

House Bill 756 (AS PASSED HOUSE AND SENATE)

By: Representatives Shaw of the 176th, Carter of the 175th, and Black of the 174th

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 and
3 composition of the board of commissioners; to provide for election districts, qualifications,
4 terms of office, and filling of vacancies of commissioners; to provide for meetings and
5 quorum; to provide for the responsibilities of the chairperson; to provide for a vice
6 chairperson and the vice chairperson's responsibilities; to provide for oaths, bonds, budgets,
7 audits, county manager, clerk, minutes, and compensation and expenses of commissioners;
8 to provide for submission pursuant to Section 5 of the federal Voting Rights Act of 1965, as
9 amended; to provide for a referendum, severability, contingent effective dates, and automatic
10 repeal; to provide for the repeal of existing enabling legislation; to repeal conflicting laws;
11 and for other purposes.

12 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

13 **SECTION 1.**

14 The Board of Commissioners of Lowndes County ('the board') which existed on
15 January 1, 2009, is continued in existence as the governing authority of Lowndes County,
16 but, on and after January 1, 2011, shall be constituted as provided in this Act.

17 **SECTION 2.**

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

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

52 **SECTION 3.**

53 (a) On and after January 1, 2011, the board shall consist of six members, five of whom shall
54 be elected from commissioner districts described in subsection (b) of this section and the
55 sixth of whom shall be the chairperson who is elected at large.

56 (b) For purposes of electing members of the board other than the chairperson, there are
57 hereby created five commissioner districts for Lowndes County. For purposes of creating
58 Commissioner Districts 1, 2, and 3, Lowndes County is divided into three commissioner
59 districts. One member of the board shall be elected from each such district. Commissioner
60 Districts 1, 2, and 3 shall be and correspond to those three numbered districts as they existed
61 on January 1, 2009, and as described in the districting plan attached to and made a part of this

62 Act and further identified as Plan Name: lowndescck9r Plan Type: Local User: Blake
63 Administrator: Lowndes. For purposes of creating Commissioner Districts 4 and 5, Lowndes
64 County is divided into two commissioner districts which shall overlay Commissioner
65 Districts 1, 2, and 3. One member of the board shall be elected from each such district.
66 Commissioner Districts 4 and 5 shall be and correspond to those two numbered districts as
67 described in the districting plan attached to and made a part of this Act and further identified
68 as Plan Name: lowndescsupp2re Plan Type: Local User: reapp Administrator: Lowndes.

69 (c) When used in such attachments, the terms 'Tract' and 'BG' (Block Group) shall mean and
70 describe the same geographical boundaries as provided in the report of the Bureau of the
71 Census for the United States decennial census of 2000 for the State of Georgia. The separate
72 numeric designations in a tract description which are underneath a 'BG' heading shall mean
73 and describe individual blocks within a block group as provided in the report of the Bureau
74 of the Census for the United States decennial census of 2000 for the State of Georgia. Any
75 part of Lowndes County which is not included in Commissioner District 1, 2, or 3 as
76 described in that attachment describing Commissioner Districts 1, 2, and 3 shall be included
77 within that district contiguous to such part which contains the least population according to
78 the United States decennial census of 2000 for the State of Georgia. Any part of Lowndes
79 County which is described in that attachment describing Commissioner Districts 1, 2, and 3
80 as being in Commissioner District 1, 2, or 3 shall nevertheless not be included within such
81 district if such part is not contiguous to such district. Such noncontiguous part shall instead
82 be included within that Commissioner District 1, 2, or 3 contiguous to such part which
83 contains the least population according to the United States decennial census of 2000 for the
84 State of Georgia. Any part of Lowndes County which is not included in Commissioner
85 District 4 or 5 as described in that attachment describing Commissioner Districts 4 and 5
86 shall be included within that district contiguous to such part which contains the least
87 population according to the United States decennial census of 2000 for the State of Georgia.
88 Any part of Lowndes County which is described in that attachment describing Commissioner
89 Districts 4 and 5 as being in Commissioner District 4 or 5 shall nevertheless not be included
90 within such district if such part is not contiguous to such district. Such noncontiguous part
91 shall instead be included within that Commissioner District 4 or 5 that is contiguous to such
92 part which contains the least population according to the United States decennial census of
93 2000 for the State of Georgia. Except as otherwise provided in the description of any
94 commissioner district, whenever the description of such district refers to a named city, it shall
95 mean the geographical boundaries of that city as shown on the census map for the United
96 States decennial census of 2000 for the State of Georgia.

97

SECTION 4.

