

House Bill 1481 (AS PASSED HOUSE AND SENATE)

By: Representatives Lewis of the 15th, Loudermilk of the 14th, and Graves of the 12th

A BILL TO BE ENTITLED
AN ACT

1 To create the Board of Commissioners of Bartow County; to provide for commissioner
2 districts; to provide for definitions and inclusions; to provide for elections, qualifications, and
3 terms of office; to provide for powers, duties, authority, and compensation of the chairperson
4 and members of the board; to provide for vacancies; to provide for a county manager and the
5 selection, compensation, powers, and duties thereof; to provide for a clerk; to provide for
6 oaths of office and surety bonds; to provide for a vice chairperson; to provide for regular
7 meetings, work sessions, and other meetings; to provide for formal bids for certain
8 purchases; to provide for the appointment, removal, and compensation of employees and
9 department heads; to provide for the preparation, submission, review, adoption, and
10 amendment of budgets; to provide for expenditures of county funds; to provide for audits of
11 county finances and financial records; to provide for other related matters; to repeal an Act
12 creating the office of commissioner of Bartow County, approved July 28, 1924 (Ga. L. 1924,
13 p. 276), as amended; to provide for submission of this Act for preclearance under the federal
14 Voting Rights Act of 1965, as amended; to provide for a referendum; to provide for effective
15 dates and automatic repeal; to repeal conflicting laws; and for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 **SECTION 1.**

18 As used in this Act, the term "board" means the Board of Commissioners of Bartow County,
19 including the chairperson and all members.

20 **SECTION 2.**

21 (a) There is created the Board of Commissioners of Bartow County to be elected and
22 organized as provided for in this Act. The board of commissioners shall be the successor to
23 the Office of Commissioner of Bartow County and shall continue to have the obligations and
24 liabilities of the commissioner of Bartow County as they existed immediately prior to
25 January 1, 2009. The board of commissioners shall constitute the governing authority of

1 Bartow County and shall exercise the powers, duties, and responsibilities vested in and upon
2 said officers by the provisions of this Act.

3 (b) On and after January 1, 2009, the Board of Commissioners of Bartow County shall
4 consist of five members all of whom shall be elected from commissioner districts described
5 in subsection (c) of this section except for the member who is chairperson and who is elected
6 at large as provided in subsection (c) of Section 3 of this Act. For purposes of electing
7 members of the board of commissioners, other than the chairperson, Bartow County is
8 divided into four commissioner districts. One member of the board shall be elected from
9 each such district. The four commissioner districts shall be and correspond to those four
10 numbered districts described in and attached to and made a part of this Act and further
11 identified as Plan Name: bartowcc-4dre Plan Type: Local User:Shantee Administrator: 015.

12 (c) When used in such attachment, the terms "Tract" and "BG" (Block Group) shall mean
13 and describe the same geographical boundaries as provided in the report of the Bureau of the
14 Census for the United States decennial census of 2000 for the State of Georgia. The separate
15 numeric designations in a Tract description which are underneath a "BG" heading shall mean
16 and describe individual Blocks within a Block Group as provided in the report of the Bureau
17 of the Census for the United States decennial census of 2000 for the State of Georgia. Any
18 part of Bartow County which is not included in any such district described in that attachment
19 shall be included within that district contiguous to such part which contains the least
20 population according to the United States decennial census of 2000 for the State of Georgia.
21 Any part of Bartow County which is described in that attachment as being in a particular
22 district shall nevertheless not be included within such district if such part is not contiguous
23 to such district. Such noncontiguous part shall instead be included within that district
24 contiguous to such part which contains the least population according to the United States
25 decennial census of 2000 for the State of Georgia. Except as otherwise provided in the
26 description of any commissioner district, whenever the description of such district refers to
27 a named city, it shall mean the geographical boundaries of that city as shown on the census
28 map for the United States decennial census of 2000 for the State of Georgia.

