

House Bill 425 (AS PASSED HOUSE AND SENATE)

By: Representative Cheokas of the 138th

A BILL TO BE ENTITLED
AN ACT

1 To amend an Act providing a new charter for the City of Americus, approved April 13, 1992
2 (Ga. L. 1992, p. 5985), as amended, so as to provide for a city manager; to provide for
3 appointment, qualifications, terms, removal, and vacancies; to provide for duties, powers,
4 and responsibilities; to provide for appointment of a city clerk and finance director; to
5 provide for related matters; to provide for applicability; to provide for an effective date; to
6 repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 An Act providing a new charter for the City of Americus, approved April 13, 1992 (Ga. L.
10 1992, p. 5985), as amended, is amended by revising Chapter 1 of Article III as follows:

11 "CHAPTER 1

12 City Council

13 Section 3-101.

14 Appointment; qualifications; compensation; removal.

15 (a) The city council shall have the right, power, and authority to employ and to appoint in
16 their discretion an officer whose title shall be 'city manager.'

17 (b)(1) The city manager shall be appointed solely on the basis of executive and
18 administrative qualifications. The city manager shall hold at least a bachelor's degree
19 from a four-year college or university and shall have such other qualifications as may be
20 determined by the city council. Such person need not be a resident of the city or state at
21 the time of appointment but shall reside in the city while in office.

22 (2) The city may enter into an employment contract with the city manager for a term not
23 to exceed two years. No such contract shall be automatically renewable, but any such

24 contract may be renewed by mutual agreement of the city council and city manager. Any
25 such contract may provide for a severance payment of salary and benefits to the city
26 manager for a term to be agreed upon between the city and the city manager at the time
27 the contract is executed, but any such severance payments shall only be payable in the
28 event that the city manager is removed by the city without cause.

29 (c) In the event that there is a permanent vacancy in the position of city manager due to
30 resignation, termination, death, or incapacity, the city council shall be authorized to appoint
31 a successor. In the event of a temporary vacancy, the city manager may, by letter filed with
32 the city clerk, designate a qualified administrative officer to exercise the powers and
33 perform the duties of city manager during such temporary vacancy. Such designation shall
34 be subject to the approval of the city council and may be revoked at any time, in which case
35 the city council shall appoint an alternative to serve as city manager during such temporary
36 vacancy.

37 (d) The city council may remove the city manager at any time, with or without cause, by
38 adopting a resolution to that effect. The city council shall have such authority whether or
39 not there is an existing employment contract as provided in paragraph (2) of subsection (b)
40 of this section, but such removal shall comply with the terms of any such contract which
41 do not conflict with the provisions of this subsection. Within five days of adopting such
42 resolution, the council shall provide written notice thereof to the city manager. The city
43 manager, within ten calendar days after receipt of such notice, may in writing request a
44 public hearing regarding the decision of the city council. Such hearing shall be held not
45 earlier than 20 nor more than 30 calendar days after the submission of such hearing request.
46 Any determination of the city council following any such hearing, however, shall be final.
47 Upon the removal of the city manager, any severance required pursuant to such contract
48 shall be paid in accordance with its terms.

49 Section 3-102.

50 Duties and responsibilities.

51 (a) The city manager shall be the chief administrative officer of the city and shall be
52 responsible to the city council for the administration of all city affairs placed in the city
53 manager's charge in accordance with this charter.

54 (b) The city manager shall have the additional power, duty, and responsibility to:

55 (1) Ensure that the laws of the state and all ordinances, resolutions, rules, and regulations
56 of the city which are subject to the city manager's direction and supervision are faithfully
57 executed and enforced;

- 58 (2) Prepare the agenda for meetings of the city council, subject to inclusion of matters
59 requested by a member of the city council;
- 60 (3) Recommend for adoption any measures deemed expedient;
- 61 (4) Direct and supervise, subject to the general direction of the city council, the
62 administration of all departments, boards, offices, agencies, commissions, authorities,
63 properties, and operations of the city unless otherwise provided by this charter or by law;
- 64 (5) Serve as a liaison between the city council and the departments, boards, offices,
65 agencies, commissions, and authorities of the city government;
- 66 (6) Attend all meetings of the city council, including subcommittee meetings, and take
67 part in discussion; provided, however, that the city manager shall not be authorized to
68 vote and shall not be authorized to attend those portions of public meetings held in
69 executive session for the purpose of deliberating upon the appointment, discipline,
70 compensation, or removal of the city manager unless requested by the city council to be
71 present at such executive sessions;
- 72 (7) Make reports to the city council from time to time on the affairs of the city and keep
73 the city council fully advised of the city's financial condition and future financial needs
74 and requirements;
- 75 (8) Prepare and submit the annual operating budget and capital improvements program
76 to the city council;
- 77 (9) Investigate the affairs, records, accounts, and expenditures of the various
78 departments, boards, offices, agencies, commissions, and authorities of the city and report
79 thereon at least every six months to the city council regarding such matters;
- 80 (10) Appoint, suspend, remove, or terminate city employees, including department heads
81 other than the municipal judge, city attorney, and city clerk, in accordance with the
82 personnel rules, regulations, policies, and ordinances that the city council may adopt;
83 provided, however, that the city manager may delegate such authority in whole or in part
84 to any administrative officer or department head who is subject to the city manager's
85 direction and supervision; and
- 86 (11) Exercise any other powers and perform any other duties as shall be required or
87 authorized by the city council and which are not inconsistent with this charter.
- 88 (c) The city manager shall have the right to request the counsel, advice, and opinion of the
89 city attorney concerning any matter affecting the interest of the city.

