

The House Committee on State Planning and Community Affairs - Local Legislation offers the following substitute to SB 137:

A BILL TO BE ENTITLED
AN ACT

1 To amend an Act to create the office of Commissioner of Towns County, approved March
2 14, 1984 (Ga. L. 1984, p. 4130), as amended, so as to reconstitute the board of
3 commissioners of Towns County and revise and restate the law relating to the board; to
4 provide for continuation in office of the present sole county commissioner; to provide for the
5 establishment of commissioner districts; to provide for the election and terms of office for
6 subsequent members; to provide for filling vacancies; to provide for the powers, duties, and
7 authority of the chairperson and members of the board; to provide for regular and special
8 meetings; to provide for annual audits of county finances and financial records; to provide
9 for a quarterly report for receipts and disbursements of funds; to provide for related matters;
10 to provide for a referendum; to provide for submission of this Act for preclearance under the
11 federal Voting Rights Act of 1965, as amended; to repeal conflicting laws; and for other
12 purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 An Act to create the office of Commissioner of Towns County, approved March 14, 1984
16 (Ga. L. 1984, p. 4130), as amended, is amended by striking Section 1 and all other
17 substantive sections of said Act and inserting in place thereof the following revision and
18 restatement of the law relating to the Board of Commissioners of Towns County:

19 "SECTION 1.

20 (a) The office of the sole county commissioner of Towns County which exists on January
21 1, 2005, is continued in existence as the governing authority of Towns County until
22 December 31, 2008, except as otherwise provided in subsections (b) and (c) of this section.
23 On and after January 1, 2009, a board of commissioners shall be constituted as provided
24 in this Act and shall be the ruling authority of Towns County.

1 (b) In the event a vacancy in the office of the sole county commissioner of Towns County
 2 occurs before the election and qualification of the members of the board of commissioners
 3 established by subsection (a) of this section, the vacancy shall be filled for the unexpired
 4 term of the sole county commissioner by special election of five members of the board of
 5 commissioners, as provided in this Act. Such special election shall be called within 60 days
 6 after the date of the vacancy and shall be held and conducted in accordance with the
 7 applicable provisions of Chapter 2 of Title 21 of the O.C.G.A., the 'Georgia Election Code.'

8 (c) In the event a vacancy in the office of the sole county commissioner of Towns County
 9 occurs after the election and qualification of the members of the board of commissioners
 10 established by subsection (a) of this section but before January 1, 2009, such vacancy shall
 11 be filled by the five newly elected members if possible. In this event, the terms of office
 12 of the newly elected members of the board of commissioners shall expire as provided in
 13 Section 2 of this Act.

14 (d) In the event of a vacancy in the office of sole commissioner as set out in subsection (b)
 15 or (c) of this section, the judge of the Probate Court of Towns County shall be vested with
 16 and exercise the powers and duties of the sole commissioner until the vacancy is filled by
 17 the procedure set out in subsection (b) or (c), as appropriate.

18 SECTION 2.

19 (a) The Board of Commissioners of Towns County shall be composed of five members.

20 (b) The member of the board who is the chairperson of the board may reside anywhere
 21 within Towns County and, if elected, must receive the number of votes cast for that office
 22 as required by general law in the entire county. The chairperson must continue to reside
 23 within the county during that person's term of office, or that office shall become vacant.
 24 The chairperson shall devote full time to the duties of such office.

25 (c) For purposes of electing members of the board of commissioners, other than the
 26 chairperson, Towns County is divided into four commissioner districts. One member of the
 27 board shall be elected from each district. The four commissioner districts shall be and
 28 correspond to those four numbered districts described in and attached to and made a part
 29 of this Act and further identified as Plan Name: TOWNSP1 Plan Type: Local User: staff
 30 Administrator: Towns.