29 SECTION 3.

30 (a) No person shall be a member of the board if that person is ineligible for such office
31 pursuant to Code Section 45-2-1 of the O.C.G.A. or any other general law applicable to that
32 office.

33 (b) In order to be elected or appointed as a member of the board from a commissioner
34 district, a person must have resided in that commission district for at least 12 months prior
35 to election or appointment thereto and, if elected, must receive the number of votes cast as
36 required by general law for that office in that district only and not at large. Only electors

1 who are residents of that commissioner district may vote for a member of the board for that
2 district. At the time of qualifying for election as a member of the board from a commissioner
3 district, each candidate for such office shall specify the commissioner district for which that
4 person is a candidate. A person elected or appointed as a member of the board from a
5 commissioner district must continue to reside in that district during that person's term of
6 office or that office shall become vacant.

7 (c) The member of the board who is chairperson of the board may reside anywhere within
8 Bartow County and must have resided in Bartow County for at least 12 months prior to
9 election or appointment thereto and, if elected, must receive the number of votes cast for that
10 office as required by general law in the entire county. The chairperson must continue to
11 reside within the county during that person's term of office or that office shall become
12 vacant.

13 **SECTION 4.**

14 (a) The members of the Board of Commissioners of Bartow County shall be elected as
15 provided in this subsection. The first members from Commissioner Districts 1 and 4 shall
16 be elected at the general election on the Tuesday next following the first Monday in
17 November, 2008. Those members of the board elected thereto from Commissioner Districts
18 1 and 4 in 2008 shall take office the first day of January immediately following that election
19 and shall serve for initial terms of office which expire December 31, 2010, and upon the
20 election and qualification of their respective successors. The first chairperson and the first
21 members from Commissioner Districts 2 and 3 shall be elected at the general election on the
22 Tuesday next following the first Monday in November, 2008. The chairperson and those
23 members of the board elected thereto from Commissioner Districts 2 and 3 in 2008 shall take
24 office the first day of January immediately following that election and shall serve for initial
25 terms of office which expire December 31, 2012, and upon the election and qualification of
26 their respective successors. Those and all future successors to the chairperson and to
27 members of the board whose terms of office are to expire shall be elected at the time of the
28 state-wide general election immediately preceding the expiration of such terms, shall take
29 office the first day of January immediately following that election, and shall serve for terms
30 of office of four years each. The chairperson and the members of the board shall serve for
31 the terms of office specified therefor in this subsection and until their respective successors
32 are elected and qualified.

33 (b) All members of the board who are elected thereto shall be nominated and elected in
34 accordance with Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code."

SECTION 5.

(a) A vacancy shall exist if the chairperson or any member of the board resigns; dies; moves, in the case of a district commissioner, from his or her district; moves his or her residence from the county; or is convicted of malfeasance in office, a felony, or any violation of election laws.

(b) Any vacancy in office upon the board which occurs for any reason other than expiration of term shall be filled by special election. When a vacancy occurs in the office of a chairperson or any member of the board, it shall be the duty of the election superintendent to call a special election to elect a successor and fill the vacancy at the first available date under Code Section 21-2-540 of the O.C.G.A. which is not more than 120 days from the date the vacancy occurred. The election shall be held as provided by Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code," and the cost of the election shall be defrayed by the county. In the event 120 days or less remain in the unexpired term of office, the vacancy shall not be filled.

(c) Any person elected in a special election to fill such a vacancy shall take office immediately upon certification of the results of such special election and qualification. If such vacancy is in the office of chairperson of the board of commissioners, the vice chairperson of the board shall exercise the powers and duties of the chairperson for the period beginning on the date the vacancy occurs and ending on the date the successor chairperson takes office for the remainder of the unexpired term.

(d) A vice chairperson serving as chairperson shall not be authorized to vote as a member of the board of commissioners during such service unless the vice chairperson's vote would affect the outcome of any vote or issue before the board.