90 Section 3-103.
91 Council interference with supervision.

92 No member of the city council shall direct or request the city manager to appoint any person
93 to or remove any person from office as a city employee or take part in any other manner in
94 the appointment, discipline, or removal of employees of the city except as to offices which
95 are subject to appointment by the city council and except to the extent that the city council
96 is required to hear and determine appeals of disciplinary actions taken with respect to any
97 employee of the city pursuant to the city's personnel policies. Except for the purpose of
98 inquiries and investigations under the provisions of this charter or pursuant to ordinances
99 enacted thereunder, or for other good cause shown, neither the mayor nor city council shall
100 supervise or attempt to supervise city officers or employees who are subject to the direction
101 and supervision of the city manager."

102 **SECTION 2.**

103 Said Act is further amended by revising Chapter 2 of Article 3 as follows:

104 "CHAPTER 2
105 City clerk and finance director

106 Section 3-201.
107 Appointment and qualification.

108 The city manager shall appoint a city clerk who shall not be a councilmember. The city
109 clerk shall be the custodian of the official city seal; shall maintain records of the city
110 council required by this charter, ordinance, or law; and perform such other duties as may
111 be required by the city council. The city clerk shall not be deemed a department head of
112 the city.

113 Section 3-202.
114 City finance director.

115 The city manager shall appoint a city finance director who shall not be a councilmember.
116 The city finance director shall collect all taxes, fees, and other monies owed to the city,
117 subject to applicable provisions of this charter, ordinances, or state law. The city finance
118 director shall also enforce all laws and city ordinances related to the collection of delinquent
119 taxes and the sale or foreclosure for nonpayment of taxes and other indebtedness to the city.

120 The city finance director shall be responsible for carrying out the general duties of a fiscal
 121 officer of the city and shall perform such other duties as may be provided by the governing
 122 body or the city manager. The city finance director shall be the head of the city finance
 123 department."

124 **SECTION 3.**

125 Said Act is further amended by revising Section 3-401 as follows:

126 "Section 3-401.

127 Administrative and service departments.

128 (a) Except as otherwise provided in this charter, the city council by ordinance shall
 129 prescribe the functions or duties and establish, abolish, or alter all nonelective offices,
 130 positions of employment, departments, and agencies of the city as necessary for the proper
 131 administration of the affairs and government of this city.

132 (b) Except as otherwise provided by this charter or by law, the directors of departments
 133 and other officers of the city shall be appointed solely on the basis of their respective
 134 administrative and professional qualifications.

135 (c) All appointed officers and directors of departments shall receive such compensation
 136 as prescribed by ordinance.

137 (d) There shall be a department head for each department of the city who shall be its
 138 principal officer. Each department head shall, subject to the direction and supervision of
 139 the city manager, be responsible for the administration and direction of the affairs and
 140 operations of his or her department.

141 (e) All department heads shall be appointed by, and serve at the pleasure of, the city
 142 manager."

143 **SECTION 4.**

144 Said Act is further amended by revising Chapter 5 of Article 6 as follows:

145 "CHAPTER 5

146 Fiscal Control

147 Section 6-501.

148 Fiscal year.

149 The city council shall set the fiscal year by ordinance. This fiscal year shall constitute the
150 budget year and the year for financial accounting and reporting of each and every office,
151 department, agency, and activity of the city government.

152 Section 6-502.

153 Preparation of budgets.

154 The city council shall provide an ordinance on the procedures and requirements for the
155 preparation and execution of an annual budget, which shall include an annual operating
156 budget, a capital improvement program, and a capital budget and may also include
157 requirements as to the scope, content, and form of such budgets and programs of the city.

158 Section 6-503.

159 Submission of operating budget to city council.

160 On or before a date fixed by the city council but not later than 45 days prior to the
161 beginning of each fiscal year, the city manager shall submit to the city council a proposed
162 budget for the ensuing fiscal year, which budget shall include both an operating budget and
163 a capital budget. The budget shall be accompanied by a message from the city manager
164 containing a statement of the general fiscal policies of the city, the important features of
165 the budget, explanations of major changes recommended for the next fiscal year, a general
166 summary of the budget, and such other comments and information as he or she may deem
167 pertinent. The proposed budget, the budget message, and all supporting documents shall
168 be filed in the office of the city clerk and shall be open to public inspection.

