

The House Committee on Intragovernmental Coordination offers the following substitute to SB 398:

A BILL TO BE ENTITLED  
AN ACT

1 To amend an Act creating a new charter for the City of Powder Springs, approved March 13,  
2 1970 (Ga. L. 1970, p. 2760), as amended, particularly by, but not exclusively by, an Act  
3 approved March 19, 1987 (Ga. L. 1987, p. 4043), so as to provide for the mayor's or city  
4 councilmembers' terms and qualifications for office; to provide for applicability of general  
5 law; to provide for election of the city council and mayor; to change the description of the  
6 wards; to provide for nonpartisan elections; to provide for election by majority; to provide  
7 for special elections; to provide for vacancies; to provide for other provisions; to provide for  
8 removal of officers; to provide for submission of this Act for preclearance under the Voting  
9 Rights Act of 1965, as amended; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 An Act creating a new charter for the City of Powder Springs, approved March 13, 1970  
13 (Ga. L. 1970, p. 2760), as amended, particularly by, but not exclusively by, an Act approved  
14 March 19, 1987 (Ga. L. 1987, p. 4043), by revising Section 2.11 to read as follows:

15 "Section 2.11.

16 City council terms and qualifications for office.

17 Except as otherwise provided in this charter, the mayor and members of the city council  
18 shall serve for terms of four years and until their respective successors are elected and  
19 qualified. No person shall be eligible to serve as mayor or councilmember unless he or she  
20 shall have been a resident of the city for a period of 12 months immediately prior to the  
21 date of his or her qualifying for the office of mayor or member of the city council; and the  
22 mayor or councilmember shall continue to reside therein during his or her period of service  
23 and to be registered and qualified to vote in municipal elections of this city."



1 which contains the least population according to the United States decennial census of  
2 2000 for the State of Georgia.

3 (d) The mayor and the remaining two councilmembers shall be elected at large. The two  
4 at-large council positions shall hereafter be known as 'At-Large Council Post 1' and  
5 'At-Large Council Post 2,' respectively. Candidates for election to either of said positions  
6 shall, upon qualifying for such election, designate by post number the specific position  
7 sought. The mayor and the said two at-large councilmembers shall be elected at the regular  
8 municipal election in 2007 and every four years thereafter; shall take office on the first  
9 Monday in January following their elections; and shall, except as otherwise provided in this  
10 section, serve for a term of four years and until their successors are elected and qualified.  
11 The mayor and the said two at-large councilmembers shall have been residents of the City  
12 of Powder Springs for a period of 12 months immediately prior to the date of qualifying  
13 and shall continue to reside therein during their period of service and shall be registered  
14 and qualified to vote in municipal elections of the city.

15 (d) Each councilmember from Ward 1, Ward 2, and Ward 3 shall be elected from and by  
16 the electors of only the ward he or she represents and must be a resident of such ward.  
17 Members from Wards 1, 2, and 3 shall be elected at the regular municipal election in 2009  
18 and every four years thereafter; and shall, except as otherwise provided by this charter or  
19 local law, serve for a term of four years and until their successors are elected and qualified.  
20 The councilmembers from Ward 1, Ward 2, and Ward 3 shall have been residents of the  
21 city for a period of 12 months immediately prior to the date of qualifying and shall  
22 continue to reside therein during their period of service and shall be registered and  
23 qualified to vote in municipal elections of the city.

24 Section 5.12.

25 Nonpartisan elections.

26 Political parties shall not conduct primaries for city offices and all names of candidates for  
27 city offices shall be listed without party designations.

28 Section 5.13.

29 Election by majority.

30 The candidate receiving a majority of the votes cast for any city office shall be elected. In  
31 instances where no candidate receives a majority of the votes cast, a run-off primary or  
32 election between the candidates receiving the two highest numbers of votes shall be held.  
33 Said run-off primary or election shall be conducted in accordance with Code  
34 Section 21-2-501 of the O.C.G.A.

1 Section 5.14.

2 Special election; vacancies.

3 In the event that the office of mayor or councilmember shall become vacant for any cause  
4 whatsoever, the mayor and city council or those remaining shall order a special election to  
5 fill the balance of the unexpired term of such official; provided, however, if such vacancy  
6 occurs within six months of the expiration of the term of that office, the mayor and city  
7 council or those remaining shall appoint a successor for the remainder of the term. In all  
8 other respects, the special election shall be held and conducted in accordance with Chapter  
9 2 of Title 21 of the O.C.G.A., the 'Georgia Election Code.'

10 Section 5.15.

11 Other provisions.

12 Except as otherwise provided by this charter, the city council shall, by ordinance, prescribe  
13 such rules and regulations it deems appropriate to fulfill any options and duties under  
14 Chapter 2 of Title 21 of the O.C.G.A., the 'Georgia Election Code.'

15 Section 5.16.

16 Removal of officers.

17 (a) Except as otherwise provided in this charter, the mayor, councilmembers, or other  
18 appointed officers provided for in this charter shall be removed from office for any one or  
19 more of the following causes:

20 (1) Incompetence, misfeasance, or malfeasance in office;

21 (2) Conviction of a crime involving moral turpitude;

22 (3) Failure at any time to possess any of the qualifications of office as provided by this  
23 charter or by law;

24 (4) Knowingly violating any express prohibition of this charter;

25 (5) Abandonment of office or neglect to perform the duties thereof;

26 (6) Failure for any other cause to perform the duties of office as required by this charter  
27 or by state law; or

28 (7) Failure to attend four consecutive regular council meetings.

29 (b) The removal of an officer pursuant to this section shall be accomplished by the vote  
30 of three officers from the membership of the city council and office of mayor after an  
31 investigative hearing. In the event an elected officer is sought to be removed by the action  
32 of the mayor and city council, such officer shall be entitled to a written notice specifying  
33 the ground or grounds for removal and to a public hearing which shall be held not less than  
34 ten days after the service of such written notice. Any elected officer sought to be removed  
35 from office as provided in this section shall have the right to appeal from the decision of

1 the mayor and city council to the Superior Court of Cobb County. Such an appeal shall be  
2 governed by the same rules as govern appeals to the superior court from the probate court.  
3 (c) Recall of public officers is governed by Chapter 4 of Title 21 of the O.C.G.A."

4 **SECTION 3.**

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

10 **SECTION 4.**

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