

Senate Bill 139

By: Senator Lucas of the 26th

A BILL TO BE ENTITLED
AN ACT

1 To amend an Act entitled "An Act to provide for the restructuring of the governments of the
2 City of Macon, the City of Payne City, and Bibb County," approved April 20, 2012 (Ga. L.
3 2012, p. 5595), as amended, so as to rebrand the governing authority; to provide that the
4 commission possesses legislative power; to remove the mayor from the commission; to
5 convert the office of mayor pro tempore into the office of president of the commission; to
6 provide for a president pro tempore; to remake the committee on committees; to change
7 reference to the chief administrative officer to county manager; to provide for the removal
8 of department heads, the clerk of commission, and the county attorney for good cause instead
9 of at the pleasure of the mayor; to provide the commission with the ability to prevent the
10 removal of department heads, the clerk of commission, and the county attorney; to provide
11 for grounds for determining good cause; to provide for related matters; to repeal conflicting
12 laws; and for other purposes.

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

14 **SECTION 1.**

15 An Act entitled "An Act to provide for the restructuring of the governments of the City of
16 Macon, the City of Payne City, and Bibb County," approved April 20, 2012 (Ga. L. 2012,
17 p. 5595), as amended, is amended by revising Section 5 of such Act as follows:

18 **"SECTION 5.**

19 The governing authority of Macon-Bibb County shall consist of a mayor and commission,
20 and said commission shall be composed of nine commissioners. Said commission is
21 designated as the Macon-Bibb County Commission, referred to in this charter as the
22 'commission.' The members of said commission are designated and referred to in this charter
23 as 'commissioners.' The mayor and commission shall exercise and be subject to all of the
24 rights, powers, duties, and obligations imposed by this charter or previously applicable to the
25 governing authorities of the City of Macon and Bibb County and to any general laws, local

26 laws, or constitutional provisions applicable or effective within the former City of Macon and
 27 Bibb County. The mayor and commission shall constitute a county as well as a municipality
 28 for the purpose of the application of the general laws and Constitution of this state. The
 29 mayor and commission may exercise the powers vested in the governing authority of the
 30 municipality and municipalities generally as well as the powers vested in the former
 31 governing authority of the county and counties generally."

32 **SECTION 2.**

33 Said Act is further amended by revising subsections (c) and (f) of Section 9 as follows:

34 "(c) The legislative power of the county, unless otherwise provided by this charter, shall
 35 be vested in the commission. The commission shall consist of nine members. The initial
 36 commissioners shall be elected at a nonpartisan election held on the third Tuesday in July,
 37 2013, for terms of three years and until their successors are duly elected and qualified.
 38 Their successors shall be elected in nonpartisan elections for terms of four years and shall
 39 take office on the first day of January immediately following the date of the election. The
 40 members shall be elected from the nine districts specified in subsection (a) of this section
 41 by a majority of electors voting in such election from such district. All members of the
 42 commission shall be full voting members of the commission. The mayor may propose
 43 ordinances in the same manner as a commissioner."

44 "(f) The commission shall elect from among its members in January of each year a member
 45 to serve as president of the commission and another to serve as president pro tempore. The
 46 president shall preside over meetings of the commission. The president pro tempore shall
 47 preside over meetings of the commission in the president's absence."

48 **SECTION 3.**

49 Said Act is further amended by revising Section 12 as follows:

50 "SECTION 12.

51 The commission shall, upon the approval of six commissioners, provide for an independent
 52 annual audit of all restructured government accounts and may provide for more frequent or
 53 continuing audits as it deems necessary. Audits shall be made by a certified public
 54 accountant or firm of certified public accountants who has no personal interest, direct or
 55 indirect, in the fiscal affairs of the restructured government or any of its officers. The
 56 commission may designate the accountant or firm annually, provided that the designation for
 57 any particular fiscal year shall be made no later than 30 days after the beginning of the fiscal
 58 year. The commission may also provide for special independent audits of any office,

59 department, board, commission, or other agency of the restructured government without the
60 need for approval by the mayor."

61 **SECTION 4.**

62 Said Act is further amended by revising Section 13 as follows:

63 "SECTION 13.

