

House Bill 896 (AS PASSED HOUSE AND SENATE)

By: Representatives Black of the 144<sup>th</sup>, Borders of the 142<sup>nd</sup>, and Shaw of the 143<sup>rd</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend and supersede the laws pertaining to the governing authority of Lowndes County;  
2 to provide for a Board of Commissioners of Lowndes County; to provide for the powers of  
3 the board of commissioners, the composition of the board of commissioners, election  
4 districts, qualifications of commissioners, terms of office for commissioners, filling  
5 vacancies, meetings, a quorum, the responsibilities of the chairperson, a vice chairperson and  
6 the vice chairperson's responsibilities; to provide for oaths, bonds, budgets, audits, a county  
7 manager, a clerk, minutes, compensation and expenses of commissioners, submission for  
8 approval pursuant to the federal Voting Rights Act of 1965, severability, an effective date,  
9 the repeal of existing enabling legislation and other conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 The Board of Commissioners of Lowndes County ("the board") which existed on January  
13 1, 2003, is continued in existence as the governing authority of Lowndes County but on and  
14 after January 1, 2005, shall be constituted as provided in this Act.

15 **SECTION 2.**

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

24 (1) To levy taxes;

25 (2) To fix fees;

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

25 **SECTION 3.**

- 26 (a) Those four members of the board who are serving as such on December 31, 2003, and
- 27 any person selected to fill a vacancy in any such office shall continue to serve as such
- 28 members until the regular expiration of their respective terms of office, which shall expire
- 29 December 31, 2004, and upon the election and qualification of their respective successors.
- 30 On and after January 1, 2005, the board shall consist of four members, three of whom shall
- 31 be elected from commissioner districts described in subsection (b) of this section and the
- 32 fourth of whom shall be the chairperson who is elected at large.
- 33 (b) For purposes of electing members of the board other than the chairperson, Lowndes
- 34 County is divided into three commissioner districts. One member of the board shall be
- 35 elected from each such district. The three commissioner districts shall be and correspond to
- 36 those three numbered districts described in and attached to and made a part of this Act and

1 further identified as Plan Name: lowndescck9r Plan Type: Local User: Blake  
2 Administrator: Lowndes.

3 (c) When used in such attachment, the terms 'Tract' and 'BG' (Block Group) shall mean and  
4 describe the same geographical boundaries as provided in the report of the Bureau of the  
5 Census for the United States decennial census of 2000 for the State of Georgia. The separate  
6 numeric designations in a Tract description which are underneath a 'BG' heading shall mean  
7 and describe individual Blocks within a Block Group as provided in the report of the Bureau  
8 of the Census for the United States decennial census of 2000 for the State of Georgia. Any  
9 part of Lowndes County which is not included in any such district described in that  
10 attachment shall be included within that district contiguous to such part which contains the  
11 least population according to the United States decennial census of 2000 for the State of  
12 Georgia. Any part of Lowndes County which is described in that attachment as being in a  
13 particular district shall nevertheless not be included within such district if such part is not  
14 contiguous to such district. Such noncontiguous part shall instead be included within that  
15 district contiguous to such part which contains the least population according to the United  
16 States decennial census of 2000 for the State of Georgia. Except as otherwise provided in  
17 the description of any commissioner district, whenever the description of such district refers  
18 to a named city, it shall mean the geographical boundaries of that city as shown on the census  
19 map for the United States decennial census of 2000 for the State of Georgia.

20

#### SECTION 4.

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

24 (b) In order to be elected or appointed as a member of the board from a commissioner  
25 district, a person must have that person's legal residence in that district and, if elected, must  
26 receive the number of votes cast as required by general law for that office in that district only  
27 and not at large. Only electors who are residents of that commissioner district may vote for  
28 a member of the board for that district. At the time of qualifying for election as a member  
29 of the board from a commissioner district, each candidate for such office shall specify the  
30 commissioner district for which that person is a candidate. A person elected or appointed as  
31 a member of the board from a commissioner district must continue to reside in that district  
32 during that person's term of office or that office shall become vacant.