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

101 (b) In order to be elected or appointed as a member of the board from a commissioner
102 district, a person must have that person's legal residence in that district and, if elected, must
103 receive the number of votes cast as required by general law for that office in that district only
104 and not at large. Only electors who are residents of that commissioner district may vote for
105 a member of the board for that district. At the time of qualifying for election as a member
106 of the board from a commissioner district, each candidate for such office shall specify the
107 commissioner district for which that person is a candidate. A person elected or appointed as
108 a member of the board from a commissioner district must continue to reside in that district
109 during that person's term of office or that office shall become vacant.

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

114

SECTION 5.

115 (a) Those members of the board who are serving as district representatives for
116 Commissioner Districts 2 and 3 on December 31, 2009, and any person selected to fill a
117 vacancy in any such office shall continue to serve as such members until the regular
118 expiration of their respective terms of office, which shall expire on December 31, 2010, and
119 upon the election and qualification of their respective successors. Those members of the
120 board who are serving as chairperson and district representative for Commissioner District 1
121 on December 31, 2009, and any person selected to fill a vacancy in any such office shall
122 continue to serve as such members until the regular expiration of their respective terms of
123 office, which shall expire on December 31, 2012, and upon the election and qualification of
124 their respective successors.

125 (b) The members of the reconstituted board shall be elected as provided in this subsection.
126 The first members of the board elected under this Act shall be elected at the November
127 general election on the Tuesday next following the first Monday in November, 2010. The
128 members of the board elected thereto as district representatives from Commissioner
129 Districts 2, 3, and 4 in 2010 shall take office the first day of January immediately following
130 that election and shall serve for initial terms of office which expire December 31, 2014, and
131 upon the election and qualification of their respective successors. The member of the board
132 elected thereto as district representative from Commissioner District 5 in 2010 shall take

133 office the first day of January immediately following that election and shall serve for an
134 initial term of office which expires December 31, 2012, and upon the election and
135 qualification of his or her respective successor. The member of the board elected thereto as
136 district representative from Commissioner District 1 and the chairperson elected in 2012 shall
137 take office the first day of January immediately following that election and shall serve for
138 terms of office which expire December 31, 2016, and upon the election and qualification of
139 their respective successors. All future successors to members of the board whose terms of
140 office are to expire shall be elected at the time of the November general election immediately
141 preceding the expiration of such terms, shall take office the first day of January immediately
142 following that election, and shall serve for terms of office of four years each. Members of
143 the board shall serve for the terms of office specified therefor in this subsection and until
144 their respective successors are elected and qualified.

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

147 (d) Commissioner Districts 1, 2, and 3, as they existed on January 1, 2009, shall continue
148 to be designated as Commissioner Districts 1, 2, and 3, respectively, but as newly described
149 under this Act, and on and after the date this Act becomes effective such members of the
150 board who are district representatives serving from those former commissioner districts shall
151 continue to serve from and represent their respective districts as newly described under this
152 Act.

153 **SECTION 6.**

154 When a vacancy occurs on the board under the laws of this state and the unexpired term of
155 office exceeds six months in duration, it shall be the duty of the election superintendent of
156 the county to call a special election to elect a successor and fill the vacancy in not less
157 than 30 nor more than 60 days. The election shall be held as provided by the Georgia
158 Election Code, and the cost of the election shall be defrayed by proper county authorities.
159 If the unexpired term to be filled is six months or less in duration in the case of the term of
160 a district representative, the chairperson shall nominate and the board shall approve a
161 successor to fill the unexpired term, and in the case of the term of the chairperson, the
162 remaining members of the board shall elect a successor to fill the unexpired term of the
163 chairperson. Persons elected or appointed to fill a vacancy in office shall serve out the
164 unexpired term and until a successor is elected and qualified.

165 **SECTION 7.**

166 The board shall hold a minimum of one regular meeting per month for the transaction of
167 business as may legitimately come before it. The board may convene in special meetings on

168 the call of the chairperson, as the business of the board may require. The district
169 representatives may at any time convene a special meeting of the board upon call by any one
170 of them as the business of the board may require, provided the chairperson is unable or fails
171 to call such meeting upon request.

172 **SECTION 8.**

173 The chairperson and any three district members shall constitute a quorum. In the absence of
174 the chairperson, any four district representatives shall constitute a quorum.

175 **SECTION 9.**

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

184 **SECTION 10.**

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

190 **SECTION 11.**

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

194 **SECTION 12.**

195 The chairperson shall give a satisfactory surety bond, as determined by the judge of the
196 Probate Court of Lowndes County, and payable to the judge of the Probate Court of Lowndes
197 County and filed in the office of the judge of the Probate Court of Lowndes County, in the
198 sum of \$50,000.00, conditioned upon the faithful performance of the duties of the office.

199 Each representative shall give like bond in the sum of \$25,000.00. The costs of said bonds
200 shall be paid from county funds.

