

House Bill 947 (AS PASSED HOUSE AND SENATE)

By: Representative Elrod of the 25th

A BILL TO BE ENTITLED
AN ACT

1 To amend an Act providing a new charter for the City of Commerce, approved April 4, 1991
2 (Ga. L. 1991, p. 4042), as amended, particularly by an Act approved February 11, 1993 (Ga.
3 L. 1993, p. 3714), so as to reconstitute the governing authority of the city and its independent
4 school district, and provide for districts, elections, terms, qualifications, powers, duties,
5 rights, and liabilities; to change the provisions regarding the mayor pro tempore; to provide
6 for vacancies, organization, and compensation of the board of education for such district and
7 provide for a superintendent therefor; to provide effective dates; to provide for a submission;
8 to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 An Act providing a new charter for the City of Commerce, approved April 4, 1991 (Ga. L.
12 1991, p. 4042), as amended, particularly by an Act approved February 11, 1993 (Ga. L. 1993,
13 p. 3714), is amended by striking paragraph (40) of subsection (b) of Section 1.12 thereof and
14 inserting in its place a new paragraph to read as follows:

15 "(40) Independent school system. (A) The public school system of the City of
16 Commerce was initially established on November 26, 1901, by Sections 41 through 45
17 of the Act incorporating the City of Harmony Grove, predecessor to the City of
18 Commerce, and reenacted as Section 40 of the Act of 1909, page 674. The City of
19 Commerce shall retain all of those powers and rights set forth in those predecessor Acts
20 as an independent public school system. The City of Commerce shall have the power
21 to establish and operate a complete public school system, including such facilities and
22 programs as are deemed necessary by the Commerce City Board of Education.

23 (B) The Commerce City Board of Education which was appointed and which existed
24 on January 1, 2003, is continued in existence but on and after January 1, 2004, shall be
25 constituted as provided in this paragraph. The board of education of the independent
26 school system of the City of Commerce so continued and constituted, sometimes

1 referred to in this section as the 'board,' shall continue to have the powers, duties,
2 rights, obligations, and liabilities of the Commerce City Board of Education as existed
3 immediately prior to January 1, 2004, and shall be subject to all constitutional and
4 statutory provisions relating to boards of education and not in conflict with this section.

5 (C) The members of the board of education representing Education Districts 3, 4, and
6 5 who are in office on January 1, 2003, and any person selected to fill a vacancy in such
7 office, shall continue to serve out their regular terms of office, which shall expire
8 December 31, 2003, and upon the election and qualification of their respective
9 successors. The successors to members of the board representing Education Districts
10 3, 4, and 5 shall be elected at the municipal general election in 2003, but as the
11 members of the board from Districts 3, 4, and 5, respectively, as described in subsection
12 (d) of Section 2.10 of this charter and shall reside in and be elected from Districts 3, 4,
13 and 5 as so described.

14 (D) The members of the board of education representing Education Districts 1 and 2
15 and who are in office on January 1, 2003, and any person selected to fill a vacancy in
16 such office, shall continue to serve out their regular terms of office, which expire
17 December 31, 2005, and upon the election and qualification of their respective
18 successors. On and after January 1, 2004, the members of the board of education
19 representing Education Districts 1 and 2 shall be deemed to be serving from and
20 representing Districts 1 and 2, respectively, as newly described in subsection (d) of
21 Section 2.10 of this charter. The successors to members of the board representing
22 Education Districts 1 and 2 shall be elected at the municipal general election in 2005
23 as members of the board from Districts 1 and 2, respectively, as described in subsection
24 (d) of Section 2.10 of this charter and shall reside in and be elected from Districts 1 and
25 2 as so described.

26 (E) Members of the board first elected pursuant to subparagraphs (C) and (D) of this
27 paragraph of this section, and all future successors to such officers having terms of
28 office which are to expire, shall be elected at the municipal general election
29 immediately preceding the expiration of such terms, shall take office the first day of
30 January immediately following that election, and shall serve for terms of four years and
31 until their respective successors are elected and qualified.

32 (F)(i) No person shall be a member of the board if that person is ineligible for such
33 office pursuant to Code Section 20-2-51 or 45-2-1 of the O.C.G.A. or any other
34 general law.

35 (ii) In order to be elected as a member of the board from an education district, a
36 person must be a legal resident of that district and must receive the votes cast as
37 required by general law for that office in that district only and not at large. Only

1 electors who are residents of that education district may vote for a member of the
 2 board for that district. At the time of qualifying for election as a member of the board
 3 from an education district, each candidate for such office shall specify the education
 4 district for which that person is a candidate. A person elected as a member of the
 5 board from an education district must continue to reside in that district during that
 6 person's term of office or that office shall thereupon become vacant.

