

The House Committee on Intragovernmental Coordination - Local Legislation offers the following substitute to SB 189:

A BILL TO BE ENTITLED
AN ACT

1 To amend an Act providing a new charter for the City of Stockbridge, approved April 4,
2 1991 (Ga. L. 1991, p. 4359), as amended, so as to change provisions relating to the form of
3 government of the City of Stockbridge, Georgia; to revise, restate, and modernize certain
4 provisions of said Act; to revise certain provisions related to the powers and duties of the
5 mayor; to revise certain provisions related to vetoes; to provide for the office of city
6 administrator and establish powers and duties of said position; to provide for public
7 meetings; to provide for a statement of legislative intent; to provide for two referenda; to
8 provide for related matters; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART A

SECTION 1A.

12 An Act providing a new charter for the City of Stockbridge, approved April 4, 1991 (Ga. L.
13 1991, p. 4359), as amended, is amended by striking Sections 3.21, 3.22, 3.23 and inserting
14 in lieu thereof new Sections 3.21, 3.22, 3.23 and by adding a new Section 4.16 to read as
15 follows:

"SECTION 3.21.

17 Chief executive officer; delegation of powers.

18 The mayor shall be the chief executive of this city, a member of and the presiding officer
19 of the city council, and responsible for the efficient and orderly administration of the city's
20 affairs as expressly provided by the Constitution and laws of the State of Georgia and in
21 this charter. The mayor shall have the authority to delegate any one or more executive
22 powers to the mayor pro tempore or city administrator.

S. B. 189 (SUB)

SECTION 3.22.

Powers and duties of mayor.

As the chief executive of this city, the mayor shall have the following powers and duties:

- (1) See that all laws and ordinances of the city are faithfully executed;
- (2) Preside at all meetings of city council;
- (3) Be the head of the city to accept service of process on behalf of the city;
- (4) Represent the city for ceremonial purposes;
- (5) Appoint members of committees formed by the city council as well as the chairpersons and officers of said committees;
- (6) Exercise supervision over the city administrator and in the event of a disagreement about the scope of the mayor's power provided in this section, the city administrator shall act in conformance with the instructions of the mayor and the matter shall be expeditiously brought before the council for a final determination;
- (7) Require the city administrator to submit written reports on a quarterly basis not to exceed four per year unless otherwise authorized by the council;
- (8) Require the city administrator to meet with the mayor at a time and place designated for consultation and advice upon the affairs of the city;
- (9) Except as otherwise provided by this charter or general law, make recommendations to the council regarding the appointment of department heads by nominating at least two qualified candidates for any open department head position. In the event the council rejects all recommendations, the mayor shall interview and shall make additional recommendations to the council until the position is filled. So that the responsibilities of the position will be carried out and the business of the city continue uninterrupted, the mayor may nominate and the council may appoint a person to serve as an interim department head for a period of up to 60 days;
- (10) With the assistance of the city administrator, prepare and submit to the council a recommended annual operating budget and recommended capital budget which may be adopted only by ordinance and in accordance with state law;
- (11) Submit to the council at least every quarter a statement covering the financial conditions of the city;
- (12) Call special meetings of the city council as provided for in Section 3.13 of this charter;
- (13) Participate in the discussion of all matters brought before the city council and vote on such matters only in the case of a tie vote;

57 (14) Recommend to the city council such measures relative to the affairs of the city,
 58 improvement of the government, and promotion of the welfare of its inhabitants as the
 59 mayor may deem expedient;

60 (15) Approve or disapprove ordinances and resolutions as provided in Section 3.23 of
 61 this charter;

62 (16) Sign as a matter of course all written contracts, ordinances, resolutions,
 63 proclamations, and other instruments executed by the city which by law are required to
 64 be in writing; and

65 (17) Perform such other duties as may be required by general state law and by ordinance
 66 or resolution of the city council which are not in conflict with general state law or this
 67 charter.

