

House Bill 1438 (AS PASSED HOUSE AND SENATE)

By: Representative Williams of the 148th

A BILL TO BE ENTITLED
AN ACT

1 To amend an Act creating a new charter for the City of Cordele, approved July 29, 2020
2 (Ga. L. 2020, p. 4122), so as to transition the office of chairperson to at large commission
3 member; to provide for a mayor to be selected by and among the commission members; to
4 redesignate the office of vice chairperson to mayor pro tempore; to revise voting and quorum
5 provisions related to the commission; to make conforming changes; to provide that the city
6 manager shall recommend the annual budget to the commission in place of the chairperson;
7 to provide for related matters; to provide for effective dates; to repeal conflicting laws; and
8 for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 An Act creating a new charter for the City of Cordele, approved July 29, 2020 (Ga. L. 2020,
12 p. 4122), is amended by revising Section 2.10 through Section 2.14 as follows:

13 "SECTION 2.10.

14 City commission creation; number; election.

15 The legislative authority of the government of the city, except as otherwise specifically
16 provided in this charter, shall be vested in a city commission to be composed of five
17 commission members. One commission member shall be elected from each of the four
18 wards of the city, and one commission member shall be elected by the voters of the city at
19 large. The city commission established shall in all respects be a successor to and
20 continuation of the governing authority under prior law. The commission members shall
21 be elected in the manner provided by general law and this charter.

22 SECTION 2.11.

23 City commission terms and qualifications for office.

24 (a) The members of the city commission shall be registered and qualified to vote in
25 municipal elections in the city and shall serve for terms of four years and until their
26 respective successors are elected and qualified.

27 (b) No person shall be eligible to serve as commission member representing a commission
28 district unless that person has been a resident of the district such person seeks to represent
29 for a continuous period of at least 12 months immediately prior to the date of the election
30 for commission member. Any elected commission member shall continue to reside in his
31 or her respective district during that person's period of service.

32 (c) No person shall be eligible to serve as the at large commission member unless that
33 person shall have been a resident of the city for 12 months prior to the date of election. The
34 at large commission member shall continue to reside therein during his or her period of
35 service.

SECTION 2.12.

Vacancy; filling of vacancies.

(a) The office of commission member shall become vacant upon the incumbent's death, resignation, forfeiture of office, or occurrence of any event specified by the Constitution of the State of Georgia, Title 45 of the O.C.G.A., or such other applicable laws as are or may hereafter be enacted.

(b) A vacancy in the office of commissioner shall be filled for the remainder of the unexpired term, if any, by appointment of the remaining commission members if less than six months remain in the unexpired term, otherwise by an election, as provided in Section 5.14 of this charter and in accordance with Titles 21 and 45 of the O.C.G.A. or other such laws as are hereinafter enacted.

SECTION 2.13.

Compensation and expenses.

The commission members shall receive compensation and expenses for their services as provided by ordinance.

SECTION 2.14.

Conflicts of interest.

(a) Elected and appointed officers of the city are trustees and servants of the residents of the city and shall act in a fiduciary capacity for the benefit of such residents.

(b) No member of the city commission shall vote upon, sign, or veto any ordinance, resolution, contract, or other matter in which that person is financially interested.

57 (c) The city commission shall adopt by ordinance a code of ethics governing the conduct
58 of city officials and provide penalties for violation of such ordinance."

59 **SECTION 2.**

60 Said Act is further amended by revising Section 2.19 as follows:

61 "SECTION 2.19.

62 Regular and special meetings.

63 (a) The city commission shall hold regular meetings at such times and places as shall be
64 prescribed by ordinance.

65 (b) Special meetings of the city commission may be held on call of the mayor or shall be
66 held when requested in writing of three other members of the city commission. Notice of
67 such special meetings shall be served on all other members personally, or by telephone
68 personally, at least 24 hours in advance of the meeting except in the case of an emergency.
69 Such notice to commission members shall not be required if the mayor and all commission
70 members are present when the special meeting is called. Such notice of any special
71 meeting may be waived by a commission member in writing before or after such a meeting,
72 and attendance at the meeting shall also constitute a waiver of notice on any business
73 transacted in such commission member's presence. Only the business stated in the call may
74 be transacted at the special meeting.

75 (c) All meetings of the city commission shall be public to the extent required by law, and
76 notice to the public of special meetings shall be made fully as is reasonably possible as
77 provided by Section 50-14-1 of the O.C.G.A., or other such applicable laws as are or may
78 hereafter be enacted."

