

House Bill 740 (AS PASSED HOUSE AND SENATE)

By: Representative Benton of the 31st

A BILL TO BE ENTITLED
AN ACT

1 To amend an Act incorporating the Town of Pendergrass, in the County of Jackson, approved
2 December 30, 1890 (Ga. L. 1890-91, Vol. II, p. 681), as amended, particularly by an Act
3 approved April 5, 1994 (Ga. L. 1994, p. 4755), so as to add two new members to the city
4 council; to revise provisions governing quorums and overriding vetoes; to update reference
5 to applicable state election law; to provide for initial and staggered terms of the new
6 councilmembers; to provide for conflict of interest; to provide for holding of other offices;
7 to provide for related matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 An Act incorporating the Town of Pendergrass, in the County of Jackson, approved
11 December 30, 1890 (Ga. L. 1890-91, Vol. II, p. 681), as amended, particularly by an Act
12 approved April 5, 1994 (Ga. L. 1994, p. 4755), is amended by revising Section 2-101 as
13 follows:

14 "Section 2-101.
15 Creation; number; term of office.

16 As of December 1, 2021, there shall be a mayor and council composed of the mayor and six
17 councilmembers elected, except as provided in Article III of this charter, for four-year
18 staggered terms of office."

19 **SECTION 2.**

20 Said Act is further amended by revising subsection (b) of Section 2-402 as follows:

21 "(b) A quorum for all mayor and council meetings shall consist of the mayor or mayor pro
22 tempore and any three councilmembers, and no business shall be transacted by the mayor
23 and council in absence of a quorum except to adjourn from time to time."

24 **SECTION 3.**

25 Said Act is further amended by revising Section 2-405 as follows:

26 "Section 2-405.
27 Mayor's veto; overriding veto.

28 Every ordinance or resolution adopted by the council shall be certified by the city clerk and
29 presented to the mayor within two business days following its adoption. The mayor shall
30 approve or veto the ordinance or resolution within five business days after adoption, and no
31 ordinance or resolution shall become effective without the mayor's approval except as
32 provided in this section. If the mayor vetoes an ordinance or resolution, he or she shall,
33 within two business days of such veto, return it to the council accompanied by a written
34 statement of the reasons for the veto. If the council shall pass the ordinance or resolution by
35 a vote of four of its members at the regular meeting next held after the ordinance or

36 resolution has been returned with the mayor's veto, it shall become law without the mayor's
37 approval. In the event the mayor does not approve or veto the ordinance or resolution within
38 the time required, it shall become law without the mayor's approval."

39 **SECTION 4.**

40 Said Act is further amended by revising Article III as follows:

41 "ARTICLE III.

42 Election and Removal.

43 CHAPTER 1.

44 Conduct of Elections.

45 Section 3-101.

46 Applicability of general laws.

47 All municipal general or special elections and primaries shall be held and conducted in
48 accordance with Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code," as now
49 or hereafter amended.

50 Section 3-102.

51 Regular elections; time for holding; manner of election; voting posts; nonpartisan
52 election.

53 (a) The municipal elections shall be held on the Tuesday next following the first Monday
54 in November of odd-numbered years for the mayor and councilmembers whose terms are
55 about to expire.

56 (b) The mayor and councilmembers serving on the effective date of this Act shall continue
57 to serve for the remainder of their terms and until their successors are duly elected and
58 qualified. Successors shall be elected at the municipal general election immediately
59 preceding the expiration of the term of office, shall take office on the Monday following
60 their election, and shall serve terms of four years and until their successors are duly elected
61 and qualified.

62 (c) The two new councilmembers elected at the general municipal election in 2021 shall
63 take office on December 1, 2021. The initial term of one such member shall expire on the
64 Monday following the municipal general election in 2023. The initial term of the other
65 such member shall expire on the Monday following the municipal general election in 2025.
66 Thereafter, successors to these councilmembers shall be elected at the municipal election
67 immediately preceding the expiration of the term of office, shall take office on the Monday
68 following their election, and shall serve terms of four years and until their successors are
69 duly elected and qualified."

70 **SECTION 5.**

71 Said Act is further amended by adding a new Chapter to Article IV to read as follows:

72 "CHAPTER 4.
73 Conflicts of interest.