SECTION 6.

Before entering upon the discharge of their duties, the chairperson and commissioners shall subscribe an oath before the judge of the probate court of said county for the true and faithful performance of their duties and that they are not the holders of any public funds unaccounted for. In addition, the chairperson and each commissioner shall further give a satisfactory surety bond to the judge of the probate court of the county and payable to the judge of the probate court or that judge's successor in office and filed in the office of the judge of the probate court in the sum of \$10,000.00, conditioned upon the faithful performance of the duties of the office. The costs of said bonds shall be paid out of the county treasury.

SECTION 7.

(a) Commissioners, other than the chairperson, shall serve on a part-time basis and be paid a salary of \$1,000.00 per month. Such compensation shall be paid in equal monthly

1 installments from the funds of Bartow County. Each such commissioner shall also receive
2 reimbursement for actual and necessary expenses incurred for travel in the performance of
3 his or her duties which has been approved in advance, in writing, by the chairperson upon
4 presentation of a signed voucher setting forth the expenses anticipated for such travel.
5 Reimbursement will be made upon presentation to and approval by the board of a signed
6 voucher with receipts attached setting forth the expenses incurred in such travel.

7 (b) The chairperson shall serve in such capacity on a part-time basis and shall be paid a
8 salary of \$1,500.00 per month. Such compensation shall be paid in equal monthly
9 installments from the funds of Bartow County. The chairperson shall also receive
10 reimbursement for actual and necessary expenses incurred for travel in the performance of
11 his or her duties upon presentation to and approval by the board of a signed voucher with
12 receipts attached setting forth the expenses incurred in such travel.

13 **SECTION 8.**

14 At the first regular meeting of each year, the board of commissioners shall elect from its
15 members a vice chairperson. In the event of death, disqualification, or resignation of the
16 chairperson, the vice chairperson shall perform the duties and exercise the authority of the
17 chairperson until a new chairperson is chosen as provided in this Act. The vice chairperson
18 shall preside at meetings of the board of commissioners in the absence of the chairperson and
19 shall serve for the calendar year in which elected. When the vice chairperson presides at a
20 meeting, he or she shall be entitled to vote on a question only if the vote would affect the
21 outcome of a vote or an issue before the board. In the event of a vacancy in the office of vice
22 chairperson, the board of commissioners shall elect a new vice chairperson to serve for the
23 remainder of the calendar year.

24 **SECTION 9.**

25 The board of commissioners shall hold a minimum of two regular meetings and one work
26 session each month at the county seat, which meeting shall be open to the public. The time,
27 date, and place of the meetings shall be determined by the board in the first meeting of the
28 year. Any resolution passed by the board regarding the date, time, and place of its monthly
29 meetings shall be published in the official county organ and the official Bartow County
30 government website once a week for two weeks during a period of 30 days immediately
31 following the passage of the resolution. The board of commissioners may hold such
32 additional meetings as shall be necessary when called by the chairperson or any three
33 commissioners, provided that all members of the board of commissioners shall have been
34 notified of such special meeting which is open to the public. Any three commissioners or
35 the chairperson and any two commissioners shall constitute a quorum. No official action

1 shall be taken except upon the affirmative vote of at least three members of the board of
2 commissioners and except upon compliance with Chapter 14 of Title 50 of the O.C.G.A.,
3 relating to open meetings. The chairperson shall be entitled to vote on a question only if the
4 chairperson's vote would affect the outcome of any vote or issue before the board. All
5 regular and called meetings shall be conducted according to *Robert's Rules of Order*.

