

The House Committee on Intragovernmental Coordination - Local Legislation offers the following substitute to HB 1241:

A BILL TO BE ENTITLED
AN ACT

1 To amend an Act providing a new charter for the City of Decatur, approved April 13, 2001
2 (Ga. L. 2001, p. 4351), as amended, so as to revise provisions regarding the city commission;
3 to provide for related matters; to repeal conflicting laws; and for other purposes.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

5 **SECTION 1.**

6 An Act providing a new charter for the City of Decatur, approved April 13, 2001
7 (Ga. L. 2001, p. 4351), as amended, is amended by revising Article III as follows:

8 "ARTICLE III
9 CITY COMMISSION

10 **SECTION 3.10.**

11 Created; number of city commissioners; election.

12 The legislative authority of the government of this city, except as otherwise specifically
13 provided in this Charter, shall be vested in a city commission to be composed of four city

14 commissioners and a mayor. City commissioners and the mayor shall be elected by
15 receiving a plurality of the votes cast in the election district in which the city commissioner
16 qualified. City commissioners and the mayor shall exercise their powers in such manner
17 as may be prescribed by this Charter and the Constitution and applicable laws of the State
18 of Georgia, or if not prescribed, in such manner as may be prescribed by the duly
19 established ordinances of the city.

20 **SECTION 3.11.**

21 **Qualifications.**

22 (a) No person shall be eligible for the office of city commissioner or mayor unless the
23 person:

24 (1) Has resided in the city not less than one year immediately preceding said person's
25 election;

26 (2) Is a qualified voter in municipal elections for officers of the city; and

27 (3) Has not been convicted and sentenced for any violation of the criminal laws of
28 Georgia involving moral turpitude, unless such person has received a full pardon or has
29 all rights of citizenship restored.

30 (b) All city commissioners and the mayor shall continue to reside within the city and
31 within their election district, if any, during their terms of office.

32 (c) Except where authorized by law:

33 (1) No city elected official shall hold any other elected public office during the term for
34 which the city official was elected.

35 (2) No city elected official shall hold any other city office or employment during the
36 term for which the official was elected.

37 (3) No former city elected official shall hold any compensated appointive office or
38 employment with the city until one year after the expiration of the term for which the

39 official was elected, unless granted a waiver by the ethics committee as defined in
40 Section 3.25 of this Act.

41 (4) Nothing in this section shall be construed to prohibit the city commission from
42 selecting any current or former city elected official to represent the city on the governing
43 board of any regional or other intergovernmental agency.

44 **SECTION 3.12.**

45 Compensation; expenses.

46 The mayor and city commissioners shall receive compensation and expenses for their
47 services as provided by ordinance and in accordance with the provisions of Chapter 35 of
48 Title 36 of the O.C.G.A.

49 **SECTION 3.13.**

50 Election districts; election dates.

51 (a)(1) For the purposes of electing city commissioners, the city is divided into two
52 election districts consisting of the described territory of the city contained in the
53 description attached to this Charter and made a part hereof and further identified as 'Plan:
54 DecaturCity2022.' The configuration of the districts shall be reevaluated within two years
55 following each United States decennial census to ensure the districts comply with the
56 constitutional principle of 'one person, one vote.'

57 (2) There shall be a Post A and a Post B for each such district.

58 (3) For the purposes of electing the mayor, the entirety of the two districts described in
59 paragraph (1) of this subsection shall constitute the election district for the mayor.

60 (b) For the purposes of this section:

61 (1) The term 'tract' means and describes the same geographical boundaries as those
62 provided in the report of the Bureau of the Census for the United States decennial census
63 of 2020 for the State of Georgia.

64 (2) Whenever the description of any district refers to a named city, it shall mean the
65 geographical boundaries of that city, as shown on the census maps for the United States
66 decennial census of 2020 for the State of Georgia.

67 (3) Any part of the city which is not included in any election district described in this
68 section shall be included within that district contiguous to such part which contains the
69 least population according to the United States decennial census of 2020 for the State of
70 Georgia.

71 (c) For the purposes of establishing and maintaining staggered terms of office for city
72 elected officials:

73 (1) Those persons in office as city commissioners on April 1, 2000, shall serve out the
74 remainder of the terms to which they were elected. Two city commissioners shall be
75 elected from each of the two election districts provided for in subsection (a) of this
76 section, and the mayor shall be elected from the city at large as set forth in paragraph (3)
77 of subsection (a) of this section.