201 **SECTION 13.**

202 The board shall adopt and operate under annual budgets in accordance with the laws of this
203 state.

204 **SECTION 14.**

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

207 **SECTION 15.**

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

211 **SECTION 16.**

212 The board may appoint a clerk in and for Lowndes County consistent with the laws of this
213 state. The clerk shall be a resident of Lowndes County. Before entering upon the discharge
214 of his or her duties, the clerk shall give a satisfactory surety bond, as determined by the judge
215 of the Probate Court of Lowndes County, and payable to the judge of the Probate Court of
216 Lowndes County and filed in the office of the judge of the Probate Court of Lowndes
217 County, in the sum of \$50,000.00, conditioned upon the faithful performance of his or her
218 duties as clerk and to account for any and all funds, property, or effects which may come into
219 his or her hands as clerk or otherwise. The costs of such bond shall be paid from county
220 funds.

221 **SECTION 17.**

222 The board shall cause minutes of its meetings to be kept in accordance with the laws of this
223 state.

224 **SECTION 18.**

225 Salaries, compensation, expenses, and expenses in the nature of compensation to which
226 members of the board serving on the effective date of this Act are currently entitled shall
227 continue in full force and effect. Salaries, compensation, expenses, and expenses in the
228 nature of compensation to which members of the board are thereafter entitled shall be fixed
229 pursuant to the laws of this state.

230 **SECTION 19.**

231 The governing authority of Lowndes County shall through its legal counsel cause this Act
 232 to be submitted for preclearance under the federal Voting Rights Act of 1965, as amended;
 233 and such submission shall be made no later than 45 days after the date on which this Act is
 234 approved by the Governor or otherwise becomes law without such approval.

235 **SECTION 20.**

236 Unless prohibited by the federal Voting Rights Act of 1965, as amended, the election
 237 superintendent of Lowndes County shall call and conduct an election as provided in this
 238 section for the purpose of submitting this Act to the electors of Lowndes County for approval
 239 or rejection. The election superintendent shall conduct that election on the Tuesday after the
 240 first Monday in November in 2009 and shall issue the call and conduct that election as
 241 provided by general law. The election superintendent shall cause the date and purpose of the
 242 election to be published once a week for two weeks immediately preceding the date thereof
 243 in the official organ of Lowndes County. The ballot shall have written or printed thereon the
 244 words:

245 "() YES Shall the governing authority of Lowndes County be changed to a
 246 six-member board of commissioners to be composed of a nonvoting
 247 () NO chairperson and five voting district commissioners, three of whom shall
 248 represent the existing three districts created by dividing Lowndes County
 249 into three districts and two of whom shall represent additional districts to be
 250 created by dividing Lowndes County into two districts which shall overlay
 251 the three existing districts?"

252 All persons desiring to vote for approval of changing the governing authority to a
 253 six-member board of commissioners with a nonvoting chairperson shall vote "Yes," and all
 254 persons desiring to vote for rejection of changing the governing authority to a six-member
 255 board of commissioners with a nonvoting chairperson shall vote "No." If more than one-half
 256 of the votes cast on such question are for approval of changing the governing authority to a
 257 six-member board of commissioners with a nonvoting chairperson, then this Act shall
 258 become effective as provided in Section 21 of this Act. If more than one-half of the votes
 259 cast on such question are for rejection of changing the governing authority to a six-member
 260 board of commissioners with a nonvoting chairperson, this Act shall not become effective
 261 and shall be automatically repealed on the first day of January immediately following that
 262 election date. The expense of such election shall be borne by Lowndes County. It shall be
 263 the election superintendent's duty to certify the result thereof to the Secretary of State.

264 **SECTION 21.**

265 This Act shall become effective on the first day of the month following the month in which
266 it is approved by the Governor or in which it becomes law without such approval for the
267 purpose of conducting the special election provided for in Section 20 of this Act. If more
268 than one-half of the votes cast in such special election provided for in Section 20 of this Act
269 are for approval of a six-member board of commissioners with a nonvoting chairperson, then
270 this Act shall become effective January 1, 2010, for the purpose of conducting the election
271 of members of the board at the November, 2010, general election as provided in Section 5
272 of this Act and shall become effective for all purposes on January 1, 2011.

273 **SECTION 22.**

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

277 **SECTION 23.**

278 If more than one-half of the votes cast in such special election provided for in Section 20 of
279 this Act are for approval of a six-member board of commissioners with a nonvoting
280 chairperson, the Act continuing the Board of Commissioners of Lowndes County, Georgia,
281 approved June 3, 2003 (Ga. L. 2003, p. 4492), shall be repealed on January 1, 2011.

282 **SECTION 24.**

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