6 **SECTION 10.**

7 The chairperson shall preside over the meetings of the board of commissioners. The duties
8 of the chairperson shall include, but shall not be limited to, the following:

- 9 (1) Calling meetings of the board as provided in Section 9 of this Act;
- 10 (2) Setting or fixing the agenda for all meetings of the board;
- 11 (3) Presiding at meetings of the board;
- 12 (4) Representing the county government at ceremonial functions;
- 13 (5) Being empowered to submit motions to the board of commissioners for action;
- 14 (6) Appointing members and chairpersons to all committees of the board with the
15 approval of the board of commissioners; and
- 16 (7) Performing such other duties as shall be delegated to the chairperson by the board of
17 commissioners or as provided by law or ordinance.

18 **SECTION 11.**

19 The board of commissioners shall have the power and authority to fix and establish, by
20 appropriate resolution entered on its minutes, policies, rules, and regulations governing all
21 matters reserved to its exclusive jurisdiction. Such policies, rules, and regulations, when so
22 adopted with proper entry thereof made on the minutes of the board of commissioners, shall
23 be conclusive and binding. The board of commissioners shall exercise only those
24 administrative powers which are necessarily and properly incident to its functions as a
25 policy-making or rule-making body or which are necessary to compel enforcement of its
26 adopted resolutions. The following powers are vested in the board of commissioners and
27 reserved to its exclusive jurisdiction:

- 28 (1) To levy taxes;
- 29 (2) To fix fees;
- 30 (3) To make appropriations;
- 31 (4) To fix rates and charges for services provided by the county;
- 32 (5) To authorize the incurring of indebtedness;
- 33 (6) To order work done where the cost is to be assessed against benefited property and
34 to fix the basis for such assessment;
- 35 (7) To authorize and provide for the execution of contracts;

- 1 (8) To establish, alter, open, close, build, repair, or abolish public roads, bridges, and
2 ferries, according to law;
- 3 (9) To accept for the county the provisions of any optional statute where the statute
4 permits its acceptance by the governing authority of the county;
- 5 (10) To exercise all powers, duties, and authority in respect to zoning and planning;
- 6 (11) To create and change the boundaries of special taxing districts authorized by law;
- 7 (12) To fix the bonds of county officers where such bonds are not fixed by statute;
- 8 (13) To enact any ordinance or other legislation which the county may be given authority
9 to enact. No ordinance, except in the case of an emergency which shall be stated in the
10 ordinance, shall be approved until it shall have been read at two consecutive commission
11 meetings not less than seven days apart;
- 12 (14) To determine the priority of capital improvements;
- 13 (15) To call elections for the voting of bonds;
- 14 (16) Except as otherwise provided in this Act, to exercise all of the power and authority
15 which may be delegated by law to the governing authority of the county, by whatever
16 name designated;
- 17 (17) To appoint retained legal counsel and an independent county auditor and provide
18 for their compensation;
- 19 (18) To hire a county manager and provide for his or her compensation; and
- 20 (19) To hire a county clerk and provide for his or her compensation.

21 **SECTION 12.**

22 Formal sealed bids shall be received for all purchases in amounts set by the board.
23 Advertisements for such bids shall be published for two consecutive weeks in the official
24 organ of Bartow County and the official Bartow County government website. The need for
25 such bids may be dispensed with by the board of commissioners if it decides that an
26 emergency exists which will not permit a delay. Notice of such emergency expenditures
27 shall be published in the official organ of Bartow County and the official Bartow County
28 government website within two weeks of the expenditure.

29 **SECTION 13.**

30 The internal organization of the county government shall be established and altered by the
31 board of commissioners. Existing departments may be abolished and their function
32 transferred to other departments, additional departments may be created, and any two or
33 more departments may be consolidated.

SECTION 14.

