

The Senate Committee on Judiciary offered the following substitute to HB 204:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 5 of Title 36 of the Official Code of Georgia Annotated,
2 relating to county governing authorities, so as to restate constitutional limitations on the
3 authority of county governing authorities to reapportion or redistrict their election districts;
4 to address local laws relating to consolidated governments; to provide for legislative findings
5 and declarations; to provide for construction; to provide for applicability; to amend
6 Chapter 32 of Title 36 of the Official Code of Georgia Annotated, relating to municipal
7 courts, so as to create the Georgia Municipal Court Clerks' Council; to provide for
8 definitions; to provide for the membership, powers, and duties of the council; to provide for
9 funding of the council; to provide for the status of the council and its members; to amend
10 Chapter 5 of Title 45 of the Official Code of Georgia Annotated, relating to vacation of
11 office, so as to provide that no vacancy in office shall be created when a local elected official
12 who is elected from an election district and such official is no longer a resident of such
13 district following redistricting to provide for related matters; to repeal conflicting laws; and
14 for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16

SECTION 1.

17 The General Assembly finds and declares that:

18 (1) The Georgia Constitution sets forth the home rule powers and responsibilities of
19 counties in Article IX, Section II, Paragraph I, and such provision provides that, "The
20 governing authority of each county shall have legislative power to adopt clearly reasonable
21 ordinances, resolutions, or regulations relating to its property, affairs, and local government
22 for which no provision has been made by general law and which is not inconsistent with
23 this Constitution or any local law applicable thereto.";

24 (2) The same paragraph of the Constitution further provides that such county home rule
25 powers shall not extend to actions affecting any county elected office or actions affecting
26 the composition, form, or procedures for election of a county governing authority;

27 (3) Until recently, it has been undisputed that county governing authorities lack the
28 authority to undertake the reapportionment or redistricting of their own election districts;
29 and

30 (4) This legislation is intended to supplement these existing constitutional provisions by
31 restating and emphasizing the divisions of power that the people of this state have granted
32 to the General Assembly and to county governing authorities.

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SECTION 2.

34 Article 2 of Chapter 5 of Title 36 of the Official Code of Georgia Annotated, relating to
35 county governing authorities, is amended by revising Code Section 36-5-23, which is
36 reserved, as follows:

37 "36-5-23.

38 (a) Where the General Assembly has enacted a local law providing that members of a
39 county governing authority shall be elected from election districts, such districts shall only
40 be altered, amended, reapportioned, redistricted, or revised by local law enacted by the

41 General Assembly. No county governing authority shall alter, amend, reapportion,
42 redistrict, or revise the election districts from which its members are elected.

43 (b) Where the General Assembly has not enacted a local law providing that members of
44 a county governing authority shall be elected from election districts, such districts shall
45 only be created or established by local law enacted by the General Assembly. No county
46 governing authority shall create or establish election districts from which its members are
47 elected.

48 (c)(1) Nothing in this Code section shall pertain to a consolidated government where the
49 local law establishing such consolidated government provides procedures for the
50 reapportionment or redistricting of the election districts of such governing authority of
51 such consolidated government or provide that such governing authority is a municipal
52 governing authority for the purposes of reapportionment or redistricting.

53 (2) This Code section shall apply to any consolidated government where the local law
54 establishing such consolidated government provides that any election district for such
55 governing authority shall be established, altered, amended, reapportioned, redistricted,
56 or revised by the General Assembly, or such local law provides that the governing
57 authority of the consolidated government is a county for the purpose of reapportionment
58 or redistricting.

59 (d) Nothing in this Code section is intended to impact or infringe upon the authority of any
60 court of competent jurisdiction exercising its judicial powers in relation to any case or
61 controversy related to county election districts before such court Reserved."

62

SECTION 3.

63 Chapter 32 of Title 36 of the Official Code of Georgia Annotated, relating to municipal
64 courts, is amended by adding a new article to read as follows:

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"ARTICLE 466 36-32-50.67 (a) As used in this Code section, the term:68 (1) 'Council' means the Georgia Municipal Court Clerks' Council.69 (2) 'Municipal court staff' means the primary person most directly responsible for the
70 administration of a municipal court, other than a judge of the municipal court, and his or
71 her support staff.72 (b) There is created the Georgia Municipal Court Clerks' Council. The council shall be
73 composed of the municipal court staff of all municipal courts within this state. The council
74 is authorized to organize itself and to develop a constitution and bylaws. The council is
75 authorized to elect such officers, including an executive committee, as it shall deem
76 advisable to carry out its duties and responsibilities. The council is authorized to appoint
77 advisory committees and establish the membership and duties thereof. In addition to the
78 members of the council, the council is authorized to provide for special classes of
79 nonvoting memberships for honorary members and those persons who have retired from
80 positions involving the administration and management of municipal courts.81 (c) It shall be the purpose of the council to effectuate the responsibilities conferred upon
82 it by law, to further the improvement of the municipal courts and the administration of
83 justice, to assist the municipal court staff throughout the state in the execution of their
84 duties, and to promote and assist in the training of municipal court staff.85 (d) Expenses of the administration of the council shall be paid from state funds
86 appropriated for that purpose, from federal funds available to the council for that purpose,
87 and from other appropriate sources.88 (e) The council shall be a legal entity and an agency of the State of Georgia; shall have
89 perpetual existence; may contract; may own property; may accept funds, grants, and gifts
90 from any public or private source for use in defraying the expenses of the council; may

91 adopt and use an official seal; may establish a principal office; may employ such
92 administrative or clerical personnel as may be necessary and appropriate to fulfill its
93 necessary duties; and shall have other powers, privileges, and duties as may be reasonable
94 and necessary for the proper fulfillment of its purposes and duties.

95 (f) A member of the council shall not be ineligible to hold the office of municipal court
96 staff by virtue of his or her position as a member of the council and membership in the
97 council shall not constitute the holding of a public office."

98 **SECTION 4.**

99 Chapter 5 of Title 45 of the Official Code of Georgia Annotated, relating to vacation of
100 office, is amended by adding a new Code section to read as follows:

101 "45-5-1.1.

102 Notwithstanding Code Section 45-5-1 or any other provisions of law to the contrary, a
103 vacancy in office shall not be created in the event that the General Assembly enacts a local
104 law redistricting the boundaries of a county, municipal, board of education, or other local
105 governmental election districts and such boundary changes result in one or more elected
106 official no longer residing within the district from which they were elected. Such elected
107 official shall be entitled to serve out the remainder of the term to which they were elected
108 representing the district as amended. No vacancy in office shall be created in the event that
109 a local election district is lawfully redistricted by a municipality pursuant to statutory home
110 rule powers or by another local government exercising authority granted pursuant to a local
111 constitutional amendment."

112 **SECTION 5.**

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