31 (d) When used in such attachment, the terms 'Tract' and 'BG' (Block Group) shall mean
 32 and describe the same geographical boundaries as provided in the report of the Bureau of
 33 the Census for the United States decennial census of 2000 for the State of Georgia. The
 34 separate numeric designations in a Tract description which are underneath a 'BG' heading
 35 shall mean and describe individual Blocks within a Block Group as provided in the report
 36 of the Bureau of the census for the United States decennial census of 2000 for the State of

1 Georgia. Any part of Towns County which is not included in any such district described
2 in that attachment shall be included within that district contiguous to such part which
3 contains the least population according to the United States decennial census of 2000 for
4 the State of Georgia. Any part of Towns County which is described in that attachment as
5 being in a particular district shall nevertheless not be included within such district if such
6 part is not contiguous to such district. Such noncontiguous part shall instead be included
7 within that district contiguous to such part which contains the least population according
8 to the United States decennial census of 2000 for the State of Georgia.

9 (e) In order to be elected as a member of the board from a commissioner district, a person
10 must receive the number of votes cast as required by general law for that office in that
11 district only. Only electors who are residents of that commissioner district may vote for a
12 member of the board for that district. At the time of qualifying for election as a member of
13 the board from a commissioner district, each candidate for such office shall specify the
14 commissioner district for which that person is a candidate. A person elected or appointed
15 as a member of the board from a commissioner district must continue to reside in that
16 district during that person's term of office or that office shall become vacant.

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

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

22 (h) The first members of the board of commissioners elected under this Act shall be
23 elected in the general election of November 2008.

24 (i) The terms of office of members elected from Commissioner Districts 1 and 3 shall
25 expire December 31, 2010, when their successors are elected and qualified. The terms of
26 office of members elected from Commissioner Districts 2 and 4 shall expire December 31,
27 2010, when their successors are elected and qualified. Successors to members so elected
28 shall be elected at the general election next preceding the expiration of such terms of office
29 and shall take office on January 1 following their election for terms of four years and until
30 their successors are elected and qualified.

31 SECTION 3.

32 When a vacancy occurs in the board of commissioners, and the unexpired term of office
33 exceeds six months, it shall be the duty of the judge of the probate court to call a special
34 election to elect a successor and fill the vacancy in not less than 30 nor more than 60 days,
35 as prescribed in Chapter 2 of Title 21 of the O.C.G.A., the 'Georgia Election Code.' If the

1 unexpired term to be filled is less than six months in duration, the judge of the superior
2 court of the county shall have the power to appoint a successor to fill the unexpired term.

3 SECTION 4.

4 (a) The board shall have the power and authority to fix and establish by appropriate
5 resolution, entered on its minutes, policies, rules, and regulations governing all matters
6 reserved to the jurisdiction of the board. Such policies, rules, and regulations, when so
7 adopted with proper entry thereof made on the minutes of the board, shall be conclusive
8 and binding. The board shall exercise only those administrative powers which are
9 necessarily and properly incident to its functions as a policy-making or rule-making body
10 or which are necessary to compel enforcement of its adopted resolutions.

11 (b) The board shall exercise all power and authority formerly vested in the sole county
12 commissioner.

13 (c) The board shall have such duties, powers, and authority which is or may be vested in
14 the board by the Constitution or general laws of this state, including, but not limited to, the
15 following:

16 (1) To levy taxes;

17 (2) To fix fees;

18 (3) To make appropriations;

19 (4) To fix rates and charges for services provided by the county;

20 (5) To authorize the incurring of indebtedness;

21 (6) To order work done where the cost is to be assessed against benefited property and
22 to fix the basis for such assessment;

23 (7) To authorize and provide for the execution of contracts;

24 (8) To establish, alter, open, close, build, repair, or abolish public roads and bridges,
25 according to law; provided, however, that the chairperson shall have the authority to
26 adopt subdivision plats when the requirement established by the board for subdivisions
27 is met;

28 (9) To accept for the county the provisions of any optional statute where the statute
29 permits its acceptance by the governing authority of the county;

30 (10) To regulate land use by the adoption of a comprehensive development plan and by
31 the adoption of other planning and zoning ordinances which relate reasonably to the
32 public health, safety, morality, and general welfare of the county and its citizens; and to
33 exercise all other powers, duties, and authority in respect to zoning and planning as
34 authorized by law;

35 (11) To create and change the boundaries of special districts authorized by law;

36 (12) To fix the bonds of county officers where same are not fixed by statute;

- 1 (13) To enact any ordinances or other legislation which the county may be given
2 authority to enact;
- 3 (14) To determine the priority of capital improvements;
- 4 (15) To call elections for the voting of bonds; and
- 5 (16) To appoint and retain legal counsel and an independent county auditor and provide
6 for their compensation.