68 SECTION 3.23.

69 Submission of ordinances and resolutions to the mayor; veto power.

70 (a) Presentment after adoption. Every ordinance and resolution adopted by the city council
 71 shall be presented by the city clerk to the mayor within three days after its adoption.
 72 Except as provided in subsection (b) of this section, all powers, duties, and actions
 73 applicable to ordinances under this section are also applicable to any action or resolution
 74 of the city council to acquire real property on behalf of the city.

75 (b) Ordinances and resolutions generally. Within ten days after the adoption of an
 76 ordinance or resolution, the mayor shall return the ordinance or resolution to the city clerk
 77 with or without his or her approval and signature or with his or her disapproval. If the
 78 ordinance or resolution has been approved by the mayor, it shall become law upon its
 79 return to the city clerk or in accordance with the effective date specified in the ordinance
 80 or resolution. If the ordinance or resolution is returned to the clerk neither approved nor
 81 disapproved or is not returned to the clerk at all within ten days after adoption it shall
 82 become law on the eleventh day after its adoption by the city council. If the ordinance or
 83 resolution is disapproved, the mayor shall submit to the city council through the city clerk
 84 a written statement of the reasons for the veto at the same time that the ordinance or
 85 resolution is returned to the clerk. The failure to provide a written statement
 86 of the reasons for the veto will not invalidate the veto. The city clerk shall record upon the
 87 ordinance or resolution the date of its delivery to and receipt from the mayor.

88 (c) Resolutions regarding acquisition of property. As a narrow exception to the general
 89 proposition that resolutions are not subject to mayoral veto, resolutions regarding
 90 acquisition of property shall be subject to the following procedure: within ten days after the
 91 adoption of a resolution regarding the acquisition of property, the mayor shall return the

92 resolution to the city clerk with or without his or her approval and signature or with his or
93 her disapproval. If the resolution has been approved by the mayor, it shall become law
94 upon its return to the city clerk or in accordance with the effective date specified in the
95 resolution. If the resolution is returned to the clerk neither approved nor disapproved or
96 is not returned to the clerk at all within ten days after adoption it shall become law on the
97 eleventh day after its adoption by the city council. If the resolution is disapproved, the
98 mayor shall submit to the city council through the city clerk a written statement of the
99 reasons for the veto at the same time that the resolution is returned to the clerk. The city
100 clerk shall record upon the resolution the date of its delivery to and receipt from the mayor.

101 (d) Override of veto: generally. Ordinances and resolutions vetoed by the mayor shall be
102 presented by the city clerk to the city council at its next regular meeting along with the
103 mayor's written basis for said veto within the time set forth above and, except as otherwise
104 provided in this section, should the city council override the veto of the ordinance with five
105 or more councilmembers voting in favor thereof, it shall become law. The mayor shall not
106 be counted as or considered a member of the city council for the purpose of any veto
107 override vote. No subsequent veto shall be permitted.

108 (e) Override of veto: ordinances and resolutions regarding acquisition of property. Any
109 ordinance or resolution regarding the acquisition of real property shall require the
110 affirmative vote of all five councilmembers to override the mayor's veto. The mayor shall
111 not be counted as or considered a member of the city council for the purpose of any veto
112 override vote. No subsequent veto shall be permitted.

113 (f) Items of appropriation. The mayor may disapprove or reduce any item or items of
114 appropriation in any ordinance or resolution. The approved part or parts of any ordinance
115 or resolution making appropriations shall become law, and the part or parts disapproved
116 shall not become law unless subsequently passed by the city council over the mayor's veto
117 as provided in this section. The reduced part or parts shall be presented to the city council
118 as though disapproved and shall not become law unless overridden by the council voting
119 with at least five members of the council voting in favor to override. The mayor shall not
120 be counted as or considered a member of the city council for the purpose of any veto
121 override vote.

