

Senate Bill 548

By: Senators Unterman of the 45th and Kemp of the 46th

A BILL TO BE ENTITLED  
AN ACT

To amend an Act creating a new charter for the Town of Bethlehem, approved April 21, 1967 (Ga. L. 1967, p. 3412), so as to provide for a municipal court and the judges thereof; to provide for jurisdiction of such court; to provide for a clerk; to provide for bail; to provide for punishments; to provide for a town jail; to provide for the issuance of subpoenas and warrants and the execution of judgments; to provide for staggered terms of office for the members of the town council; to require submission for preclearance under Section 5 of the Federal Voting Rights Act of 1965, as amended; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

An Act creating a new charter for the Town of Bethlehem, approved April 21, 1967 (Ga. L. 1967, p. 3412), is amended by striking Section 3 and inserting in lieu thereof a new Section 3 to read as follows:

"SECTION 3.

There shall be a court to be known as the Municipal Court of the Town of Bethlehem.

SECTION 3.1.

Chief judge; associate judge.

(a) The municipal court shall be presided over by a chief judge and such part-time, full-time, or stand-by judges as shall be provided by ordinance.

(b) No person shall be qualified or eligible to serve as a judge on the municipal court unless that person shall have attained the age of 21 years and shall be a member of the State Bar of Georgia and shall possess all qualifications required by law. All judges shall be appointed by the town council and shall serve until a successor is appointed and qualified.

(c) Compensation of the judges shall be fixed by ordinance.

(d) Judges serve at will and may be removed from office at any time by the town council unless otherwise provided by ordinance.

(e) Before assuming office, each judge shall take an oath, given by the mayor, that such judge will honestly and faithfully discharge the duties of the judge's office to the best of the judge's ability and without fear, favor, or partiality. The oath shall be entered upon the minutes of the town council.

### SECTION 3.2.

#### Convening.

The municipal court shall be convened at regular intervals as provided by ordinance, but shall not be required to convene in the absence of a case or controversy.

### SECTION 3.3.

#### Jurisdiction; powers.

(a) The municipal court shall try and punish violations of this charter, all city ordinances, and such other violations as provided by law.

(b) The municipal court shall have authority to punish those in its presence for contempt, provided that such punishment shall not exceed \$200.00 or ten days in jail.

(c) The municipal court may fix punishment for offenses within its jurisdiction not exceeding a fine of \$1,000.00 or imprisonment for 180 days or both such fine and imprisonment or may fix punishment by fine, imprisonment, or alternative sentencing, as now or hereafter provided by law.

(d) The municipal court shall have authority to establish a schedule of fees to defray the cost of operation and shall be entitled to reimbursement of the cost of meals, transportation, and caretaking of prisoners bound over to superior courts for violations of state law.

(e) The municipal court shall have the same authority as superior courts to compel the production of evidence in the possession of any party; to enforce obedience to its orders, judgments, and sentences; and to administer such oaths as are necessary.

(f) The municipal court may compel the presence of all parties necessary to a proper disposal of each case by the issuance of summonses, subpoenas, and warrants which may be served as executed by any officer as authorized by this charter or by law.

(g) Each judge of the municipal court shall be authorized to issue warrants for the arrest of persons charged with offenses against any ordinance of the city and each judge of the municipal court shall have the same authority as a magistrate of the state to issue warrants for offenses against state laws committed within the city.

**SECTION 3.4.****Certiorari.**

The right of certiorari from the decision and judgment of the municipal court shall exist in all criminal cases and ordinance violation cases, and such certiorari shall be obtained under the sanction of a judge of the Superior Court of Barrow County under the laws of the State of Georgia regulating the granting and issuance of writs of certiorari.

**SECTION 3.5.****Rules for court.**

With the approval of the town council, the judge shall have full power and authority to make reasonable rules and regulations necessary and proper to secure the efficient and successful administration of the municipal court; provided, however, that the town council may adopt in part or in toto the rules and regulations applicable to municipal courts. The rules and regulations made or adopted shall be filed with the clerk of council, shall be available for public inspection, and, upon request, a copy shall be furnished to all defendants in municipal court proceedings at least 48 hours prior to such proceedings."

**SECTION 2.**

Said Act is further amended by striking the first paragraph of Section 4 and inserting a new subsection (a) to read as follows:

"(a) Be it further enacted by the authority aforesaid that the government, supervision, powers, and control of said Town of Bethlehem shall be vested in a mayor and five councilmembers to be known as the 'Town Council.' That the mayor and councilmembers shall be elected from the town at large in the manner hereinafter provided. The term of the mayor and the term of each councilmember shall be for four years and until a successor is elected and qualified."

**SECTION 3.**

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

**"SECTION 5.**

(a) Be it further enacted by the authority aforesaid that general elections of said town shall be held biennially on the Tuesday after the first Monday in November. All elections shall

1 be conducted in accordance with the provisions of Chapter 2 of Title 21 of the O.C.G.A.,  
2 the 'Georgia Election Code.'

3 (b) The mayor and members of the town council in office on the effective date of this Act  
4 shall serve out the terms to which they were elected.