7 SECTION 5.

- 8 (a) The chairperson shall be the official head of the board.
- 9 (b) The chairperson shall cause an agenda to be established for and preside at all meetings
10 of the board unless absent.
- 11 (c) The chairperson shall have all the rights, powers, duties, and responsibilities of a
12 member of the board, including the right and power to make motions and nominations,
13 except that the chairperson shall not vote on matters before the board except to express
14 unanimity or where there is equal division on the question.
- 15 (d) The chairperson may serve as a member of boards, commissions, and committees
16 required by law or requested by the board and shall perform such other duties as may be
17 required by law.
- 18 (e) The board shall elect one of the members to serve as vice chairperson. The vice
19 chairperson shall cause an agenda to be established for and preside at all meetings at which
20 the chairperson is absent. In such event, the vice chairperson shall retain all of his or her
21 rights, duties, powers, and responsibilities as a member of the board, including the right to
22 make motions and to vote on matters before the board.

23 SECTION 6.

- 24 (a) Before entering upon the discharge of their duties, the members shall subscribe to an
25 oath for the true and faithful performance of their duties, and to uphold the laws and
26 constitutions of the State of Georgia and the United States of America.
- 27 (b) The board shall hold a minimum of one regular meeting per month for the transaction
28 of business as may legitimately come before it. Special meetings may be convened. Public
29 notice of the time, place, and dates shall be published and posted in a conspicuous place
30 at least 24 hours in advance of the meeting and such notice shall be provided to the legal
31 organ of the county in which public notices of sheriffs sales are published.
- 32 (c) The board shall cause minutes of its meetings to be kept. A book of resolutions, acts,
33 motions, rulings, and ordinances shall be kept. These records shall be available for public
34 inspection in accordance with the laws of the State of Georgia.

1 (d) The public shall at all times be afforded access to meetings declared open to the public
2 and all matter shall be transacted in accordance with Chapter 14 of Title 50 of the O.C.G.A.

3 **SECTION 7.**

4 (a) The board shall adopt and operate under annual budgets.

5 (b) The board shall provide for and cause to be made annual audits in accordance with the
6 laws of the State of Georgia.

7 (c) The board shall provide for and cause detailed reviews of all receipts and expenditures
8 by each department or cost center on a quarterly basis. Such reviews shall show actual
9 amounts versus the budget and prior years. Significant variances shall be detailed to the
10 board's satisfaction.

11 **SECTION 8.**

12 (a) The chairperson shall receive an annual salary equal to the total compensation,
13 including all supplements and fees, which the highest paid constitutional officer in Towns
14 County would receive if that constitutional officer were elected in the same year as the
15 chairperson, plus 3 percent of such amount.

16 (b) The commissioners other than the chairperson shall be compensated in the amount of
17 \$300.00 per month from funds of the county. A district commissioner may elect to serve
18 without compensation, and such election shall be duly noted by resolution passed and
19 recorded in the minutes. The commissioners shall receive reimbursement for actual
20 expenses incurred in the performance of their official duties."

21 **SECTION 2.**

22 Unless prohibited by the federal Voting Rights Act of 1965, as amended, the election
23 superintendent of the Towns County shall call and conduct an election as provided in this
24 section for the purpose of submitting this Act to the electors of the Towns County for
25 approval or rejection. The election superintendent shall conduct that election on the third
26 Tuesday in June, 2005, in accordance with Code Section 21-2-540 of the O.C.G.A. and shall
27 issue the call and conduct that election as provided by general law. The superintendent shall
28 cause the date and purpose of the election to be published once at least 30 days prior to the
29 election in the official county organ of Towns County. The ballot shall have written or
30 printed thereon the words:

31 "() YES Shall the Act be approved which reconstitutes the board of commissioners
32 () NO of Towns County and revises and restates the law relating to the board?"