64 The commission, upon the approval of six commissioners, may initiate inquiries and
65 investigations into the affairs of the restructured government and the conduct of any
66 department, office, or agency of the restructured government or any joint or independent
67 commission, board, or authority of the restructured government. Any participant in any
68 hearing authorized may request that such hearing be closed to the public and all reports to
69 the commission of the result of any inquiry or investigation by an authorized committee may
70 be closed to the public; provided, however, that all such hearings shall be subject to Chapter
71 14 of Title 50 of the O.C.G.A., relating to open and public meetings. Any action taken by
72 the commission as a result of such inquiry or investigation shall be taken at and during an
73 open meeting."

74 **SECTION 5.**

75 Said Act is further amended by revising subsection (a) of Section 14 as follows:

76 "(a) All of the executive powers of the restructured government are vested in the mayor.
77 The mayor shall be the chief executive officer of Macon-Bibb County and shall be
78 responsible for execution of the laws and policies of the restructured government and
79 applicable state and federal laws. The mayor shall possess and exercise the following
80 executive and administrative powers and duties:

81 (1) To see that the ordinances, resolutions, and regulations of the restructured
82 government and laws of this state are faithfully executed and enforced;

83 (2) To exercise supervision over the executive and administrative affairs of the
84 restructured government and to provide for the coordination of executive and
85 administrative activities;

86 (3) In addition to the appointments provided for in Section 16 of this charter, to appoint
87 department heads, subject to the approval of a majority of the commission;

88 (4) To sign and approve deeds, bonds, contracts, and other instruments and documents
89 in any case in which the legal instruments must be in writing or where the general laws
90 of this state or ordinance or resolution of the commission so require;

- 91 (5) To submit to the commission annually a draft of the recommended appropriations
 92 ordinance, the budget message, and the budget report and to submit annually to the
 93 commission a capital improvement program;
- 94 (6) To conduct studies and investigations and to make recommendations to the
 95 commission for legislation concerning all matters relating to the restructured government
 96 and the welfare of its citizens;
- 97 (7) To represent the restructured government in its intergovernmental relations;
- 98 (8) To appoint the attorney, fire chief, municipal county judge, and county manager for
 99 the restructured government, with the approval of a majority of the commission;
- 100 (9) To provide an annual financial audit of all authorities and provide a report of such
 101 audit to the commission; and
- 102 (10) To perform any other duties as may be required by law, ordinance, or resolution."

103 **SECTION 6.**

104 Said Act is further amended by revising subsection (c) of Section 15 as follows:

105 "(c) If, however, a vacancy in the office of the mayor occurs, the president of the
 106 commission shall be acting mayor with all the powers and duties of that office until a
 107 successor is elected and qualified, and if the vacancy in the office of the mayor occurs
 108 within 12 months of expiration of the term of that office, the president of the commission
 109 shall succeed to the office of the mayor for the remainder of the term and the commission
 110 seat of such person shall be filled in accordance with this section."

111 **SECTION 7.**

112 Said Act is further amended by revising Section 16 as follows:

113 "SECTION 16.

114 (a)(1) The mayor shall, subject to the approval of a majority of the commission, appoint
 115 an officer whose title shall be county manager who shall serve at the pleasure of the
 116 mayor. The county manager officer shall be appointed solely on the basis of executive
 117 and administrative qualifications. The county manager officer shall hold a master's
 118 degree in public or business administration or a related field and shall have at least four
 119 years' experience in public administration or in business management in the private sector
 120 or shall hold a bachelor's degree in public or business administration or a related field and
 121 shall have at least eight years' experience in public administration or in business
 122 management in the private sector. Such person need not be a resident of Macon-Bibb
 123 County or the State of Georgia at the time of appointment.

124 (2) The mayor shall, subject to a majority vote of all commissioners then serving,
125 appoint a clerk of commission. The clerk of commission may also serve as clerk of the
126 restructured government or on any other positions he or she may be appointed to in the
127 restructured government.

128 (3) The clerk of commission shall attend all meetings of the commission; keep the
129 minutes, rules, and records of the commission; provide notice of meetings; and perform
130 other duties required by the governing authority or by ordinance. The compensation of
131 the clerk shall be as fixed by the commission.

132 (4) The chief of the Macon-Bibb County Fire Department shall be appointed by the
133 mayor with the approval of a majority of the commission and shall perform his or her
134 official duties as the chief firefighter throughout the entire limits of Macon-Bibb County.