5 (c) At the November municipal general election in 2007, successors for the mayor and  
6 councilmembers representing council posts 2 and 4 shall be elected to take office on the  
7 first day of January 2008 for a term of four years and until their successors are elected and  
8 qualified. Successors to such persons elected to the office of mayor and to council posts  
9 2 and 4 shall be elected quadrennially thereafter at the November municipal general  
10 election and shall take office on the first day of January immediately following their  
11 election for terms of four years and until their successors are elected and qualified.

12 (d) At the November municipal general election in 2007, successors for the  
13 councilmembers representing council posts 1, 3, and 5 shall be elected to take office on the  
14 first day of January 2008 for a term of two years and until their successors are elected and  
15 qualified. Successors to such persons elected to council posts 1, 3, and 5 shall be elected  
16 quadrennially thereafter at the November municipal general election and shall take office  
17 on the first day of January immediately following their election for terms of four years and  
18 until their successors are elected and qualified."

19 **SECTION 4.**

20 Said Act is further amended by striking Section 6 and inserting in lieu thereof a new Section  
21 6 to read as follows:

22 "SECTION 6.

23 Be it further enacted by the authority aforesaid that the town council shall have the power  
24 and authority to call a special election for the purpose of filling any vacancy caused for any  
25 reason, except expiration of term, in any office for which the holder thereof is elected by  
26 the voters of said town. Such special election shall be called and conducted in accordance  
27 with the provisions of Chapter 2 of Title 21 of the O.C.G.A., the 'Georgia Election Code.'"

28 **SECTION 5.**

29 Said Act is further amended by striking Section 7 and inserting in lieu thereof a new  
30 Section 7 to read as follows:

31 "SECTION 7.

32 The candidate who receives the greatest number of votes shall be declared elected."

**SECTION 6.**

Said Act is further amended by striking and reserving Sections 8 and 9.

**SECTION 7.**

Said Act is further amended by striking the first paragraph of Section 15 and inserting in lieu thereof a new subsection (a) to read as follows:

"(a) Be it further enacted by the authority aforesaid that there shall be a clerk of council, elected by the town council, to keep accurate minutes of each meeting, to record in the minutes all acts and doings of council, except when they may be in executive session, to keep and record all ordinances, laws, and resolutions passed or enacted by the town council in appropriate books. He or she shall be ex officio clerk of the municipal court of said town and keep records of said court. He or she shall issue all licenses, permits, and receipts in the name of said town, to collect therefor, and account for all funds so collected. He or she shall issue summons and writs when directed by the mayor, any councilmember, town marshal, town police, or town attorney, and to perform such other duties as he or she may be directed to do by the mayor or town council whether by rule, resolution, or otherwise."

**SECTION 8.**

Said Act is further amended by striking Section 16 and inserting in lieu thereof a new Section 16 to read as follows:

**"SECTION 16.**

(a) Be it further enacted by the authority aforesaid that the town council is hereby granted power and authority to authorize any arresting officer of said town to take and accept bond for the appearance at the municipal court of said town of any person arrested, giving receipt for any cash received as bond. That, should a cash bond be posted, no further security may be required; but, if any other kind of bond is given, except a cash bond, then a citizen of the Town of Bethlehem owning property of a net unencumbered value in excess of the homestead exemption and double the amount of the bond will be required as security on said bond. The arresting officer will pass upon the security.

(b) In the event the principal appears in the municipal court at the time specified in said bond, the cash will be returned to him or her if a cash bond was given and, if a security bond was given, the surety or person acting as security will be relieved of further liability.

(c) Should the principal fail to appear and a cash bond was given, then the cash bond may be forfeited by the presiding judge and the funds shall be placed in the general fund for use by the town. Should a bond with some person as security be given and the principal fail to appear, then the presiding judge may issue a rule nisi returnable to the next regular term

1 of municipal court against the principal and his or her surety, which shall be served by the  
2 town marshal or any police officer upon the principal and surety, if either can be found, at  
3 least five days before the returnable term. Service may be personal or by leaving a copy  
4 thereof at the residence of the principal and the surety. If at such returnable term of the  
5 municipal court no sufficient cause is shown to the contrary, judgment shall be rendered  
6 by the presiding judge against such principal and surety or such of them which have been  
7 served. Execution or fi. fa. may be issued to enforce the collection of said judgment and,  
8 when collected, the funds shall be placed in the general fund of said town for its use.

9 (d) Should the principal, who is the defendant, fail to appear at the municipal court as  
10 specified in said bond, the presiding judge of such court may issue a warrant of the arrest  
11 of said defendant. The warrant may be served by an arresting officer of this state and the  
12 defendant may be arrested at any place within the State of Georgia, detained, and returned  
13 to the Town of Bethlehem."