74 Section 4-401.
75 Conflict of interest, holding other offices.

76 (a) Elected and appointed officers of the city, including but not limited to the city
77 administrator, are trustees and servants of the residents of the city and shall act in a
78 fiduciary capacity for the benefit of such residents.

- 79 (b) Conflict of Interest - No elected official, appointed officer, or employee of the city or
80 any agency or political entity to which this charter applies shall knowingly:
- 81 (1) Engage in any business or transaction, or have a financial or other personal interest,
82 direct or indirect, which is incompatible with the proper discharge of that person's official
83 duties or which would tend to impair the independence of the official's judgment or action
84 in the performance of those official duties;
- 85 (2) Engage in or accept private employment, or render services for private interests when
86 such employment or service is incompatible with the proper discharge of that person's
87 official duties or would tend to impair the independence of the official's judgment or
88 action in the performance of those official duties;
- 89 (3) Disclose confidential information, including information obtained at meetings which
90 are closed pursuant to Title 50, Chapter 14 of the Official Code of Georgia Annotated,
91 concerning the property, government, or affairs of the governmental body by which the
92 official is engaged without proper legal authorization; or use such information to advance
93 the financial or other private interest of the official or others;
- 94 (4) Accept any valuable gift, whether in the form of service, loan, thing, or promise,
95 from any person, firm or corporation which to the official's knowledge is interested,
96 directly or indirectly, in any manner whatsoever, in business dealings with the
97 governmental body by which the official is engaged; provided, however, that an elected
98 official who is a candidate for public office may accept campaign contributions and
99 services in connection with any such campaign;
- 100 (5) Represent other private interests in any action or proceeding against this city or any
101 portion of its government;
- 102 (6) Vote or otherwise participate in the negotiation or in the making of any contract with
103 any business or entity in which the official has a financial interest; or
- 104 (7) Vote or otherwise participate in a zoning decision for a property which the official
105 owns or in which the official has a financial interest.

106 (c) Disclosure - Any elected official, appointed officer, or employee who shall have any
107 financial interest, directly or indirectly, in any contract or matter pending before or within
108 any department of the city shall disclose such interest to the city council. The mayor or any
109 councilmember who has a financial interest in any matter pending before the city council
110 shall disclose such interest and such disclosure shall be entered on the records of the city
111 council, and that official shall disqualify himself or herself from participating in any
112 decision or vote relating thereto. Any elected official, appointed officer, or employee of
113 any agency or political entity to which this charter applies who shall have any financial
114 interest, directly or indirectly, in any contract or matter pending before or within such
115 entity shall disclose such interest to the governing body of such agency or entity.

116 (d) Use of Public Property - No elected official, appointed officer, or employee of the city
117 or any agency or entity to which this charter applies shall use property owned by such
118 governmental entity for personal benefit or profit but shall use such property only in his or
119 her capacity as an officer or employee of the city.

120 (e) Contracts Voidable and Rescindable - Any violation of this section which occurs with
121 the knowledge, express or implied, of a party to a contract or sale shall render said contract
122 or sale voidable at the option of the city council.

123 (f) Ineligibility of Elected Official - Except where authorized by law, neither the mayor
124 nor any councilmember shall hold any other elective or appointive office in the city or
125 otherwise be employed by said government or any agency thereof during the term for
126 which that official was elected. No former mayor and no former councilmember shall hold
127 any appointive office in the city until one year after the expiration of the term for which
128 that official was elected.

129 (g) Political Activities of Certain Officers and Employees - No appointive officer of the
130 city shall continue in such employment upon qualifying as a candidate for nomination or
131 election to any public office. No employee of the city shall continue in such employment
132 upon qualifying for or election to any public office in this city or any other public office

133 which is inconsistent, incompatible, or in conflict with the duties of the city employee.
134 Such determination shall be made by the [mayor and] council either immediately upon
135 election or at any time such conflict may arise.

136 (h) Penalties for Violation

137 (1) Any city officer or employee who knowingly conceals such financial interest or
138 knowingly violates any of the requirements of this section shall be guilty of malfeasance
139 in office or position and shall be deemed to have forfeited that person's office or position.

140 (2) Any officer or employee of the city who shall forfeit an office or position as
141 described in paragraph (1) above, shall be ineligible for appointment or election to or
142 employment in a position in the city government for a period of three years thereafter."

143 **SECTION 6.**

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