79 **SECTION 3.**

80 Said Act is further amended by revising Section 2.21 and Section 2.22 as follows:

81 "SECTION 2.21.

82 Quorum; voting.

83 The mayor or mayor pro tempore and two commission members shall constitute a quorum
84 and shall be authorized to transact business of the city commission. The mayor shall be
85 entitled to vote only in the case of a tie or when his or her vote is necessary to make a
86 majority for or against any matter. A majority of the votes cast shall determine all
87 questions except as otherwise provided in this charter. Voting on the adoption of
88 ordinances, resolutions, or motions shall be by voice vote and the vote shall be recorded
89 in the journal, but any member of the city commission shall have the right to request a roll
90 call vote and such vote shall be recorded in the journal. Except as otherwise provided in
91 this charter, the affirmative vote of three commission members, or two commission
92 members and the mayor, shall be required for the adoption of any ordinance, resolution,
93 or motion.

94 SECTION 2.22.

95 Ordinance form; procedures.

96 (a) Every proposed ordinance should be introduced in writing and in the form required for
97 final adoption. No ordinance shall contain a subject which is not expressed in its title. The
98 enacting clause shall be "It is hereby ordained by the governing authority of the City of
99 Cordele," and every ordinance shall so begin.

100 (b) An ordinance may be introduced by a commission member and be read at a regular or
101 special meeting of the city commission. Ordinances shall be considered and adopted or

102 rejected by the city commission in accordance with the rules which it shall establish. All
103 ordinances shall have two separate readings. No ordinance shall be adopted on the same
104 day it is introduced. Emergency ordinances, as provided in Section 2.24, may be adopted
105 on the same day that they are introduced without dispensing with the second reading.
106 Upon introduction of any ordinance, the city clerk shall as soon as possible distribute a
107 copy to each commission member and shall file a reasonable number of copies in the office
108 of the city clerk and at such other public places as the city commission may designate.
109 (c) Within seven days after passage, the mayor may veto any ordinance adopted by the
110 commission. The city clerk shall return any vetoed ordinance to the commission together
111 with reasons for the veto. No later than the second commission meeting after the mayor's
112 veto has been returned to the commission, the commission may override the mayor's veto
113 by an affirmative vote of at least three commissioners, and the ordinance shall become
114 effective."

115 **SECTION 4.**

116 Said Act is further amended by revising subsection (a) of Section 2.24 as follows:

117 "(a) To meet a public emergency affecting life, health, property, or public peace, the city
118 commission may convene on call of the mayor or three other commission members and
119 promptly adopt an emergency ordinance, but such ordinance may not levy taxes; grant,
120 renew, or extend a franchise; regulate the rate charged by any public utility for its services;
121 or authorize the borrowing of money except for loans to be repaid within 30 days. An
122 emergency ordinance shall be introduced in the form prescribed for ordinances generally,
123 except that it shall be plainly designated as an emergency ordinance and shall contain, after
124 the enacting clause, a declaration stating that an emergency exists, and describing the
125 emergency in clear and specific terms. An emergency ordinance may be adopted, with or
126 without amendment, or rejected at the meeting at which it is introduced, but the affirmative
127 vote of at least three commission members shall be required for adoption. It shall become

128 effective upon adoption or at such later time as it may specify. Every emergency ordinance
129 shall automatically stand repealed 30 days following the date upon which it was adopted,
130 but this shall not prevent re-enactment of the ordinance in the manner specified in this
131 section if the emergency still exists. An emergency ordinance may also be repealed by
132 adoption of a repealing ordinance in the same manner specified in this section for adoption
133 of emergency ordinances."

134 **SECTION 5.**

135 Said Act is further amended by revising Section 2.31 and Section 2.32 as follows:

136 "SECTION 2.31.

137 Mayor; selection and duties.

138 (a) At the first meeting in January of each year, the city commission shall elect a
139 commission member to serve as mayor. At all times, the commission member serving as
140 the mayor shall maintain all powers and duties provided to commissioners under this
141 charter, except as otherwise limited by this charter.

142 (b) The mayor shall:

143 (1) Preside at all meetings of the city commission;

144 (2) Be the head of the city for the purpose of service of process and for ceremonial
145 purposes, and be the official spokesperson for the city and the chief advocate of policy;

146 (3) Have the power to administer oaths and to take affidavits;

147 (4) Sign, as a matter of course, on behalf of the city all written and approved contracts,
148 ordinances, and other instruments executed by the city which, by law, are required to be
149 in writing;

150 (5) Vote on matters before the commission only in the case of a tie or when his or her
151 vote is necessary to make a majority for or against any matter; and

152 (6) Veto any ordinance in accordance with the procedures provided for in subsection (c)
153 of Section 2.22 of this charter.