78 (2) City commissioners elected under this Charter shall be elected to Post A of each
79 election district on the first Tuesday next following the first Monday in November, 2001.
80 They shall take office on the first Monday in January, 2002, and shall serve terms of four
81 years and until their successors are elected. Successors to such city commissioners shall
82 be elected at the general municipal election held on the first Tuesday next following the
83 first Monday in November, 2005, and quadrennially thereafter for terms of office of four
84 years.

85 (3) City commissioners shall be elected to Post B of each election district on the first
86 Tuesday next following the first Monday in November, 2003. Such city commissioners
87 shall take office on the first Monday in January, 2004, and shall serve terms of four years

- 88 and until their successors are elected. Successors to such city commissioners shall be
89 elected at the general municipal election held on the first Tuesday next following the first
90 Monday in November, 2007, and quadrennially thereafter for terms of office of four
91 years.
- 92 (4) The mayor shall be elected on the first Tuesday next following the first Monday in
93 November, 2027. Such mayor shall take office on the first Monday in January, 2028, and
94 shall serve a term of four years and until their successor is elected and qualified. The
95 successor to the mayor shall be elected at the general municipal election held on the first
96 Tuesday next following the first Monday in November, 2031, and quadrennially
97 thereafter for terms of office of four years.
- 98 (d) A person offering for election as a district city commissioner shall designate the
99 election district and post for which the person is offering. A city commissioner elected
100 from an election district must reside within the election district from which elected and
101 shall be elected by the electors residing within the election district. A person offering for
102 election as the mayor shall designate that the person is offering for such position on the city
103 commission. The mayor may reside anywhere within the city and shall be elected by the
104 electors of the city as set forth in paragraph (3) of subsection (a) of this section.
- 105 (e) The regular city election of the city shall be held on the first Tuesday next following
106 the first Monday in November of each odd-numbered year.
- 107 (f) All city commissioners and the mayor shall serve until their respective successors are
108 elected and qualified.
- 109 (g) Political parties shall not conduct primaries for city commission offices, including the
110 office of mayor, and all names of candidates for such offices shall be listed without party
111 designation.
- 112 (h) If two or more candidates tie in receiving the highest number of votes for a city office,
113 a run-off election between the candidates with the highest number of votes shall be held
114 as provided for by general law.

115 **SECTION 3.14.**

116 First meeting each year; city commissioners' oath.

117 The city manager shall call to order the first meeting of the city commission in each
118 calendar year. The elected officials, before entering upon the duties of their office, shall
119 take and subscribe the following oath or affirmation:

120 'I do solemnly (swear) (affirm) that I will well and truly demean myself as an elected
121 official of the City of Decatur for the ensuing term, and that I will faithfully enforce the
122 Constitution and laws of the United States of America and of the State of Georgia, and
123 the Charter and ordinances of the City of Decatur, to the best of my ability and without
124 fear or favor, and in all my acts as an elected official of the City of Decatur, I will act as
125 I believe for the best interest of this city (so help me God).'

126 Any elected official who is absent from such meeting shall take and subscribe the oath or
127 affirmation as soon as possible.

128 **SECTION 3.15.**

129 Election, term of mayor.

130 Reserved.

131 **SECTION 3.16.**

132 Powers and duties of mayor.

133 The mayor shall:

134 (1) Be recognized as the head of the city government for all ceremonial purposes, and
135 by the governor for purposes of military law;

- 136 (2) Be a member of the city commission and have the same power to vote upon all
137 questions passed upon as other city commission members;
- 138 (3) Serve as the chair of the meetings of the city commission. The chair of the meetings
139 shall have the power to convene the city commission in extra session whenever, in the
140 chair's judgment, it becomes necessary, and shall do so whenever requested by three city
141 commission members in writing;
- 142 (4) Have no veto power;
- 143 (5) Represent the city in intergovernmental relationships and as directed or consented to
144 by the city commission;
- 145 (6) Present an annual state of the city message;
- 146 (7) Review with the city manager the proposed agenda of any city commission meeting;
147 and
- 148 (8) Perform other duties as specified by the city commission.