33 (c) The member of the board who is chairperson of the board may reside anywhere within  
34 Lowndes County and, if elected, must receive the number of votes cast for that office as  
35 required by general law in the entire county. The chairperson must continue to reside within  
36 the county during that person's term of office or that office shall become vacant.

**SECTION 5.**

1  
2 (a) The members of the reconstituted board shall be elected as provided in this subsection.  
3 The first members of the board elected under this Act shall be elected at the November  
4 general election on the Tuesday next following the first Monday in November, 2004. The  
5 chairperson and that member of the board elected thereto as district representative from  
6 Commissioner District 1 in 2004 shall take office the first day of January immediately  
7 following that election and shall serve for initial terms of office which expire December 31,  
8 2008, and upon the election and qualification of their respective successors. Those members  
9 of the board elected thereto as district representatives from Commissioner Districts 2 and 3  
10 in 2004 shall take office the first day of January immediately following that election and  
11 shall serve for initial terms of office which expire December 31, 2006, and upon the election  
12 and qualification of their respective successors. All future successors to members of the  
13 board whose terms of office are to expire shall be elected at the time of the November  
14 general election immediately preceding the expiration of such terms, shall take office the first  
15 day of January immediately following that election, and shall serve for terms of office of four  
16 years each. Members of the board shall serve for the terms of office specified therefor in this  
17 subsection and until their respective successors are elected and qualified.

18 (b) All members of the board who are elected thereto shall be nominated and elected in  
19 accordance with Chapter 2 of Title 21 of the O.C.G.A., the 'Georgia Election Code.'

20 (c) Commissioner Districts 1, 2, and 3, as they exist on January 1, 2003, shall continue to  
21 be designated as Commissioner Districts 1, 2, and 3, respectively, but as newly described  
22 under this Act, and on and after the date this Act becomes effective such members of the  
23 board who are district representatives serving from those former commissioner districts shall  
24 be deemed to be serving from and representing their respective districts as newly described  
25 under this Act.

**SECTION 6.**

26  
27 When a vacancy occurs on the board under the laws of this state and the unexpired term of  
28 office exceeds six months in duration, it shall be the duty of the election superintendent of  
29 the county to call a special election to elect a successor and fill the vacancy in not less than  
30 30 nor more than 60 days. The election shall be held as provided by the Georgia Election  
31 Code, and the cost of the election shall be defrayed by proper county authorities. If the  
32 unexpired term to be filled is six months or less in duration in the case of the term of a  
33 district representative, the chairperson shall nominate and the board shall approve a successor  
34 to fill the unexpired term, and in the case of the term of the chairperson, the remaining  
35 members of the board shall elect a successor to fill the unexpired term of the chairperson.

1 Persons elected or appointed to fill a vacancy in office shall serve out the unexpired term and  
2 until a successor is elected and qualified.

3 **SECTION 7.**

4 The board shall hold a minimum of one regular meeting per month for the transaction of  
5 business as may legitimately come before it. The board may convene in special meetings on  
6 the call of the chairperson, as the business of the board may require. The district  
7 representatives may at any time convene a special meeting of the board upon call by any one  
8 of them as the business of the board may require, provided the chairperson is unable or fails  
9 to call such meeting upon request.

10 **SECTION 8.**

11 The chairperson and any two district members shall constitute a quorum. In the absence of  
12 the chairperson, all three district representatives shall constitute a quorum.

13 **SECTION 9.**

14 The chairperson shall be the official head of the board. The chairperson shall cause an  
15 agenda to be established for and preside at all meetings of the board unless absent. The  
16 chairperson shall have all the rights, powers, duties, and responsibilities of a member of the  
17 board, including the right and power to make motions and nominations, except that the  
18 chairperson shall not vote on matters before the board except to express unanimity or where  
19 there is an equal division on the question. The chairperson may serve as a member of boards,  
20 commissions, and committees required by law or requested by the board and shall perform  
21 such other duties as may be required by law.