7 (iii) All members of the board who are elected thereto shall be elected in accordance
 8 with Chapter 2 of Title 21 of the O.C.G.A., the 'Georgia Election Code,' in
 9 nonpartisan elections as provided in Code Section 21-2-139 of the O.C.G.A.

10 (G) In the event of a vacancy occurring on or after January 1, 1993, in the membership
 11 of the board, for any reason other than expiration of term, that vacancy shall be filled
 12 as provided in Code Section 20-2-54.1 of the O.C.G.A.

13 (H) The board of education shall organize by electing a president or chairperson and
 14 a vice president or vice chairperson from their number. The superintendent of schools
 15 shall be elected by the board of education from outside the membership of the board,
 16 based upon that person's qualifications, and shall serve at the pleasure of the board.

17 (I) The superintendent of schools shall serve as the secretary and treasurer of the board.
 18 Members of the board shall, when approved by the board, receive a per diem of \$50.00
 19 for each day of attendance at meetings of the board and while meeting and traveling
 20 within or outside the state as a member of a committee of the board on official business
 21 first authorized by a majority of the board, plus reimbursement for actual expenses
 22 necessarily incurred in connection therewith. The accounts for such service and
 23 expenses shall be submitted for approval to the school superintendent. The
 24 compensation of members of the board shall be paid only from the local tax funds
 25 available to the board for educational purposes.

26 (J) In addition to these powers, the board of education shall possess all such other
 27 powers as are granted to boards of education under general law. Except as otherwise
 28 provided in this paragraph, the superintendent shall be subject to all general laws of this
 29 state relating to school superintendents."

30 SECTION 2.

31 Said Act is further amended by striking Section 2.10 and inserting in its place the following:

1 "SECTION 2.10.

2 City council creation; composition; number; election.

3 (a)The legislative authority of the government of this city, except as otherwise specifically
4 provided in this charter, shall be vested in a city council to be composed of a mayor and
5 six councilmembers. The mayor and councilmembers shall be elected in the manner
6 provided by this charter. All elected officers shall commence service on January 1
7 following their respective elections.

8 (b) The city council which existed on January 1, 2003, is continued in existence but on and
9 after January 1, 2004, shall be constituted as provided in the remaining provisions of this
10 section. The city council so continued and constituted shall continue to have the powers,
11 duties, rights, and liabilities of that council as existed immediately prior to January 1, 2004.

12 (c) On and after January 1, 2004, the city council shall consist of the mayor and six
13 councilmembers, with the mayor and councilmember who is mayor pro tempore being
14 elected thereafter by electors residing anywhere within the city and the remaining five
15 councilmembers being elected thereafter from electors residing only within their respective
16 districts as described in subsection (d) of this section.

17 (d)(1) For purposes of electing five of six councilmembers and all five members of the
18 board of education of the city on and after the municipal general election in 2003, the city
19 and its independent school district is divided into five districts. One councilmember and
20 one member of the board of education shall be elected from each district. These districts
21 shall be and correspond to those five numbered districts described in and attached to and
22 made a part of this Act and further identified as: Plan Name: comm2 Plan Type: Local
23 User: staff Administrator: City-Commerce.

24 (2) When used in such attachment, the terms 'Tract' and 'BG' (Block Group) shall mean
25 and describe the same geographical boundaries as provided in the report of the Bureau
26 of the Census for the United States decennial census of 2000 for the State of Georgia.
27 The separate numeric designations in a Tract description which are underneath a 'BG'
28 heading shall mean and describe individual Blocks within a Block Group as provided in
29 the report of the Bureau of the Census for the United States decennial census of 2000 for
30 the State of Georgia. Any part of the City of Commerce or its independent school district
31 which is not included in any such district described in that attachment shall be included
32 within that district contiguous to such part which contains the least population according
33 to the United States decennial census of 2000 for the State of Georgia. Any part of the
34 City of Commerce or its independent school district which is described in that attachment
35 as being in a particular district shall nevertheless not be included within such district if
36 such part is not contiguous to such district. Such noncontiguous part shall instead be

1 included within that district contiguous to such part which contains the least population
2 according to the United States decennial census of 2000 for the State of Georgia. Except
3 as otherwise provided in the description of any education district, whenever the
4 description of such district refers to a named city, it shall mean the geographical
5 boundaries of that city as shown on the census map for the United States decennial census
6 of 2000 for the State of Georgia.

7 (3) Candidates for each of the five numbered city council and school districts shall be
8 legal residents of that district, shall be elected by the electors residing only in that district,
9 and shall continue to reside within that district during their terms of office.