122 (g) Required presence of councilmembers. In the event the minimum number of
123 councilmembers necessary to override a veto are not present as required above, the matter
124 shall continue to be noticed and shall be voted upon at the next general meeting where a
125 minimum number of councilmembers are present."

126 "SECTION 4.16.
127 City administrator.

128 (a) Within 60 days of a vacancy in the position of city administrator, the mayor shall
129 recommend to the council at least two qualified candidates for the position of city
130 administrator. In the event the council rejects the mayor's recommended candidates, the
131 mayor shall have an additional 15 days to interview qualified candidates and make
132 additional recommendations to the council. The council may accept or reject the mayor's
133 additional recommended candidates.

134 (b) The council shall employ a city administrator pursuant to a written contract and shall
135 fix the city administrator's compensation therein. Said administrator shall serve at the
136 pleasure of the mayor and city council. The city administrator shall be employed without
137 regard to political beliefs and solely on the basis of said individual's executive and
138 administrative qualifications with special reference to his or her educational background
139 and actual experience in, and knowledge of, the duties of office as hereinafter prescribed.

140 (c) Powers and duties of city administrator. The city administrator shall be the chief
141 administrative officer of the city. The administrator must devote all of his or her working
142 time and attention to the affairs of the city and shall be responsible to the mayor and city
143 council for the administration of all city affairs placed in the administrator's charge by or
144 under this charter. As the chief administrative officer, the administrator shall have the
145 following powers and duties:

146 (1) Assist the mayor as needed with preparation of the annual operating budget and
147 capital budget to be presented to the city council;

148 (2) Act as a liaison between the mayor and city council and the public by responding to
149 inquiries and resolving conflicts;

150 (3) Represent the mayor and city council at various meetings and social functions as
151 directed;

152 (4) Develop materials for meetings of the city council; attend all council meetings, unless
153 excused there from; attend committee meetings when requested; make recommendations
154 to the city council as needed; and implement decisions made by the council. The city
155 administrator shall be given notice of all regular and special meetings of the council;

156 (5) Administer policies and programs as approved by the city council by directing
157 departments in the procedures necessary for implementation;

158 (6) Supervise the purchase of all materials, supplies, and equipment after soliciting bids
159 from qualified contractors, which are necessary for the operation and maintenance of the
160 city services, for amounts up to and including \$10,000.00 for which funds are provided

161 in the budget; receive written bids from at least three qualified contractors for purchases
162 or contracts in excess of \$10,000.00; and present all bids to the mayor and council;

163 (7) Keep the council advised of the financial and administrative affairs affecting the city;
164 prepare progress reports; submit to the city council and the mayor and make available to
165 the public a complete report on the finances and administrative activities of the city as of
166 the end of each fiscal year; and make such recommendations as may be deemed desirable;

167 (8) Develop short-term and long-term plans for city operations and act as city's principal
168 liaison on economic development activities;

169 (9) Recommend to the governing body from time to time adoption of such measures as
170 may be deemed necessary or expedient for the health, safety, or welfare of the community
171 or for the improvement of administrative services;

172 (10) Investigate the affairs of the city or any department or division thereof; investigate
173 all complaints in relation to matters concerning the administration of the government of
174 the city and with regard to services maintained by the public utilities in the city; and see
175 that all franchises, permits, and privileges granted by the city are faithfully observed;

176 (11) Provide reports and information to the media as requested and upon approval of the
177 mayor;

178 (12) Supervise all department heads and city employees;

179 (13) Execute documents on behalf of the mayor where so authorized in a written
180 document describing the authority granted and executed by the mayor;

181 (14) Appoint and employ all necessary employees of the city, provided that excepted
182 from the power of this appointment and employment are those officers and employees
183 who, by this charter, are appointed or elected by the mayor or city council;

184 (15) Direct and supervise all department heads and city employees and the
185 administration of all departments, offices, and agencies of the city, except as otherwise
186 provided by this charter or by law;