135 (b) The county manager officer shall have the following powers, duties, and
136 responsibilities:

137 (1) To serve as director of the department of administration;

138 (2) To advise and assist the mayor in the performance of designated duties;

139 (3) To coordinate the activities of the departments of the restructured government;

140 (4) To serve as a liaison between the mayor and the departments of the restructured
141 government;

142 (5) To carry out the written directives of the mayor; provided, however, that the mayor
143 shall not be authorized to delegate to the county manager any of the powers or duties
144 conferred upon the mayor by charter or by ordinance;

145 (6) To make periodic reports with any recommendations to the mayor as required by the
146 mayor or as he or she deems appropriate concerning the affairs of the restructured
147 government; and

148 (7) To perform any other duties as shall be required by the mayor.

149 (c) Except for the purpose of inquiry and investigation, the commission shall deal with
150 employees of the unified government other than those who are subject to appointment by
151 the mayor solely through the county manager and shall not give orders or directions to any
152 such employee, either publicly or privately, directly or indirectly.

153 (d) There shall be an attorney for the restructured government who shall be appointed by
154 the mayor with the approval of a majority of the commission. Such person shall be an
155 active member of the State Bar of Georgia in good standing and shall have been engaged
156 in the active practice of law for at least five years prior to the date of appointment. The
157 attorney shall be legal counsel to the restructured government and perform any other duties
158 as may be provided by ordinance. Such person shall be responsible to the mayor and to the
159 commission. The compensation of the attorney shall be as prescribed by a duly adopted

160 ordinance. The attorney shall recommend legal counsel to all authorities of the restructured
161 government when needed except as otherwise instructed by the mayor.

162 (e)(1) There shall be a finance officer who shall be appointed by the mayor with the
163 approval of a majority of the commission.

164 (2) The finance officer shall perform financial duties for the restructured government and
165 any other duties as may be provided by ordinance. Such person shall be responsible to
166 the mayor and to the commission."

167 **SECTION 8.**

168 Said Act is further amended by revising subsection (a) of Section 17 as follows:

169 "(a) The newly elected mayor and commissioners shall take office and meet for
170 organization and swearing-in ceremonies on the second Tuesday of January following their
171 election. There shall be a committee on committees made up of the president of the
172 commission, the president pro tempore, and an additional commissioner appointed by the
173 commission. The committee on committees shall create, abolish, and appoint all
174 committees and the membership thereof. The president of the commission and the
175 president pro tempore shall not be voting members of any committee established by the
176 committee on committees. At this meeting, the newly organized commission shall make
177 any appointments and selections as may be required by this charter."

178 **SECTION 9.**

179 Said Act is further amended by revising subsection (c) of Section 19 as follows:

180 "(c) Special meetings of the commission may be held on call of the president of the
181 commission or a majority of all members of the commission. The mayor shall also be
182 authorized to call special meetings regarding fiscal affairs or emergencies involving public
183 safety. Notice of a special meeting shall be served on all other members personally, or by
184 telephone personally, at least 48 hours in advance of the meeting. If, after diligent effort,
185 personal service is not possible, notice shall be deemed to have been served if delivered to
186 the residence of record of the member by a law enforcement officer who certifies that such
187 delivery was made at least 24 hours prior to the convening of the meeting. This notice to
188 commissioners shall not be required if all commissioners are present when the special
189 meeting is called. This notice of any special meeting may be waived by a commissioner
190 in writing before or after such a meeting, and attendance at the meeting shall also constitute
191 a waiver of notice on any business transacted in the commissioner's presence. Only the
192 business stated in the call may be transacted at the special meeting."

193 **SECTION 10.**

194 Said Act is further amended by revising subsection (c) of Section 20 as follows:

195 "(c) Any elected or appointed officer or employee of the restructured government, any
196 authority of the restructured government, or any agency or political entity to which this
197 charter applies who possesses or who acquires any financial interest as might reasonably
198 tend to create a conflict with the public interest shall make full disclosure in writing to the
199 appointing authority or the commission, in the case of the mayor or a member of the
200 commission, at any time a conflict becomes apparent. The disclosure statement shall be
201 made a matter of public record and be filed with the clerk of commission. The mayor or
202 any member of the commission who has any personal or private interest, indirect, financial,
203 or otherwise, in any proposal before the commission shall disclose the interest in writing
204 to the commission. The disclosure shall be made a matter of public record prior to the
205 taking of any vote on the proposal."