10 (e) The mayor, the councilmembers representing Wards 3 and 4, and the councilmember
11 representing at-large Post No. 1 in office on January 1, 2003, and any person selected to
12 fill a vacancy in such office, shall continue to serve out their regular terms of office, which
13 shall expire December 31, 2003, and upon the election and qualification of their respective
14 successors. The successors to councilmembers representing Wards 3 and 4 shall be elected
15 at the municipal general election in 2003, but as the councilmembers from Districts 3 and
16 4, respectively, as described in subsection (d) of this section and shall reside in and be
17 elected from Districts 3 and 4 as so described. The successor to the mayor shall be elected
18 at the municipal general election in 2003 from the city at large. The successor to the
19 councilmember representing at-large Post No. 1 shall be elected at the municipal general
20 election in 2003 but as councilmember from District 5 as described in subsection (d) of this
21 section and shall reside in and be elected from District 5 as so described.

22 (f) The councilmembers representing Wards 1 and 2 and the councilmember representing
23 at-large Post No. 2 in office on January 1, 2003, and any person selected to fill a vacancy
24 in such office, shall continue to serve out their regular terms of office, which expire
25 December 31, 2005, and upon the election and qualification of their respective successors.
26 On and after January 1, 2004, the councilmembers representing Wards 1 and 2 shall be
27 deemed to be elected from and representing District 1 and 2, respectively, as newly
28 described in subsection (d) of this section. On and after January 1, 2004, the member of
29 the city council representing at-large Post No. 2 shall become the mayor pro tempore. The
30 successors to councilmembers representing Wards 1 and 2 shall be elected at the municipal
31 general election in 2005 as councilmembers from Districts 1 and 2, respectively, as
32 described in subsection (d) of this section and shall reside in and be elected from Districts
33 1 and 2 as so described. The successor to the councilmember representing at-large Post
34 No. 2 shall be elected at the municipal general election in 2005 as the mayor pro tempore
35 who shall reside in and be elected from the city at large and not from a specific election
36 district.

1 (g) Successors to the mayor and councilmembers first elected pursuant to subsections (e)
2 and (f) of this section, and all future successors to such officers having terms of office
3 which are to expire, shall be elected at the municipal general election immediately
4 preceding the expiration of such terms, shall take office the first day of January
5 immediately following that election, and shall serve for terms of four years and until their
6 respective successors are elected and qualified."

7 **SECTION 3.**

8 Said Act is further amended by striking Section 2.11 thereof and inserting in its place the
9 following:

10 "SECTION 2.11.

11 City council terms and qualifications for office.

12 The members of the city council shall serve for terms of four years and until their
13 respective successors are elected and qualified. No person shall be eligible to serve as
14 mayor or councilmember unless he or she shall have been a resident of the city for 12
15 months immediately prior to the date of the election of mayor or members of the city
16 council; and each shall continue to reside therein during his or her period of service and be
17 registered and qualified to vote in municipal elections of this city."

18 **SECTION 4.**

19 Said Act is further amended by striking Section 2.32 thereof and inserting in its place the
20 following:

21 "SECTION 2.32.

22 Mayor pro tempore.

23 The mayor pro tempore shall be selected as provided in Section 2.10 of this charter and
24 shall assume the duties and powers of the mayor during the mayor's disability or absence.
25 Any such disability or absence shall be declared by a majority vote of the city council."

26 **SECTION 5.**

27 Said Act is further amended by striking Section 5.11 thereof and inserting in its place the
28 following:

1 "SECTION 5.11.

2 Election of the city council and mayor.

3 There shall be a municipal general election biennially on the Tuesday next following the
4 first Monday in November commencing in 1991."

5 **SECTION 6.**

6 Said Act is further amended by striking Section 7.12 thereof and inserting in its place the
7 following:

8 "SECTION 7.12.

9 Reserved."

10 **SECTION 7.**

11 The city council of the City of Commerce shall through its legal counsel cause this Act to be
12 submitted for preclearance under the federal Voting Rights Act of 1965, as amended; and
13 such submission shall be made to the United States Department of Justice or filed with the
14 appropriate court no later than 45 days after the date on which this Act is approved by the
15 Governor or otherwise becomes law without such approval.

16 **SECTION 8.**

17 This section and Section 7 of this Act and those provisions of this Act necessary for the
18 election of the mayor and councilmembers and members of the board of education of the
19 City of Commerce in 2003 shall become effective upon the approval of this Act by the
20 Governor or upon its becoming law without such approval. The remaining provisions of this
21 Act shall become effective January 1, 2004.

22 **SECTION 9.**

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