149 **SECTION 3.17.**

150 Election, term, duties, absence of mayor pro tempore.

151 At the first regular meeting of the city commission in each calendar year, the city
152 commission shall elect one of the city commissioners to serve as mayor pro tempore for
153 one year from the time of the city commissioner's election as mayor pro tempore until the
154 city commissioner's successor shall have been elected and qualified. The mayor pro
155 tempore shall serve as the chair of the meetings of the city commission in the event of the
156 absence or disability of the mayor. In the event of the absence or disability of both the
157 mayor and the mayor pro tempore, the city commission shall elect a city commissioner to
158 serve as chair of the meeting. The city commission shall declare the absence or disability
159 of the mayor or the mayor pro tempore by majority vote.

SECTION 3.18.

Meetings.

162 (a) All meetings of the city commission shall be public to the extent required by law, and
163 notice to the public of special meetings shall be given as required by law.

164 (b) The city commission shall hold regular meetings at such times and places as shall be
165 prescribed by ordinance.

166 (c) Special meetings of the city commission shall be held upon call of the mayor or three
167 city commission members. Notice of a special meeting shall be served on all other
168 members of the city commission personally, by telephone personally, or by text message
169 personally, at least 48 hours in advance of the meeting. Such notice to members of the city
170 commission shall not be required if the mayor and all city commission members are present
171 when the special meeting is called. Notice of a special meeting may be waived by a
172 member of the city commission in writing before or after such a meeting, and attendance
173 at such a meeting shall also constitute a waiver of notice as to any business transacted in
174 such member's presence. Only the business stated in the call may be transacted at a special
175 meeting.

176 (d) The city commission shall adopt rules to govern its procedures and order of business,
177 consistent with the provisions of this Charter, and shall provide for the keeping of a journal
178 of its proceedings, which shall be a public record. The journal of proceedings, including
179 the approved meeting minutes, and the meeting notices, shall, in addition to the
180 requirements of general law, be published on the city's website for public access in a format
181 accessible to those with disabilities.

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SECTION 3.19.

Quorum; roll call vote.

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(a) Except as provided in subsection (b) of this section, three city commission members shall constitute a quorum for the transaction of business, and a majority of votes cast shall determine questions before the city commission. On any question, any city commission member may demand a roll call vote, and on such demand the vote shall be so taken and recorded in the minutes. On a vote to adopt an ordinance, the city commission shall take a roll call vote, and the vote shall be recorded in the minutes.

(b) If vacancies in office result in less than a quorum of the city commission holding office, the remaining city commission members in office shall constitute a quorum and shall be authorized to transact business of the city commission. A vote of a majority of the remaining city commission members shall be required for the adoption of any ordinance, resolution or motion.

(c) Once a quorum is established, the quorum cannot be defeated by the subsequent departure of a city commission member.

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SECTION 3.20.

Supervision of administration.

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(a) The city commission, at any time, may appoint one or more city commission members or other persons to investigate the conduct and business of any officer, employee, department or other agency of the city; may compel the presence of persons or the production of books, papers, electronic records, including but not limited to digital media, and other evidence; and may swear all persons summoned, as may be necessary or pertinent to the investigation.

205 (b) Except for the purpose of inquiries and investigations under this section, the city
206 commission or its members shall deal with city officers and employees who are subject to
207 the direction and supervision of the city manager solely through the city manager, and
208 neither the city commission nor its members shall give orders to any such officer or
209 employee, either publicly or privately.

210 (c) Neither the city commission nor any of its members shall in any manner control or
211 demand the appointment or removal of any city administrative officer or employee whom
212 the city manager or any subordinate of the city manager is empowered to appoint, but the
213 city commission may express its views and fully and freely discuss with the city manager
214 anything pertaining to appointment and removal of such officers and employees.

215 **SECTION 3.21.**

216 **Boards, commissions, and authorities generally.**

217 (a) The city commission may, by ordinance or resolution, create boards, commissions and
218 authorities to fulfill any investigative, quasi-judicial, or quasi-legislative function that the
219 city commission deems necessary and shall, by ordinance or resolution, establish the
220 composition, period of existence, duties, and powers thereof.

221 (b) All members of boards, commissions, and authorities of the city shall be appointed by
222 the city commission in such manner and for such terms of office as shall be provided by
223 ordinance or resolution, except where other appointing authority, terms of office, or manner
224 of appointment is prescribed by this Charter or by general law.

225 (c) The city commission, by ordinance or resolution, may provide for the compensation
226 and reimbursement for actual and necessary expenses of the members of any board,
227 commission, or authority.