154 **SECTION 2.32.**

155 Mayor pro tempore; selection and duties.

156 At the first meeting in January of each year, the city commission shall elect a commission
157 member to serve as the mayor pro tempore. In the mayor's absence, the mayor pro tempore
158 shall preside at meetings of the city commission and shall assume the duties and powers
159 of the mayor upon the mayor's physical or mental disability, provided that the mayor pro
160 tempore shall vote as a member of the city commission at all times while serving as herein
161 provided."

162 **SECTION 6.**

163 Said Act is further amended by revising subsection (f) of Section 3.11 as follows:

164 "(f) No member of a board, commission, or authority shall assume office until that person
165 has executed and filed with the city clerk an oath obligating himself or herself to faithfully
166 and impartially perform the duties of that member's office, such oath to be prescribed by
167 ordinance and administered by the mayor."

168 **SECTION 7.**

169 Said Act is further amended by revising Section 3.12 as follows:

170 "SECTION 3.12.
171 City attorney.

172 The city commission shall appoint a city attorney, together with such assistant city
173 attorneys as may be authorized, and shall provide for the payment of such attorney or
174 attorneys for services rendered to the city. The city attorney shall be responsible for
175 providing for the representation and defense of the city in all litigation in which the city is
176 a party; may be the prosecuting officer in the municipal court; shall attend the meetings of
177 the commission as directed; shall advise the city commission and other officers and
178 employees of the city concerning legal aspects of the city's affairs; and shall perform such
179 other duties as may be required by virtue of the person's position as city attorney."

180 **SECTION 8.**

181 Said Act is further amended by revising subsection (e) of Section 4.11 as follows:

182 "(e) Before assuming office, each judge shall take an oath, given by the mayor, that the
183 judge will honestly and faithfully discharge the duties of the office to the best of that
184 person's ability and without fear, favor, or partiality. The oath shall be entered upon the
185 minutes of the city commission journal required in Section 2.20."

186 **SECTION 9.**

187 Said Act is further amended by revising Section 4.16 and Section 4.17 as follows:

188 "SECTION 4.16.
189 Indigent defense and prosecutor.

190 The city commission shall have the power to provide for a system of defense for indigent
191 persons charged in the municipal court with violations of ordinances or state laws, and for

192 the prosecution of such cases by a prosecutor, and to provide for and require the expense
193 of same to be prorated over all criminal cases disposed of by the court and all bond
194 forfeitures in said cases, to be imposed by the municipal court judge and collected in all
195 criminal cases and in bond forfeitures in such cases as costs, in addition to fines, penalties,
196 and all other costs.

197 **SECTION 4.17.**

198 Funding the acquisition, maintenance, and replacement of
199 supplies and equipment for the municipal court.

200 The city commission shall have the power to provide that the costs of the acquisition,
201 maintenance, and replacement of supplies and equipment required in the operation of the
202 municipal court shall be funded by adding the expense thereof to all fines imposed by the
203 municipal court judge and collected in all criminal cases and to all bond forfeitures in such
204 cases as costs, in addition to fines, penalties, and all other costs."

205 **SECTION 10.**

206 Said Act is further amended by revising Section 5.11 as follows:

207 "SECTION 5.11.

208 Election of the city commission.

209 (a) On Tuesday next following the first Monday in November 2025, successors to the at
210 large commission member and commission members from Ward 2 and Ward 3 shall be
211 elected to four-year terms or until their respective successors are elected and qualified.

212 (b) On Tuesday next following the first Monday in November 2027, successor commission
213 members from Ward 1 and Ward 4 shall be elected to four-year terms or until their
214 respective successors are elected and qualified.

215 (c) As provided in Section 2.18 of this charter, the members of the commission shall take
216 the oath of office and shall begin their terms at the organizational meeting to be held the
217 first Tuesday of January following the election.

218 (d) Elected officials of the city serving on the effective date of this charter shall serve out
219 the terms they were elected to."

220 **SECTION 11.**

221 Said Act is further amended by revising Section 5.14 as follows:

222 "SECTION 5.14.