The board of commissioners shall employ a county manager having at least a bachelor's degree in public administration or a related field and at least four years' experience in county or city management. At the time of his or her appointment, the county manager need not be a resident of the county, but shall reside therein during his or her tenure of office. The county manager shall serve at the pleasure of the board of commissioners, shall receive such salary as determined by the board of commissioners, shall not be an elected official of any county or municipality, and shall have the following duties, powers, and authority:

(1) To supervise the administration of the affairs of the county and to see that the ordinances, resolutions, and regulations of the board of commissioners and the laws of the state are faithfully executed and enforced;

(2) To employ and remove all department heads of the county under the jurisdiction of the board of commissioners and staff employees of the county manager pursuant to policies established by the board, except for the county attorney, county auditor, county clerk, deputy county clerk, and members of all the boards, commissions, and authorities who shall be appointed and removed by the board of commissioners pursuant to law or county ordinance;

(3) To exercise managerial authority and supervision over the county manager's staff and all department heads under the jurisdiction of the board of commissioners;

(4) To require reports from heads of departments and other employees entrusted with administrative duties or exercising discretion. The county manager shall have at all times the authority to examine all books and records of every officer and department of the county under the jurisdiction of the board of commissioners;

(5) To attend all meetings of the board of commissioners with a right to take part in the discussions, but having no vote; and to prepare a proposed itinerary of the agenda for each meeting;

(6) To recommend to the board of commissioners for adoption such measures as the county manager may deem necessary or expedient;

(7) To supervise the performance of all contracts made by any person, company, or corporation with the county for work done for the board of commissioners;

(8) To submit to the board of commissioners for approval, prior to July 31 of each year, a proposed operating budget for the next fiscal year showing budget revenues and expenditures during the preceding fiscal year; appropriations and estimated revenue and recommended expenditures for the next fiscal year; recommended tax levies; and such other information and data as may be considered necessary by the board of commissioners;

(9) To keep the board of commissioners fully advised as to the financial condition and needs of the county;

(10) To make or cause to be made a full written report to the board of commissioners each month showing the operations and expenditures of each department of the county government for the preceding month;

(11) To delegate purely administrative duties to department heads or subordinates in the county government whose work the county manager shall supervise and direct; provided, however, that the delegation or assignment of duties to subordinates shall not relieve the county manager from responsibility for administration of such position;

(12) To perform such other duties as may be prescribed by this Act or as may, from time to time, be required by the board of commissioners; and

(13) To cooperate with elected and appointed county officers in management of the county's affairs.

SECTION 15.

The clerk of the board of commissioners shall keep a proper and accurate book of minutes. The book of minutes of the board of commissioners shall contain all the acts, orders, and proceedings of the board of commissioners in chronological order. The minutes book of the board of commissioners shall be open to the public for inspection at all times during regular office hours; and certified copies of any entries in the minutes book shall be furnished by the clerk to any person requesting same upon payment of a reasonable fee, to be paid into the county treasury as are other funds, to be assessed by the board of commissioners in an amount sufficient to defray the cost of preparing same.

SECTION 16.

(a) The board will comply with Chapter 81 of Title 36 of the O.C.G.A., relating to local government budgets and audits, as well as the provisions of this section.

(b) At the time the proposed budget is submitted to the board, the county manager shall cause to be published in the official organ of Bartow County and the official Bartow County government website a copy of the proposed budget along with the public notices required by subsection (e) of Code Section 36-81-5 of the O.C.G.A. It shall be the duty of the board to hold a meeting at the time and place specified in the notice for the purpose of conducting such public hearing. The board shall review the proposed budget at such public hearing and may adopt the same as submitted by the county manager or make such amendments thereto as the board may deem necessary to maintain the county in sound financial condition. The board may continue the hearing on the proposed budget from time to time, but the time of and the place where the hearing is continued shall be publicly announced at the previous

1 hearing. The board shall adopt the proposed budget as submitted or as amended by the board
2 as the budget for the county for the following fiscal year to which it applies.