169 Section 6-504.

170 Action by city council on budget.

171 (a) The city council may amend the budget proposed by the city manager, except that the
172 budget as finally amended and adopted must provide for all expenditures required by state
173 law or by other provisions of this charter and for all debt service requirements for the

174 ensuing fiscal year and for all capital improvements required for the ensuing fiscal year and
175 the total appropriations from any fund shall not exceed the estimated fund balance,
176 reserves, and revenues.

177 (b) The city council by ordinance shall adopt a final budget for the ensuing fiscal year not
178 later than the last day of the current fiscal year. If the city council fails to adopt the budget
179 by this date, the amounts appropriated for the current fiscal year shall be deemed adopted
180 for the ensuing fiscal year on a month-to-month basis, with all items prorated accordingly,
181 until such time as the city council adopts a budget for the ensuing fiscal year. Adoption of
182 the budget shall take the form of an appropriations ordinance setting out the estimated
183 revenues in detail by sources and making appropriations according to fund and by
184 organizational unit, purpose, or activity as set out in the budget preparation ordinance
185 adopted pursuant to Section 6-502 of this charter.

186 (c) The amount set out in the adopted budget for each organizational unit shall constitute
187 the annual appropriation for such, and no expenditure shall be made or encumbrance
188 created in excess of the otherwise unencumbered balance of the appropriations or
189 allotments thereof to which it is chargeable. The city council shall not authorize an
190 expenditure for the construction of any building, structure, work, or improvement unless
191 the appropriations for such project are included in the capital improvements budget, except
192 to meet a public emergency as provided in this charter, or where the funds required for such
193 improvement are otherwise provided for in accord with this charter or applicable state laws.

194 Section 6-505.

195 Tax levies.

196 The city council shall annually levy by ordinance such taxes as are necessary to fund the
197 budget. The taxes and tax rates set by such ordinance shall be such that reasonable estimates
198 of revenues from such levy shall at least be sufficient, together with other budgeted revenues,
199 fund balances, and applicable reserves, to equal the total amount appropriated for each of the
200 several funds set forth in the annual operating budget for defraying the expenses of the
201 general government of this city.

202 Section 6-506.

203 Changes in appropriations.

204 The city manager may submit amendments to the budget to the city council at any time
205 during the fiscal year, accompanied by his or her recommendations. The city council by
206 ordinance may make changes or amendments in the appropriations contained in the current

207 budget at any regular meeting or special or emergency meeting called for such purpose, but
 208 any additional appropriations may be made only from an existing unexpended surplus. Any
 209 such amendments to the budget shall become effective only upon adoption by ordinance.

210 Section 6-507.

211 Independent audit.

212 There shall be an annual independent audit of all city accounts, funds, and financial
 213 transactions by a certified public accountant selected by the city council. The audit shall be
 214 conducted according to generally accepted accounting principles. Any audit of any funds by
 215 the state or federal government may be accepted as satisfying the requirements of this
 216 charter. Copies of all audit reports shall be available at printing costs to the public."

217 **SECTION 5.**

218 Said Act is further amended by revising Section 6-604 as follows:

219 "Section 6-604.

220 Sale and disposition of property.

221 (a) The city council may sell, lease, transfer, and convey any real or personal property
 222 owned or held by the city for governmental or other purposes as now or hereafter provided
 223 by law.

224 (b) The city council may quitclaim any rights it may have in property not needed for public
 225 purposes upon report by the city manager and adoption of a resolution, both finding that
 226 the property is not needed for public or other purposes and that the interest of the city has
 227 no readily ascertainable monetary value.

228 (c) Whenever in opening, extending, or widening any street, avenue, alley, or public place
 229 of the city a small parcel or tract of land is cut off or separated by such work from a larger
 230 tract or boundary of land owned by the city, the city council may authorize the mayor to
 231 execute and deliver in the name of the city a deed conveying said cut-off or separated
 232 parcel or tract of land to an abutting or adjoining property owner or owners in exchange for
 233 rights of way of said street, avenue, alley, or public place when such exchange is deemed
 234 to be in the best interest of the city. All deeds and conveyances heretofore and hereafter
 235 so executed and delivered shall convey all title and interest the city has in such property,
 236 notwithstanding the fact that no public sale after advertisement was or is hereafter made."

237 **SECTION 6.**

238 This Act shall not be applied to shorten or lengthen the current term of any person holding
239 elective office on the date this Act becomes effective. The person serving as chief
240 administrative officer as of June 30, 2015, shall automatically commence serving as city
241 manager upon the effective date of this Act and shall so serve unless and until removed in
242 accordance with the provisions of this charter. Those department heads appointed by the city
243 council prior to June 30, 2015, who remain employed in such positions as of June 30, 2015,
244 shall continue to serve in such positions commencing July 1, 2015, as if they were appointed
245 by the city manager as of the effective date of this Act.

246 **SECTION 7.**

247 This Act shall become effective on July 1, 2015.

248 **SECTION 8.**

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