223 Special elections; vacancies.

224 In the event that the office of commission member becomes vacant as provided in
225 Section 2.12 of this charter, those remaining members of the commission shall appoint a
226 successor for the remainder of the term if less than six months remain in the term. If more
227 than six months remain in the term, there shall be a special election held and conducted in
228 accordance with the Georgia Election Code."

229 **SECTION 12.**

230 Said Act is further amended by revising Section 5.16 as follows:

231 "SECTION 5.16.

232 Removal of officers.

233 (a) The commission members or other appointed officers provided for in this charter shall
 234 be removed from office for any one or more of the causes provided in Title 45 of the
 235 O.C.G.A., or such other applicable laws as are or may hereafter be enacted.

236 (b) Removal of an officer pursuant to subsection (a) of this section shall be accomplished
 237 by one of the following methods:

238 (1) By vote of three members of the commission or by the mayor and two members of
 239 the commission after an investigative hearing. In the event an elected officer is sought
 240 to be removed by the action of the city commission, such officer shall be entitled to a
 241 written notice specifying the ground or grounds for removal and to a public hearing
 242 which shall be held not less than ten days after the service of such written notice. The
 243 city commission shall provide by ordinance for the manner in which such hearings shall
 244 be held. Any elected officer sought to be removed from office as herein provided shall
 245 have the right of appeal from the decision of the city commission to the Superior Court
 246 of Crisp County. Such appeal shall be governed by the same rules governing appeals to
 247 the superior court from the probate court.

248 (2) By an order of the Superior Court of Crisp County following a hearing on a
 249 complaint seeking such removal brought by any resident of the city."

250 **SECTION 13.**

251 Said Act is further amended by revising subsection (a) of Section 6.19 as follows:

252 "(a) Executions for any and all taxes or licenses, or demands of any sort due the city or its
 253 corporate authorities by any person, firm, or corporation, or against any property subject
 254 thereto, shall be issued by the city clerk, be signed by him or her, in the name of the mayor,
 255 and be directed to the chief of police of said city and his or her deputies and all and singular

256 the sheriffs, deputy sheriffs, and constables of this state, commanding them that of any
257 property belonging to the defendant against whom said execution is issued, or of certain
258 property described in the execution, they make by levy and sale the amount due on the
259 execution with all costs."

260 **SECTION 14.**

261 Said Act is further amended by revising Section 6.27 as follows:

262 "SECTION 6.27.

263 Action by city commission on budget.

264 (a) The city commission may amend the operating budget proposed by the city manager,
265 except that the budget as finally amended and adopted must provide for all expenditures
266 required by state law or by other provisions of this charter and for all debt service
267 requirements for the ensuing fiscal year, and the total appropriations from any fund shall
268 not exceed the estimated fund balance, reserves, and revenues.

269 (b) The city commission by ordinance shall adopt the final operating budget for the
270 ensuing fiscal year not later than the first day of the ensuing fiscal year. If the city
271 commission fails to adopt the budget by this date, the amounts appropriated for operation
272 for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a
273 month-to-month basis, with all items prorated accordingly until such time as the city
274 commission adopts a budget for the ensuing fiscal year. Adoption of the budget shall take
275 the form of an appropriations ordinance, setting out the estimated revenues in detail by
276 sources and making appropriations according to fund and by organizational unit, purpose,
277 or activity as set out in the budget preparation ordinance adopted pursuant to Section 6.25.

278 (c) The amount set out in the adopted operating budget for each organizational unit shall
279 constitute the annual appropriation for such, and no expenditure shall be made or

280 encumbrance created in excess of the otherwise unencumbered balance of the
281 appropriations or allotment thereof, to which it is chargeable.”

282 **SECTION 15.**

283 (a) Those members of the city commission of the City of Cordele who are serving as such
284 immediately prior to the effective date of this Act and any person selected to fill a vacancy
285 in any such office shall continue to serve as such members until the regular expiration of
286 their respective terms of office and upon the election and qualification of their respective
287 successors.

288 (b) Nothing in this Act shall alter or amend the boundaries of Wards 1, 2, 3, and 4, as they
289 exist immediately prior to the effective date of this Act, and such wards shall continue to
290 exist in the same form as they existed prior to the effective date of this Act.

291 **SECTION 16.**

292 (a) Section 14 of this Act shall become effective upon its approval by the Governor or upon
293 its becoming law without such approval.

294 (b) Section 10 of this Act shall become effective on January 1, 2025.

295 (c) For all other purposes, this Act shall become effective on January 1, 2026.

296 **SECTION 17.**

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