#### 14 **SECTION 9.**

15 Said Act is further amended by striking Section 52 and inserting in lieu thereof a new  
16 Section 52 to read as follows:

#### 17 **"SECTION 52.**

18 Be it further enacted by the authority aforesaid that the town council shall have authority  
19 to establish a town jail and provide regulations for the same in which to confine prisoners  
20 for punishment or persons arrested or persons for safekeeping and that said town shall have  
21 the right to establish a public works gang for the purpose of working the streets and other  
22 municipal work of said town. The judges of the municipal court are granted authority to  
23 sentence any person convicted of the violation of any ordinance or law of said town to a  
24 term in jail, a term on the public works gang, a fine, or any one or all of said penalties. The  
25 town council is authorized to establish such rules and regulations it deems necessary for  
26 the supervision, conduct, and general welfare of said jail and public works camp."

#### 27 **SECTION 10.**

28 Said Act is further amended by striking Section 53 and inserting in lieu thereof a new  
29 Section 53 to read as follows:

#### 30 **"SECTION 53.**

31 Be it further enacted by the authority aforesaid that the municipal court shall have the  
32 power and authority to preserve order during its sessions; to compel the attendance of  
33 witnesses; to punish for contempt for not more than six days in jail or a fine not to exceed

1 \$50.00, or both; to issues warrants for arrest; and to act with the same powers and authority  
2 of the magistrate courts in binding over to a higher court and assessing the bond therefor.  
3 It is further provided that the town council shall have the same rights as the municipal court  
4 to punish for contempt when in regular or called sessions. All fines may be collected by  
5 execution issued by the clerk of council and levied as other executions."

#### 6 **SECTION 11.**

7 Said Act is further amended by striking Section 54 and inserting in lieu thereof a new  
8 Section 54 to read as follows:

#### 9 **"SECTION 54.**

10 Be it further enacted by the authority aforesaid that the rights of certiorari from the  
11 judgment of the municipal court shall be had to the Superior Court of Barrow County and  
12 shall be governed and controlled by the laws of the State of Georgia in force at the time the  
13 certiorari is made."

#### 14 **SECTION 12.**

15 Said Act is further amended by striking Section 74 and inserting in lieu thereof a new  
16 Section 74 to read as follows:

#### 17 **"SECTION 74.**

18 (a) Be it further enacted by the authority aforesaid that the judges of the municipal court  
19 of said town shall have the power and authority to hold a court to be known as the  
20 Municipal Court of the Town of Bethlehem at such time and place in said town as the town  
21 council may designate and appoint for the hearing and trial of offenses committed against  
22 or for the violation of the bylaws, rules, regulations, ordinances, or laws of said town.

23 (b) The judge of the municipal court is authorized and empowered to hear and try those  
24 charged with the violation of or offense against the bylaws, rules, regulations, ordinances,  
25 or laws of said town and, should the defendant be found or adjudged guilty of any such  
26 violation, the defendant may be punished by a fine not to exceed \$1,000.00, by  
27 confinement in the town jail or elsewhere in a place of confinement as may be designated  
28 by the judge or town council not to exceed 180 days, or by labor on the streets or public  
29 works of said town under the control, supervision, and direction of the proper officers not  
30 to exceed 180 days. The judge may sentence the defendant to either one or more of said  
31 penalties or any part thereof. All sentences may be in the alternative and fines may be  
32 imposed with the alternative of either or both of the other punishments in the event that the

1 fines are not paid. The judge may also require that the costs of prosecution shall be paid  
2 by the defendant.

3 (c) Upon the failure or refusal of any person to pay promptly any fine or costs imposed by  
4 said municipal court, the same may be enforced and collection by an execution issued by  
5 the clerk of council as provided for herein for the collection of taxes, and levies, sales, and  
6 defenses may be made in the same manner as executions issued for taxes.

7 (d) The town council shall have the power and authority to provide by ordinance or  
8 otherwise for the charge and collection of all costs in municipal court such as are usually  
9 incident and lawfully chargeable in the class of cases tried in said court, the same to be  
10 added to or included in the amount of fine imposed. Unless changed by the town council,  
11 the charges for costs shall be the same as are now or as may be lawfully charged in superior  
12 courts of this state.

13 (e) The judges of the municipal court shall have the power and authority to issue warrants  
14 for any offense, state or town, committed within the town limits of said town. Said warrant  
15 may be served by the marshal or police of said town or by any arresting officer of this state  
16 and, acting under said warrant, the officer may arrest either within or outside the limits of  
17 said town. Offenders so arrested may be carried before the presiding judge of the  
18 municipal court and, if there is probable cause to suspect that any of the penal laws of this  
19 state or any rule, regulation, bylaw, ordinance, or law of said town has been violated, the  
20 judge may bind the accused over to the proper court and commit the accused to the jail or  
21 place of confinement to answer the charge against him or her, provided that the judge may,  
22 if such offense is bailable, admit the accused to bail, the arresting officer may approve the  
23 bond. Should the accused be bound over to state or superior court, all papers should be  
24 delivered to the clerk of the court to which such accused was bound over."

### 25 **SECTION 13.**

26 The governing authority of the Town of Bethlehem shall through its legal counsel cause this  
27 Act to be submitted for preclearance under the federal Voting Rights Act of 1965, as  
28 amended; and such submission shall be made to the United States Department of Justice or  
29 filed with the appropriate court no later than 45 days after the date on which this Act is  
30 approved by the Governor or otherwise becomes law without such approval.

### 31 **SECTION 14.**

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