206 **SECTION 11.**

207 Said Act is further amended by revising subsections (a) and (b) of Section 21 as follows:

208 "(a) The general obligation bonded indebtedness of the City of Macon which is outstanding
209 on the effective date of this charter shall become the debt and obligation of a special tax
210 district which shall correspond to and be conterminous with the corporate limits of the City
211 of Macon as said corporate limits existed on the day immediately preceding the effective
212 date of this charter. The ad valorem taxes imposed by the City of Macon prior to the
213 effective date of this charter to retire such bonded indebtedness shall continue to be
214 imposed within the special tax district in the same manner and to the same extent that such
215 ad valorem taxes were previously imposed by the City of Macon in accordance with the
216 terms of the obligations of such bonded indebtedness. The mayor and commission, as the
217 governing authority of Macon-Bibb County, shall be the successor to the previously
218 existing governing authority of the City of Macon for all purposes relating to such bonded
219 indebtedness, including the enforcement of rights and remedies of bondholders.

220 (b) The general obligation bonded indebtedness of Bibb County outstanding on the
221 effective date of this charter shall not be affected by this charter, and the mayor and
222 commission, as the governing authority of Macon-Bibb County, shall become the successor
223 to the previously existing governing authority of Bibb County for all purposes relating to
224 such bonded indebtedness, including the enforcement of rights and remedies of
225 bondholders."

226 **SECTION 12.**

227 Said Act is further amended by revising subsection (a) of Section 24 as follows:

228 "(a) The governing authority may create special services tax districts and shall assess, levy,
 229 and collect ad valorem taxes and collect service charges and fees for the provision of
 230 district services within a special services district only in accordance with the kind,
 231 character, type, and degree of district services provided by the governing authority within
 232 such special services tax district. The provisions of this section shall control ad valorem
 233 taxation and the collection of service charges and fees for the provision of district services
 234 within special services tax districts by the governing authority. District services shall mean
 235 and include all of those governmental services enumerated in Article IX, Section II,
 236 Paragraph III of the Constitution."

237 **SECTION 13.**

238 Said Act is further amended by revising subsection (e) of and adding a new subsection (f) to
 239 Section 30 as follows:

240 "(e) Except as provided by this charter or prohibited by the general laws of this state, all
 241 members of all boards, commissions, committees, panels, authorities, or other entities who
 242 were appointed by the board of commissioners of Bibb County or the governing authority
 243 of the City of Macon shall serve out the term of office to which such members were
 244 appointed. Except as provided by this charter or prohibited by the general laws of this
 245 state, the positions of director or administrative head, by whatever name known, of each
 246 department or entity of the governments of Bibb County and the City of Macon shall be
 247 abolished 90 days after the members of the commission take office under this charter.
 248 Such departments may be abolished, reestablished, reorganized, or restructured; new job
 249 descriptions shall be established as appropriate; and a director or administrative head shall
 250 be appointed for each department by the mayor. Any person who formerly occupied such
 251 position and any other person shall have the right to apply for any position thus created.
 252 The provisions of this subsection shall not result in the automatic termination from
 253 employment with the reorganized government of any such person and the provisions of
 254 Section 14 of this charter shall be applicable to any such person. On or after January 1,
 255 2016, no person shall be eligible for appointment to any position as the administrative head
 256 of any department or agency of the restructured government unless such person meets such
 257 qualifications as may be established by the mayor.

258 (f) Each person serving as the administrative head of any department or agency of the
 259 restructured government, the clerk of commission, and the county attorney may be
 260 removed by the mayor for good cause, provided that an affirmative vote of six
 261 commissioners may prevent the removal of department heads, the clerk of commission, or
 262 the county attorney by determining that good cause for removal does not exist. If requested

263 by a majority vote of the members of the commission, the mayor shall provide in writing
264 the reasons for such removal. Good cause may include but not be limited to the following:
265 (1) Incompetence, misfeasance, or malfeasance in office;
266 (2) Conviction of a crime involving moral turpitude or a crime punishable as a felony;
267 (3) Failure at any time to possess any of the qualifications of office as provided by this
268 charter or by ordinance;
269 (4) Gross misconduct in reference to the duties of office; or
270 (5) Abandonment of office or neglect to preform the duties thereof."

271 **SECTION 14.**

272 Said Act is further amended by revising paragraph (5) of subsection (b) of Section 33 as
273 follows:

274 "(5) 'President of the Macon City Council' shall be construed to refer to the president of
275 the commission of Macon-Bibb County."

276 **SECTION 15.**

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