

House Bill 251 (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 not to exceed three months' salary
 26 and benefits in the event the city manager is removed by the city without cause.

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

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

47 Section 3-102.

48 Duties and responsibilities.

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

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

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

56 (2) Prepare the agenda for meetings of the city council, subject to inclusion of matters
 57 requested by a member of the city council;

58 (3) Recommend for adoption any measures deemed expedient;

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

88 Section 3-103.

89 Council interference with supervision.

90 No member of the city council shall direct or request the city manager to appoint any person
91 to or remove any person from office as a city employee or take part in any other manner in
92 the appointment, discipline, or removal of employees of the city except as to offices which
93 are subject to appointment by the city council and except to the extent that the city council

94 is required to hear and determine appeals of disciplinary actions taken with respect to any
 95 employee of the city pursuant to the city's personnel policies. Except for the purpose of
 96 inquiries and investigations under the provisions of this charter or pursuant to ordinances
 97 enacted thereunder, or for other good cause shown, neither the mayor nor city council shall
 98 supervise or attempt to supervise city officers or employees who are subject to the direction
 99 and supervision of the city manager."

100 **SECTION 2.**

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

102 "CHAPTER 2

103 City clerk and finance director

104 Section 3-201.

105 Appointment and qualification.

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

110 Section 3-202.

111 City finance director.

112 The city manager shall appoint a city finance director who shall not be a councilmember.
 113 The city finance director shall collect all taxes, fees, and other monies owed to the city,
 114 subject to applicable provisions of this charter, ordinances, or state law. The city finance
 115 director shall also enforce all laws and city ordinances related to the collection of delinquent
 116 taxes and the sale or foreclosure for nonpayment of taxes and other indebtedness to the city.
 117 The city finance director shall be responsible for carrying out the general duties of a fiscal
 118 officer of the city and shall perform such other duties as may be provided by the governing
 119 body or the city manager."

120 **SECTION 3.**

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

122 "Section 3-401.
123 Administrative and service departments.

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

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

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

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

137 (e) All department heads shall be appointed by the city manager. All department heads
138 shall be appointed on an annual basis and shall take office on January 1 of each calendar
139 year. Each department head shall serve at the pleasure of the city manager."

140 **SECTION 4.**

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

142 "CHAPTER 5
143 Fiscal Control

144 Section 6-501.
145 Fiscal year.

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

149 Section 6-502.

150 Preparation of budgets.

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

155 Section 6-503.

156 Submission of operating budget to city council.

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

166 Section 6-504.

167 Action by city council on budget.

168 (a) The city council may amend the budget proposed by the city manager, except that the
169 budget as finally amended and adopted must provide for all expenditures required by state
170 law or by other provisions of this charter and for all debt service requirements for the
171 ensuing fiscal year and for all capital improvements required for the ensuing fiscal year and
172 the total appropriations from any fund shall not exceed the estimated fund balance,
173 reserves, and revenues.

174 (b) The city council by ordinance shall adopt the final budget for the ensuing fiscal year
175 not later than the thirty-first day of December of each year. If the city council fails to adopt
176 the budget by this date, the amounts appropriated for the current fiscal year shall be
177 deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items
178 prorated accordingly, until such time as the city council adopts a budget for the ensuing
179 fiscal year. Adoption of the budget shall take the form of an appropriations ordinance
180 setting out the estimated revenues in detail by sources and making appropriations according

181 to fund and by organizational unit, purpose, or activity as set out in the budget preparation
182 ordinance adopted pursuant to Section 6-502 of this charter.

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

191 Section 6-505.

192 Tax levies.

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

199 Section 6-506.

200 Changes in appropriations.

201 The city manager may submit amendments to the budget to the city council at any time
202 during the fiscal year, accompanied by his or her recommendations. The city council by
203 ordinance may make changes or amendments in the appropriations contained in the current
204 budget at any regular meeting or special or emergency meeting called for such purpose, but
205 any additional appropriations may be made only from an existing unexpended surplus. Any
206 such amendments to the budget shall become effective only upon adoption by ordinance.

207 Section 6-507.

208 Independent audit.

209 There shall be an annual independent audit of all city accounts, funds, and financial
210 transactions by a certified public accountant selected by the city council. The audit shall be
211 conducted according to generally accepted accounting principles. Any audit of any funds by

212 the state or federal government may be accepted as satisfying the requirements of this
 213 charter. Copies of all audit reports shall be available at printing costs to the public."

214 **SECTION 5.**

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

216 "Section 6-604.

217 Sale and disposition of property.

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

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

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

234 **SECTION 6.**

235 This Act shall not be applied to shorten or lengthen the current term of any person holding
 236 office on the date this Act becomes effective.

237 **SECTION 7.**

238 This Act shall become effective upon its approval by the Governor or upon its becoming law
 239 without such approval.

240 **SECTION 8.**

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