

House Bill 921 (AS PASSED HOUSE AND SENATE)

By: Representatives Bruce of the 61st, Bazemore of the 63rd, Jackson of the 64th, Boddie of the 62nd, Metze of the 55th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend an Act to incorporate the City of South Fulton in Fulton County, Georgia,
2 approved April 26, 2016 (Ga. L. 2016, p. 3726), as amended, so as to revise provisions
3 regarding the city attorney; to repeal conflicting laws; and for other purposes.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

5 style="text-align:center">**SECTION 1.**

6 An Act to incorporate the City of South Fulton in Fulton County, Georgia, approved
7 April 26, 2016 (Ga. L. 2016, p. 3726), as amended, is amended by revising Section 4.12 as
8 follows:

9 style="text-align:center">"SECTION 4.12.

10 style="text-align:center">City attorney.

11 (a)(1) Except as provided in paragraph (2) of this subsection, the mayor shall nominate
12 and the city council shall confirm by a majority vote a city attorney who shall be a
13 member of the State Bar of Georgia and shall have actively practiced law for at least
14 seven years.

15 (2) In the event that the city council does not confirm the mayor's nomination, the mayor
16 shall appoint another individual to be the city attorney and such second nomination shall
17 also be subject to confirmation by the city council. If a second nomination and a
18 subsequent third nomination for city attorney are not confirmed by the city council, the
19 mayor shall appoint an attorney meeting the qualifications established by this section who
20 shall serve as city attorney without such appointment needing to be confirmed by the city
21 council.

22 (b) The mayor shall have the authority to remove the city attorney for good cause;
23 provided, however, that an affirmative vote of five members of the city council may
24 prevent the removal by determining that good cause for removal does not exist. If

25 requested by a majority vote of the city council, the mayor shall provide in writing the
26 reasons for such removal. Good cause may include but not be limited to the following:

- 27 (1) Incompetence, misfeasance, or malfeasance in office;
- 28 (2) Conviction of a crime involving moral turpitude or a crime punishable as a felony;
- 29 (3) Failure at any time to possess any of the qualifications of office as provided by this
30 section;
- 31 (4) Gross misconduct in reference to the duties of office; or
- 32 (5) Abandonment of office or neglect to perform the duties thereof.

33 (c) The city attorney shall be responsible for representing and defending the city in all
34 litigation in which the city is a party, may be the prosecuting officer in the municipal court,
35 shall attend the meetings of the council as directed, shall advise the city council, mayor,
36 and other officers and employees of the city concerning legal aspects of the city's affairs,
37 and shall perform such other duties as may be required by virtue of the position of city
38 attorney. The mayor shall set the compensation of the city attorney.

39 (d) An individual shall be designated as the city attorney, and such individual shall be an
40 employee of the city. The city attorney shall not engage in the private practice of law, nor
41 while serving as city attorney shall such individual represent any other governmental body,
42 authority, agency, board, public corporation, or political subdivision.

43 (e) The city attorney shall be the department head for the city law department, and the city
44 may hire assistant city attorneys to assist the city attorney as the mayor and city council
45 deem necessary and appropriate.

46 (f)(1) Where not inconsistent with the Georgia Rules of Professional Conduct enacted
47 by the State Bar of Georgia and the rulings of the Supreme Court of Georgia, this
48 subsection shall govern the city attorney.

49 (2) The city attorney represents the city acting through its duly elected and appointed
50 officials.

51 (3) If the city attorney knows that an elected or appointed officer, employee, or other
52 person associated with the city is engaged in action, intends to act, or refuses to act in a
53 matter related to the representation that is a violation of a legal obligation to the city, or
54 a violation of law that reasonably might be imputed to the city, and that is likely to result
55 in substantial injury to the city, then the city attorney shall proceed as is reasonably
56 necessary in the best interest of the city. Unless the city attorney reasonably believes that
57 it is not necessary in the best interest of the city to do so, the city attorney shall refer the
58 matter to a higher authority in the city, including, if warranted by the circumstances, to
59 the mayor and city council.

60 (4) Except as provided in paragraph (5) of this subsection, if despite the city attorney's
61 efforts in accordance with paragraph (3) of this subsection the mayor and city council

62 insist upon or fail to address in a timely and appropriate manner an action, or a refusal to
63 act, that is clearly a violation of law, and the city attorney reasonably believes that the
64 violation is reasonably certain to result in substantial injury to the city, then the city
65 attorney may reveal information relating to the representation whether or not Rule 1.6 of
66 the Georgia Rules of Professional Conduct of the State Bar of Georgia permits such
67 disclosure, but only if and to the extent the city attorney reasonably believes necessary
68 to prevent substantial injury to the city.

69 (5) Paragraph (4) of this subsection shall not apply with respect to information relating
70 to a city attorney's, or any other attorney's, representation of the city to investigate an
71 alleged violation of law, or to defend the city or an officer, employee, or other constituent
72 associated with the city against a claim arising out of an alleged violation of law.

73 (6) In dealing with the city's elected and appointed officers, officials and employees, and
74 other constituents, the city attorney shall explain the identity of the client when the city
75 attorney knows or reasonably should know that the city's interests are adverse to those
76 of the individuals with whom the city attorney is dealing."

77 **SECTION 2.**

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