Senate Bill 498

By: Senators Reed of the 35th, Tanksley of the 32nd, Zamarripa of the 36th, Price of the 56th, Thomas of the 10th and others

AS PASSED

A BILL TO BE ENTITLED

AN ACT

To amend an Act providing a new charter for the City of Atlanta, approved April 15, 1996 (Ga. L. 1996, p. 4469), as amended, so as to change the provisions relating to the jurisdiction of the municipal court; to delete references in the charter to the City Court of Atlanta; to change the provisions relating to the victims and witnesses assistance program and the operation thereof; to provide for appointments by the mayor as a result of court consolidation and the procedures related thereto; to change the provisions relating to judges pro hac vice of the municipal court; to provide for the imposition, collection, and expenditure of an additional penalty in the municipal court for municipal detention and prison facilities; to provide for a statement of intent and purpose; to provide for the transfer of cases and matters; to provide for the transfer of records, books, minutes, files, and documents; to repeal an Act amending the Act providing a new charter for the City of Atlanta by providing for additional penalties for victims and witnesses assistance programs, approved June 4, 2003 (Ga. L. 2003, p. 4721); to provide an effective date; to provide for repeal of this Act under certain conditions; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

An Act providing a new charter for the City of Atlanta, approved April 15, 1996 (Ga. L. 1996, p. 4469), as amended, is amended by striking subsection (a) of Section 3-508, relating to regulation of complaints, fraud, waste, and abuse and definitions relating thereto, and inserting in lieu thereof the following:

"(a) As used in this section, the term:

(1) 'Municipal employee' means classified and unclassified employees of the City of Atlanta, and individuals who perform services for the City of Atlanta on a contract or fee basis, but does not include elected officials.

(2) 'Municipal employer' means any department, board, bureau, commission, authority, or other agency of the city which employs or appoints any municipal employee, except the mayor and members of the city council.″

SECTION 2.

Said Act is further amended by striking Section 4-102, relating to the jurisdiction, authority, and powers generally of the municipal court, and inserting in lieu thereof the following:

″SECTION 4-102.

Jurisdiction, authority, and powers generally.

The municipal court and each judge thereof shall have jurisdiction and power coextensive with the territorial limits of the City of Atlanta, Georgia, to:

(1) Try and punish violations of this charter, all city ordinances, and such other violations as provided by law;

(2) Try, hear, and abate nuisances as provided by the laws of this state;

(3) Hear, try, and determine as a committing court all warrants for the violation of any state law and, while acting under the authority of the laws of the State of Georgia, to bind over such persons to an appropriate higher court for the eventual trial of said case;

(4) Punish those in its presence for contempt, provided that such punishment shall not exceed $200.00 or ten days in jail or both;

(5) Punish for violations within its jurisdiction not exceeding a fine of $1,000.00 or imprisonment for six months or both such fine and imprisonment or may fix punishment by fine, imprisonment, or alternative sentencing as now or hereafter provided by law;

(6) Establish bail and recognizance to ensure the presence of those charged with violations before said court;

(7) Probate, revoke, amend, remit, modify, alter, or suspend sentences imposed, provided that the mayor may grant reprieves and pardons, commute penalties, and remit any part of a sentence following defendant´s request therefor to the court;

(8) Compel the production of books, papers, and other evidence in the possession of any party with the same authority as magistrates of the state;

(9) Compel the presence of witnesses or all parties necessary to a proper disposal of each case by issuance of summonses, subpoenas, warrants, orders, and all other process in cases within its jurisdiction arising under the laws of the State of Georgia or this charter or ordinances of the city with full power to enforce the same;

(10) Enforce obedience to its orders, judgments, and sentences with the same authority as magistrates of the state;

(11) Administer all oaths as are necessary with the same authority as magistrates of the state and take affidavits and attest other papers;

(12) Issue warrants for the arrest of persons charged with offenses against any ordinance of the city, and each judge of the municipal court shall have the authority as magistrate of the state to issue warrants for offenses against state laws committed within the city; and

(13) Such other powers and duties as shall be provided by law or ordinance.″

SECTION 3.

Said Act is further amended by striking Section 4-102A, which reads as follows:

″SECTION 4-102A.

Victims and witnesses assistance programs.