3 (c) The final budget adopted by the board shall constitute the board's appropriation of all
4 funds for the fiscal year covered by the budget. The budget may be amended during the
5 fiscal year which it covers upon the board's taking formal action for such purpose at a regular
6 meeting of the board. Prior to taking such action, the board shall cause to be published in the
7 official organ of Bartow County and the official Bartow County government website a notice
8 setting forth the proposed changes in the budget and a summary of the reasons therefor. Said
9 notice shall also state the time and place of the regular meeting of the board at which action
10 to amend the budget is to be taken. Said notice shall be published at least ten days prior to
11 the date of the meeting. No increase in appropriation shall be made without provision also
12 being made to finance such increase.

13 (d) A copy of the final budget adopted by the board and any amendment to or revision of the
14 budget shall be transmitted by the county manager to the grand jury of the Superior Court of
15 Bartow County then in session.

16 **SECTION 17.**

17 No expenditures of county funds shall be made except in accordance with the county budget,
18 or amendments thereto, adopted by the board of commissioners. The county manager shall
19 enforce compliance with this provision by all departments of county government and to this
20 end shall institute a system of allotments of all moneys appropriated and budgeted.

21 **SECTION 18.**

22 The board of commissioners shall employ a certified public accountant for the making of an
23 annual continuous audit of county finances and financial records. The accountant so
24 employed shall be paid out of county funds and shall perform a complete audit of the
25 financial records of the county for the preceding year, pointing out any irregularities found
26 to exist, and reporting the results of such audit to the board of commissioners. Each annual
27 report submitted to the board of commissioners shall be made available for public inspection
28 as are other records in such office. The board of commissioners shall cause to be published
29 in the official organ of Bartow County and the official Bartow County government website
30 and to be posted at the courthouse door a statement of the financial condition of the county
31 as of December 31 of each year. The accountant shall transmit to the grand jury of the
32 Superior Court of Bartow County a copy of each annual report furnished by the accountant
33 to the board of commissioners.

SECTION 19.

The sole commissioner of Bartow County elected in 2004, or any person selected to fill a vacancy in such office, shall continue to serve as such sole commissioner until the regular expiration of the term of office on December 31, 2008. No successor to the sole commissioner shall be elected in 2008 or thereafter. An Act creating the office of commissioner of Bartow County, approved July 28, 1924 (Ga. L. 1924, p. 276), as amended, is repealed in its entirety on January 1, 2009.

SECTION 20.

Unless prohibited by the federal Voting Rights Act of 1965, as amended, the election superintendent of Bartow County shall call and conduct an election as provided in this section for the purpose of submitting this Act to the electors of Bartow County for approval or rejection. The election superintendent shall conduct that election on the date of the November, 2006, state-wide general election and shall issue the call and conduct that election as provided by general law. The election superintendent shall cause the date and purpose of the election to be published once a week for two weeks immediately preceding the date thereof in the official organ of Bartow County. The ballot shall have written or printed thereon the words:

"() YES Shall the Act be approved which provides that the governing authority of Bartow County be changed from a sole commissioner form of government
() NO to a five-member board of commissioners to be composed of a chairperson and four additional district commissioners, with compensation for each and a county manager to be employed by the board of commissioners?"

All persons desiring to vote for approval of the Act shall vote "Yes," and all persons desiring to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on such question are for approval of the Act, then those provisions of this Act necessary for the qualification and election of the members of the Board of Commissioners of Bartow County shall become effective on January 1, 2008, and this Act shall become effective for all other purposes on January 1, 2009. If the Act is not so approved or if the election is not conducted as provided in this section, this Act shall not become effective and this Act shall be automatically repealed on the first day of January immediately following that election date. The expense of such election shall be borne by Bartow County. It shall be the election superintendent's duty to certify the result thereof to the Secretary of State.

SECTION 21.

Except as otherwise provided in Section 20 of this Act, this Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 22.

The governing authority of Bartow County shall through its legal counsel cause this Act to be submitted for preclearance under the federal Voting Rights Act of 1965, as amended; and such submission shall be made to the United States Department of Justice or filed with the appropriate court no later than 45 days after the date on which this Act is approved by the Governor or otherwise becomes law without such approval.

SECTION 23.

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