22 **SECTION 10.**

23 The board shall elect one of the district representatives to serve as vice chairperson. The vice  
24 chairperson shall cause an agenda to be established for and preside at all meetings at which  
25 the chairperson is absent. In such event, the vice chairperson shall retain all of his or her  
26 rights, duties, powers, and responsibilities as a district representative, including the right to  
27 make motions and to vote on matters before the board.

28 **SECTION 11.**

29 Before entering upon the discharge of their duties, the chairperson and district representatives  
30 shall subscribe to an oath for the true and faithful performance of their duties and that they  
31 are not the holders of any unaccounted for public funds.

**SECTION 12.**

1  
2 The chairperson shall give a satisfactory surety bond, as determined by the judge of the  
3 Probate Court of Lowndes County, and payable to the judge of the Probate Court of Lowndes  
4 County and filed in the office of the judge of the Probate Court of Lowndes County, in the  
5 sum of \$50,000.00, conditioned upon the faithful performance of the duties of the office.  
6 Each representative shall give like bond in the sum of \$25,000.00. The costs of said bonds  
7 shall be paid from county funds.

**SECTION 13.**

8  
9 The board shall adopt and operate under annual budgets in accordance with the laws of this  
10 state.

**SECTION 14.**

11  
12 The board shall provide for and cause to be made annual audits in accordance with the laws  
13 of this state.

**SECTION 15.**

14  
15 The board may create in and for Lowndes County the office of county manager and vest in  
16 such office powers, duties, and responsibilities of an administrative nature in accordance with  
17 the laws of this state.

**SECTION 16.**

18  
19 The board may appoint a clerk in and for Lowndes County consistent with the laws of this  
20 state. The clerk shall be a resident of Lowndes County. Before entering upon the discharge  
21 of his or her duties, the clerk shall give a satisfactory surety bond, as determined by the judge  
22 of the Probate Court of Lowndes County, and payable to the judge of the Probate Court of  
23 Lowndes County and filed in the office of the judge of the Probate Court of Lowndes  
24 County, in the sum of \$50,000.00, conditioned upon the faithful performance of his or her  
25 duties as clerk and to account for any and all funds, property, or effects which may come into  
26 his or her hands as clerk or otherwise. The costs of such bond shall be paid from county  
27 funds.

**SECTION 17.**

28  
29 The board shall cause minutes of its meetings to be kept in accordance with the laws of this  
30 state.

**SECTION 18.**

1  
2 Salaries, compensation, expenses, and expenses in the nature of compensation to which  
3 members of the board serving on the effective date of this Act are currently entitled shall  
4 continue in full force and effect. Salaries, compensation, expenses, and expenses in the  
5 nature of compensation to which members of the board are thereafter entitled shall be fixed  
6 pursuant to the laws of this state.

**SECTION 19.**

7  
8 The governing authority of Lowndes County shall through its legal counsel cause this Act  
9 to be submitted for preclearance under the federal Voting Rights Act of 1965, as amended;  
10 and such submission shall be made to the United States Department of Justice or filed with  
11 the appropriate court no later than 45 days after the date on which this Act is approved by  
12 the Governor or otherwise becomes law without such approval.

**SECTION 20.**

13  
14 This Act shall become effective on the first day of the month following the month in which  
15 it is approved by the Governor or in which it becomes law without such approval.

**SECTION 21.**

16  
17 In the event any provision of this Act is unconstitutional or cannot be implemented under  
18 federal law, the remaining provisions of this Act shall remain valid and of full force and  
19 effect.

**SECTION 22.**

20  
21 The Act creating the Board of Commissioners of Lowndes County, Georgia, approved  
22 February 12, 1945 (Ga. L. 1945, p. 639), and all amendments thereto, and all other laws and  
23 parts of laws in conflict with this Act, are repealed.