House Bill 740 (AS PASSED HOUSE AND SENATE)
By: Representative Benton of the 31st

A BILL TO BE ENTITLED
AN ACT

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

H. B. 740
- 1 -
creation; number; term of office.

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

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

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

SECTION 3.
Said Act is further amended by revising Section 2-405 as follows:

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

Every ordinance or resolution adopted by the council shall be certified by the city clerk and presented to the mayor within two business days following its adoption. The mayor shall approve or veto the ordinance or resolution within five business days after adoption, and no ordinance or resolution shall become effective without the mayor's approval except as provided in this section. If the mayor vetoes an ordinance or resolution, he or she shall, within two business days of such veto, return it to the council accompanied by a written statement of the reasons for the veto. If the council shall pass the ordinance or resolution by a vote of four of its members at the regular meeting next held after the ordinance or
resolution has been returned with the mayor's veto, it shall become law without the mayor's approval. In the event the mayor does not approve or veto the ordinance or resolution within the time required, it shall become law without the mayor's approval."

SECTION 4.

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

"ARTICLE III.

Election and Removal.

CHAPTER 1.

Conduct of Elections.

Section 3-101.

Applicability of general laws.

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

Section 3-102.

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

(a) The municipal elections shall be held on the Tuesday next following the first Monday in November of odd-numbered years for the mayor and councilmembers whose terms are about to expire.
(b) The mayor and councilmembers serving on the effective date of this Act shall continue
to serve for the remainder of their terms and until their successors are duly elected and
qualified. Successors shall be elected at the municipal general election immediately
preceding the expiration of the term of office, shall take office on the Monday following
their election, and shall serve terms of four years and until their successors are duly elected
and qualified.

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

SECTION 5.

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

"CHAPTER 4.

Conflicts of interest.

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

(a) Elected and appointed officers of the city, including but not limited to the city
administrator, are trustees and servants of the residents of the city and shall act in a
fiduciary capacity for the benefit of such residents.
(b) Conflict of Interest - No elected official, appointed officer, or employee of the city or any agency or political entity to which this charter applies shall knowingly:

(1) Engage in any business or transaction, or have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of that person's official duties or which would tend to impair the independence of the official's judgment or action in the performance of those official duties;

(2) Engage in or accept private employment, or render services for private interests when such employment or service is incompatible with the proper discharge of that person's official duties or would tend to impair the independence of the official's judgment or action in the performance of those official duties;

(3) Disclose confidential information, including information obtained at meetings which are closed pursuant to Title 50, Chapter 14 of the Official Code of Georgia Annotated, concerning the property, government, or affairs of the governmental body by which the official is engaged without proper legal authorization; or use such information to advance the financial or other private interest of the official or others;

(4) Accept any valuable gift, whether in the form of service, loan, thing, or promise, from any person, firm or corporation which to the official's knowledge is interested, directly or indirectly, in any manner whatsoever, in business dealings with the governmental body by which the official is engaged; provided, however, that an elected official who is a candidate for public office may accept campaign contributions and services in connection with any such campaign;

(5) Represent other private interests in any action or proceeding against this city or any portion of its government;

(6) Vote or otherwise participate in the negotiation or in the making of any contract with any business or entity in which the official has a financial interest; or

(7) Vote or otherwise participate in a zoning decision for a property which the official owns or in which the official has a financial interest.
(c) Disclosure - Any elected official, appointed officer, or employee who shall have any financial interest, directly or indirectly, in any contract or matter pending before or within any department of the city shall disclose such interest to the city council. The mayor or any councilmember who has a financial interest in any matter pending before the city council shall disclose such interest and such disclosure shall be entered on the records of the city council, and that official shall disqualify himself or herself from participating in any decision or vote relating thereto. Any elected official, appointed officer, or employee of any agency or political entity to which this charter applies who shall have any financial interest, directly or indirectly, in any contract or matter pending before or within such entity shall disclose such interest to the governing body of such agency or entity.

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

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

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

(g) Political Activities of Certain Officers and Employees - No appointive officer of the city shall continue in such employment upon qualifying as a candidate for nomination or election to any public office. No employee of the city shall continue in such employment upon qualifying for or election to any public office in this city or any other public office.
which is inconsistent, incompatible, or in conflict with the duties of the city employee.
Such determination shall be made by the [mayor and] council either immediately upon
election or at any time such conflict may arise.

(h) Penalties for Violation

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

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

SECTION 6.

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