187 (16) Make recommendations to the mayor and city council regarding qualified
188 candidates to fill open positions within the city;

189 (17) Exercise supervision and control of all departments and all divisions created in this
190 charter or that hereafter may be created by the council except as otherwise provided in
191 this charter or general law;

192 (18) Suspend with or without pay for up to 30 days in accordance with the city's
193 personnel policy and general law, where applicable, any city employee serving under the
194 supervision of the city administrator;

195 (19) Remove employees below the level of a department head in accordance with the
196 city's personnel policy and general law, without the consent of the city council and
197 without assigning any reason therefor;

198 (20) Recommend the suspension, termination, or other reprimand of a department head
 199 nominated by the mayor and appointed by the city council, which the city administrator
 200 must present to the mayor within two business days thereof in writing; and, absent a
 201 written objection from the mayor within five calendar days of the notice of same to the
 202 mayor from the city administrator, said personnel action shall be imposed;

203 (21) Make such other reports as the mayor or city council may require concerning the
 204 operations of city departments, offices, and agencies subject to the administrator's
 205 direction and supervision; and

206 (22) Perform other such duties as may be required by the mayor and council which are
 207 specified in this charter or as may be required by the city council and which are not
 208 inconsistent with the city charter, laws, ordinances, or resolutions.

209 (d) Council interference with administration. Except for the purpose of inquiries and
 210 investigations made pursuant to this charter, the mayor, city council, and individual
 211 members of city council shall deal with city employees who are subject to the direction and
 212 supervision of the city administrator solely through the city administrator. Neither the
 213 mayor nor any individual councilmember shall give orders to any such employee, either
 214 publicly or privately. In the event of an emergency arising at the time of the death,
 215 incapacity, or unavailability of the city administrator, the following persons in this order
 216 of succession may direct city employees, may authorize expenditures, execute expenditure
 217 documents, and execute checks and may perform necessary functions and exercise
 218 necessary powers: mayor and then mayor pro tempore. For purposes of this subsection,
 219 'unavailability' in general means that it is not possible for city employees responding to the
 220 emergency to contact and receive a response from the city administrator or enumerated
 221 successor by telephone or electronic means for a consecutive period of four hours or
 222 greater, or that the city administrator or enumerated successor is incapable of responding
 223 for a consecutive period of four hours or greater. Additionally, if an emergency occurs
 224 which needs immediate attention and the mayor has attempted to contact the city
 225 administrator by telephone and electronic means but has been unsuccessful in establishing
 226 contact and thereafter the mayor consults with the department head in charge of the
 227 department which the mayor believes is most appropriate to respond to the emergency,
 228 then, based on the succession rules stated above, the mayor may exercise the
 229 aforementioned duties necessary to respond to such emergency until the city administrator
 230 becomes available and able to perform the duties required for such emergency."

231 **SECTION 2A.**

232 The city council shall conduct public meetings for the purpose of explaining and discussing
 233 the changes to city government wrought by this part of this Act and to receive comments and

234 answer questions from the public. At least one such public meeting shall be held in the
 235 months of August, September, and October of 2011 and shall be attended by the mayor, the
 236 city council, and the city attorney. Notice of such meeting shall be published at least once
 237 in the official organ of Henry County and shall be posted on the city website. In addition,
 238 the city council shall cause signs to be posted in public places including, without limitation,
 239 the city hall, giving notice of the time, place, and purpose of such meetings.

240 **SECTION 3A.**

241 The election superintendent of the City of Stockbridge shall call and conduct an election as
 242 provided in this section for the purpose of submitting Part A of this Act to the electors of the
 243 City of Stockbridge for approval or rejection. The election superintendent shall conduct that
 244 election on the Tuesday next following the first Monday in November, 2011, and shall issue
 245 the call and conduct that election as provided by general law. The election superintendent
 246 shall cause the date and purpose of the election to be published once a week for two weeks
 247 immediately preceding the date thereof in the official organ of Henry County. The ballot
 248 shall have written or printed thereon the words:

249 "() YES Shall an act be approved to change the City of Stockbridge's charter to a
 250 'Weak Mayor,' and provide for a 'City Administrator' approved by the City
 251 () NO Council and for other purposes?"