228 (d) Any vacancy on a board, commission, or authority of the city shall be filled for the
229 unexpired term in the manner prescribed for the original appointment, except as otherwise
230 provided by this Charter or by general law.

231 (e) If otherwise required by state law, no member of a board, commission, or authority
232 shall assume office until said person has executed and filed with the city clerk an oath
233 obligating said person to perform faithfully and impartially the duties of said person's
234 office, such oath to be prescribed by ordinance or resolution and administered by the mayor
235 or any official authorized by state law.

236 (f) Every member of a board, commission or authority shall serve at will and may be
237 removed from office by a vote of three members of the city commission.

238 (g) Except as otherwise provided in this Charter or by general law, each board,
239 commission, and authority of the city shall elect one of its members as chair and one of its
240 members as vice-chair, and may elect or appoint as its secretary one of its members, or it
241 may appoint as secretary an employee of the city. Each board, commission, or authority
242 of the city may establish such bylaws, rules and regulations, not inconsistent with this
243 Charter, the ordinances of the city or general law, as it deems appropriate and necessary
244 for the fulfillment of its duties or the conduct of its affairs. Such bylaws, rules and
245 regulations approved by each board, commission, or authority of the city shall be approved
246 by the city commission. Copies of such bylaws, rules and regulations shall be filed with
247 the city clerk.

248 **SECTION 3.22.**

249 **Planning commission.**

250 The city commission may appoint a commission to be known as a planning commission
251 to recommend to the city commission the boundaries of various zoning districts to be laid
252 out and to recommend the adoption of appropriate regulations and restrictions to apply to

253 the lands, buildings, and structures in such zoning districts. The members of the planning
254 commission, the number of members constituting such commission, the duties of such
255 commission, the terms for which the members of such commission shall serve, and any
256 compensation that such members may receive for their services shall be determined by the
257 city commission. The acts of the planning commission shall be advisory only.

258 **SECTION 3.23.**

259 Removal.

260 (a) Any city commission member shall be removed from office for any of the following
261 causes:

262 (1) Incompetence, misfeasance, or malfeasance in office;

263 (2) Conviction of a crime involving moral turpitude;

264 (3) Failure at any time to possess any qualification of office as provided by this Charter
265 or by law;

266 (4) Knowingly violating any express prohibition of this Charter; or

267 (5) Abandonment of office or failure or neglect to perform the duties thereof as required
268 by this Charter or by state law.

269 (b) Removal of any city commission member under this section shall be accomplished by
270 one of the following methods:

271 (1) By a vote of four members of the city commission after an investigative hearing. The
272 person under investigation shall be entitled to a written notice specifying the ground or
273 grounds for removal and to a public hearing that shall be held not less than ten days after
274 the service of the written notice. The person under investigation shall have such rights
275 as are provided by law; or

276 (2) By an order of the Superior Court of DeKalb County following a hearing on a
277 complaint seeking such removal brought by any resident of the city.

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SECTION 3.24.

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Vacancies.

280 (a) The office of mayor, mayor pro tempore, or city commissioner shall become vacant
281 upon the incumbent's death, resignation, forfeiture of office, or removal from office in any
282 manner authorized by this Charter or by the general laws of the State of Georgia.

283 (b) Upon the suspension from office of the mayor, mayor pro tempore, or city
284 commissioner in any manner authorized by the general laws of the State of Georgia, the
285 remaining city commission members shall appoint a successor for the duration of the
286 suspension. If the suspension becomes permanent, the office shall become vacant and shall
287 be filled as provided in subsection (c) of this section.

288 (c) If the office of mayor or city commissioner shall become vacant, the city commission
289 or the remaining city commissioners shall call a special election to fill the balance of the
290 unexpired term of such official; however, if such vacancy occurs within twelve months of
291 the expiration of the term of that office, the city commission or the remaining city
292 commissioners shall appoint a successor for the remainder of the term. If the office of
293 mayor pro tempore shall become vacant, the city commission shall appoint a city
294 commissioner to the office of mayor pro tempore to serve the remaining balance of the
295 then-current term.

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SECTION 3.25.

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Ethics Committee.

298 The use of public office for private gain is prohibited. The city commission shall
299 implement this prohibition and other ethical principles by ordinance, including appointment
300 of an ethics committee. The ethics committee shall have such membership, powers, and
301 duties as set forth in this Charter or by ordinance."

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SECTION 2.

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