(a) In every case in the Municipal Court of Atlanta in which the court imposes a fine for a violation of a state law or a city ordinance, there shall be imposed as an additional penalty a sum not to exceed $3.00.

(b) At the time of posting bail or bond in any case before the Municipal Court of Atlanta, an additional sum not to exceed $3.00 shall be posted, and in every case in which the court orders the forfeiture of bail or bond, the additional sum posted shall be distributed as provided in subsection (c) of this section.

(c) The additional penalty in cases in which fines are imposed and the additional sum for forfeiture of bails and bonds provided for in subsections (a) and (b) of this section shall be collected by the court officer charged with the duty of collecting fines and forfeited bails or bonds. The funds collected under this section shall be distributed by the City of Atlanta Finance Department. One-third of the funds collected shall be distributed to the City Court of Atlanta, also known as traffic court, in support of the Victims and Witnesses Assistance Program operated by the chief judge of such court. Two-thirds of the funds collected under this section shall be distributed by the City of Atlanta Finance Department to the Victims and Witnesses Assistance Program formerly operated by the crime commission in the Municipal Court of Atlanta. Budgets for each of the Victims and Witnesses Assistance Programs named in this section shall be submitted to the Finance Committee of the Atlanta City Council for review and approval of the distribution of the funds. An annual report to the governing authority of the City of Atlanta of the moneys received by each recipient of these funds shall be made by the chief judge of each court in which a Victims and Witnesses Assistance Program is supported by the funds collected under this section.

(d) Except for moneys paid into the Victims and Witnesses Assistance Program as provided in subsections (a) through (c) of this section, all moneys arising from fines or forfeitures imposed and collected in the Municipal Court of Atlanta shall be paid into the treasury of the respective city and shall be used exclusively to defray the expense of operating the court.″, in its entirety.

SECTION 4.

Said Act is further amended by adding at the end of Section 4-106 a new subsection (f) to read as follows:

″(f) Appointments by mayor as a result of court consolidation. Notwithstanding subsections (a) through (e) of this section, the mayor, at the mayor´s sole discretion, shall have the temporary authority for a period of one year from the effective date of this subsection to appoint any City of Atlanta judge who resigns or retires in good standing to the municipal court without first observing the Atlanta Judicial Commission process provided in subsections (a) through (e) of this section. This subsection shall not longer be applicable and shall be repealed one year following the effective date of this subsection.″

SECTION 5.

Said Act is further amended by striking Section 4-109 and inserting in lieu thereof the following:

″SECTION 4-109.

Judges pro hac vice.

(a) The council shall determine the initial number of judges pro hac vice. The mayor shall appoint judges pro hac vice from panels of three nominees submitted by the Atlanta Judicial Commission. The qualifications for said appointees shall be the same as for judges and a judge pro hac vice shall act in the event of an emergency, conflict of interest, or other necessity.

(b) At such time a judge pro hac vice is needed by the municipal court for more than three-fourths of the working days of this court in any six-month period, an additional position of associate judge shall be established, subject to approval by majority vote of the council.

(c) All judges pro hac vice for the municipal court shall serve four-year terms, commencing on July 1, 2004, or commencing on the effective date of their respective appointments, whichever date is earlier. Judges pro hac vice may be reappointed to that position, subject to the requirements of subsection (a) of this section.

(d) Notwithstanding subsections (a) through (c) of this section, the mayor shall, at the mayor´s sole option, have the temporary authority for a period of one year from the effective date of this subsection to appoint any former City of Atlanta full-time or pro hac vice judge who resigns or retires in good standing to the Municipal Court without first observing the Atlanta Judicial Commission process provided in subsections (a) through (e) of Section 4-106 of this charter. In no event shall any full-time judge of the City Court who, although his or her position has been abolished by court consolidation and who is still entitled to his or her regular salary through the end of his or her term, serve on the municipal court pro hac vice for additional compensation. This prohibition shall not affect the right of any retired employee to collect pension or other retirement benefits. This subsection shall not longer be applicable and shall be repealed one year following the effective date of this subsection.″

SECTION 6.

Said Act is further amended by adding a new Section 4-116 to read as follows:

″SECTION 4-116.

Victims and witnesses assistance program.

(a) In every case in the Municipal Court of Atlanta in which the court imposes a fine for a violation of a state law or a city ordinance, there shall be imposed as an additional penalty a sum not to exceed $3.00.