252 All persons desiring to vote for approval of Part A of this Act shall vote "Yes," and those
 253 persons desiring to vote for rejection of Part A of this Act shall vote "No." If more than
 254 one-half of the votes cast on such question are for approval of Part A of this Act, Section 1A
 255 of this Act shall become of full force and effect on January 1, 2012. If Part A of this Act is
 256 not so approved or if the election is not conducted as provided in this section, Section 1A of
 257 this Act shall not become effective and Part A of this Act shall be automatically repealed on
 258 the first day of January immediately following that election date. The expense of such
 259 election shall be borne by the City of Stockbridge. It shall be the election superintendent's
 260 duty to certify the result thereof to the Secretary of State.

261 **PART B**

262 **SECTION 1B.**

263 It is the intent of the General Assembly to determine the wishes of the citizens of the City of
 264 Stockbridge with regard to reforming the city government so as to provide for a mayor and
 265 six councilmembers, with the mayor and two councilmembers elected from the city at large
 266 and four councilmembers elected from designated council districts.

267 **SECTION 2B.**

268 The city council shall conduct public meetings for the purpose of examining and discussing
 269 the will of the citizens concerning changing the city government as suggested in Section 1B
 270 of this Act and to receive comments and answer questions from the public. At least one such
 271 public meeting shall be held in the months of August, September, and October of 2011 and
 272 shall be attended by the mayor, the city council, and the city attorney. Notice of such
 273 meeting shall be published at least once in the official organ of Henry County and shall be
 274 posted on the city website. In addition, the city council shall cause signs to be posted in
 275 public places including, without limitation, the city hall, giving notice of the time, place, and
 276 purpose of such meetings.

277 **SECTION 3B.**

278 The election superintendent of the City of Stockbridge shall call and conduct an election as
 279 provided in this section for the purpose of submitting Part B of this Act to the electors of the
 280 City of Stockbridge for approval or rejection. The election superintendent shall conduct that
 281 election on the Tuesday next following the first Monday in November, 2011, and shall issue
 282 the call and conduct that election as provided by general law. The election superintendent
 283 shall cause the date and purpose of the election to be published once a week for two weeks
 284 immediately preceding the date thereof in the official organ of Henry County. The ballot
 285 shall have written or printed thereon the words:

286 "() YES Shall an act be approved to Change the City of Stockbridge's Charter to
 287 allow for clearly defined dedicated districts for accountable city council
 288 () NO representation?"

289 All persons desiring to vote for approval of Part B of this Act shall vote "Yes," and those
 290 persons desiring to vote for rejection of Part B of this Act shall vote "No." The General
 291 Assembly shall take the results of such referendum into consideration when considering
 292 amending the city charter through local legislation. The expense of such election shall be
 293 borne by the City of Stockbridge. It shall be the election superintendent's duty to certify the
 294 result thereof to the Secretary of State.

295 **PART C**

296 **SECTION 1C.**

297 It is the intent of the General Assembly that nothing in this Act shall be construed so as to
 298 amend the city charter except as expressly provided in Part A of this Act including, without
 299 limitation, the provisions of subsection (e) of Section 3.23 requiring the vote of all elected
 300 councilmembers to override a mayor's veto. The General Assembly expresses confidence

301 that the governing authority of the City of Stockbridge is aware of the prohibition imposed
302 by paragraph (1) of subsection (a) of Code Section 36-35-6 of the O.C.G.A. against any local
303 ordinance affecting the composition and form of the municipal governing authority.

304

SECTION 2C.

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