33 All persons desiring to vote for approval of the Act shall vote "Yes," and all persons desiring
34 to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on

1 such question are for approval of the Act, then Section 1 of this Act shall become of full
2 force and effect immediately. If the Act is not so approved or if the election is not conducted
3 as provided in this section, Section 1 of this Act shall not become effective and this Act shall
4 be automatically repealed on the first day of January immediately following that election
5 date. The expense of such election shall be borne by Towns County. It shall be the election
6 superintendent's duty to certify the result thereof to the Secretary of State.

7 **SECTION 3.**

8 The governing authority of Towns County shall through its legal counsel cause this Act to
9 be submitted for preclearance under the federal Voting Rights Act of 1965, as amended; and
10 such submission shall be made to the United States Department of Justice or filed with the
11 appropriate court no later than 60 days after the date on which this Act is approved by the
12 Governor or otherwise becomes law without such approval.

13 **SECTION 4.**

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

1 Plan Name: TOWNSP1 Plan Type: Local User: staff Administrator: Towns

2 Redistricting Plan Components Report

3 District 001

4 Towns County

5 Tract: 9601

6 BG: 1

7 BG: 2

8 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011

9 2012 2013 2014 2015 2016 2017 2018 2019 2020 2021 2022 2023

10 2024 2025 2026 2027 2030 2031 2032 2033 2034 2035 2036 2037

11 2038 2039 2040 2041 2042 2043

12 BG: 3

13 3042 3043 3044 3045 3046 3047 3048 3049 3050 3051 3052 3053

14 3054

15 District 002

16 Towns County

17 Tract: 9601

18 BG: 2

19 2028 2029

20 BG: 3

21 3000 3001 3002 3003 3004 3005 3006 3007 3008 3009 3010 3011

22 3012 3013 3014 3015 3016 3017 3018 3019 3020 3021 3022 3023

23 3024 3025 3026 3027 3028 3029 3030 3031 3032 3033 3034 3035

24 3036 3037 3038 3039 3040 3041

25 Tract: 9602

26 BG: 1

27 BG: 2

28 2010 2011 2013 2014 2015 2016 2017 2018 2020 2023 2024 2025

29 2026 2027

30 Tract: 9603

31 BG: 3

32 3077 3078 3079 3080 3081 3082 3083 3084 3085 3086 3087 3089

33 3090 3996

1 District 003
 2 Towns County
 3 Tract: 9602
 4 BG: 2
 5 2079 2084 2997
 6 Tract: 9603
 7 BG: 1
 8 1033 1034 1035 1036 1037 1038 1039 1040 1043 1044 1100 1101
 9 1996
 10 BG: 2
 11 BG: 3
 12 3000 3001 3002 3003 3004 3005 3006 3007 3008 3009 3010 3011
 13 3012 3013 3014 3015 3016 3017 3018 3019 3020 3021 3022 3023
 14 3024 3025 3026 3027 3028 3029 3030 3031 3032 3033 3034 3035
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 17 3060 3061 3062 3063 3064 3065 3066 3067 3068 3069 3070 3071
 18 3072 3073 3074 3075 3076 3088 3997 3998 3999

19 District 004
 20 Towns County
 21 Tract: 9602
 22 BG: 2
 23 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2012 2019
 24 2021 2022 2028 2029 2030 2031 2032 2033 2034 2035 2036 2037
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 31 2112 2113 2114 2115 2116 2117 2118 2119 2120 2121 2122 2123
 32 2124 2125 2126 2127 2998 2999
 33 Tract: 9603
 34 BG: 1

1 1000 1001 1002 1003 1004 1005 1006 1007 1008 1009 1010 1011
2 1012 1013 1014 1015 1016 1017 1018 1019 1020 1021 1022 1023
3 1024 1025 1026 1027 1028 1029 1030 1031 1032 1041 1042 1045
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9 1108 1109 1110 1111 1112 1113 1114 1115 1116 1117 1118 1119
10 1120 1121 1122 1123 1124 1997 1998 1999