(b) At the time of posting bail or bond in any case before the Municipal Court of Atlanta, an additional sum not to exceed $3.00 shall be posted, and in every case in which the court orders the forfeiture of bail or bond, the additional sum posted shall be distributed as provided in subsection (c) of this section.

(c) The additional penalty in cases in which fines are imposed and the additional sum for forfeiture of bails and bonds provided for in subsections (a) and (b) of this section shall be collected by the court officer charged with the duty of collecting fines and forfeited bails or bonds. The funds collected under this section shall be distributed by the City of Atlanta Finance Department to the Victims and Witnesses Assistance Program operated by the City of Atlanta in the Municipal Court of Atlanta. The budget for the Victims and Witnesses Assistance Program named in this section shall be submitted to the governing authority as a resolution of the Finance Committee of the Atlanta City Council for review and approval of the distribution of the funds. An annual report to the governing authority of the City of Atlanta of the moneys received by the recipient of these funds shall be made by the chief judge.″

SECTION 7.

Said Act is further amended by adding a new Section 4-117 to read as follows:

"SECTION 4-117.

Additional penalty for municipal detention and prison facilities.

(a)(1) In every case in which the municipal court shall impose a fine, which shall be construed to include costs, for any offense against a criminal or traffic law of this state or any ordinance of the City of Atlanta, there shall be imposed as an additional penalty a sum equal to 15 percent of the original fine. Such additional penalties shall be paid over as provided in subsection (c) of this section. The penalty provided in this paragraph shall be in addition to any penalty or additional penalty provided for in any other provision of this charter.

(2) At the time of posting bail or bond in any case involving a violation of a criminal or traffic law of this state or ordinance of the City of Atlanta, an additional sum equal to 15 percent of the original amount of bail or bond shall be posted. In every case in which such court shall order the forfeiture of bail or bond, the additional sum equal to 15 percent of the original bail or bond shall be paid over as provided in subsection (c) of this section. The additional sums provided for in this paragraph shall be in addition to any other sums provided by law.

(b) Such sums required by subsection (a) of this section and Section 4-116 of this charter shall be in addition to that amount required by Code Section 47-17-60 of the O.C.G.A. to be paid into the Peace Officers´ Annuity and Benefit Fund or by Code Section 47-11-51 of the O.C.G.A. to be paid into the Judges of the Probate Courts Retirement Fund of Georgia.

(c) The sums provided for in subsection (a) of this section shall be assessed and collected by the clerk or court officer charged with the duty of collecting moneys arising from fines and forfeited bonds and shall be paid over to the governing authority of the city by the tenth day of the month following the month in which such sums are collected. Such sums paid over to the governing authority shall be deposited by the governing authority into a special account to be known as the 'city jail fund.'"

SECTION 8.

The provisions of this Act provide modifications to the laws relating to the Municipal Court of the City of Atlanta as a result of the dissolution of the City Court of Atlanta and the repeal of the Act re-creating a system of state courts of limited jurisdiction for each city of this state having a population of 300,000 or more according to the United States decennial census of

1990 or any future such census, approved April 4, 1996 (Ga. L. 1996, p. 627), as amended. The Municipal Court of the City of Atlanta shall be deemed the successor court to the City Court of Atlanta. All cases and matters pending in the abolished court shall be transferred to the municipal court. The chief judge of such municipal court shall then transfer those cases over which the municipal court does not have jurisdiction to the appropriate court. All records, books, minutes, files, and documents relating to such cases or prior cases of the city court shall be likewise transferred.

SECTION 9.

An Act amending the Act providing a new charter for the City of Atlanta by providing for additional penalties for victims and witnesses assistance programs, approved June 4, 2003 (Ga. L. 2003, p. 4721), is repealed in its entirety.

SECTION 10.

This Act shall become effective July 1, 2004, but only if an Act abolishing the City Court of Atlanta by repealing an Act re-creating a system of state courts of limited jurisdiction for each city of this state having a population of 300,000 or more according to the United States decennial census of 1990 or any future such census, approved April 4, 1996 (Ga. L. 1996, p. 627), as amended, is enacted at the 2004 regular session of the General Assembly of Georgia and is approved by the Governor or becomes law without such approval. If such Act is not repealed at such session this Act shall not become effective and shall be automatically repealed on July 1, 2004.

SECTION 11.

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