authority of Lumpkin County be changed to a five-
17 member board of commissioners to be composed of a chairperson and four
18 () NO additional district commissioners, with compensation for each and a county
manager to be employed by the board of commissioners?"

19 If more than one-half of the votes cast are for approval of changing the governing authority
20 of Lumpkin County to a five-member board of commissioners, then this Act shall become
21 effective as provided in Section 2-3. If more than one-half of the votes cast reject changing
22 the governing authority of Lumpkin County to a five-member board of commissioners, then
23 this Act shall be automatically repealed following the election. The expense of such election
24 shall be borne by Lumpkin County. It shall be the election superintendent's duty to certify
25 the result thereof to the Secretary of State.

26 **SECTION 2-3.**

27 This Act shall become effective upon its approval by the Governor or upon its becoming law
28 without such approval for the purpose of conducting the special election provided for in
29 Section 2-2 of this Act. If more than one-half of the votes cast in such special election
30 provided for in Section 2-2 of this Act are for approval of changing the governing authority
31 of Lumpkin County to a five-member board of commissioners, this Act shall become
32 effective on January 1, 2004, for the purpose of conducting the election of the initial
33 members of the Board of Commissioners of Lumpkin County at the November, 2004,

1 general election as provided in Section 1-3 of this Act and shall become effective for all
2 purposes on January 1, 2005.

3 **SECTION 2-4.**

4 If more than one-half of the votes cast in such special election provided for in Section 2-2
5 of this Act are for approval of changing the governing authority of Lumpkin County to a
6 five-member board of commissioners, an Act creating the office of commissioner of
7 Lumpkin County, approved March 7, 1955 (Ga. L. 1955, p. 2892), as amended, is repealed
8 on January 1, 2005.

9 **SECTION 2-5.**

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