

Senate Bill 469

By: Senators Jones of the 10th, Anderson of the 43rd, Butler of the 55th and Parent of the 42nd

A BILL TO BE ENTITLED
AN ACT

1 To amend an Act to incorporate the City of Stonecrest in DeKalb County, approved
2 April 21, 2016 (Ga. L. 2016, p. 3538), as amended, so as to remove the mayor from the city
3 council; to modify a provision related to elected officials forfeiting office; to modify
4 provisions related to power and authority of the city council; to provide for excused absences
5 by councilmembers from city council meetings; to create and provide powers and duties of
6 the office of council president; to revise the powers and duties of the mayor; to revise
7 procedures for the appointment and removal of the city manager; to revise provisions
8 regarding the mayor and city council's oversight of the city manager; to delineate roles
9 between the mayor, city council, council president, and city manager; to revise provisions
10 for the appointment of the city attorney, city clerk, tax collector, and city accountant; to bring
11 provisions regarding removal of municipal court judges in line with state law; to revise
12 provisions related to the role of the mayor in the budget process; to provide for related
13 matters; to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

16 An Act to incorporate the City of Stonecrest in DeKalb County, approved April 21, 2016
17 (Ga. L. 2016, p. 3538), as amended, is amended in Section 2.01 by revising subsections (a)
18 and (b) as follows:

19 "(a) The legislative authority of the government of the City of Stonecrest, except as
20 otherwise specifically provided in this charter, shall be vested in a city council, and the city
21 council shall be the governing authority of the city.

22 (b)(1) The city council of Stonecrest, Georgia, shall consist of five members."

23 style="text-align:center">**SECTION 2.**

24 Said Act is further amended in Section 2.03 by revising paragraph (3) of subsection (a) as
25 follows:

26 "(3) Failing to attend one-third of the regular meetings of the council in a three-month
 27 period without being excused by the council; provided, however, that absences due to the
 28 following shall automatically be excused:

29 (A) A personal accident, emergency, illness, or injury;

30 (B) An accident, emergency, illness, or injury of an immediate family member; or

31 (C) Obligations arising from the elected official's outside full-time employment.

32 A councilmember unable to attend a meeting due to one or more of the circumstances
 33 provided in subparagraphs (A), (B), or (C) of this paragraph shall provide written,
 34 electronic, or telephonic notice to the city clerk before the beginning of the meeting, and
 35 the city clerk shall notify the remaining councilmembers of the councilmember's excused
 36 absence. In the event that a councilmember is incapacitated, such member shall be
 37 automatically excused regardless of any notice provisions of this section."

38 **SECTION 3.**

39 Said Act is further amended by revising subsections (a) through (c) and (e) of Section 2.09
 40 as follows:

41 "(a) The city council shall meet on the first working day in January immediately following
 42 each regular municipal election. The meeting shall be called to order by the city clerk, and
 43 the oath of office shall be administered to the newly elected mayor and councilmembers
 44 collectively by a judicial officer authorized to administer oaths. The oath shall, to the
 45 extent that it comports with federal and state law, be as follows:

46 'I do solemnly swear or affirm that I will faithfully execute the office of [councilmember
 47 or mayor, as the case may be] of the City of Stonecrest, and will to the best of my ability
 48 support and defend the Constitution of the United States, the Constitution of Georgia, and
 49 the charter, ordinances, and regulations of the City of Stonecrest. I am not the holder of
 50 any unaccounted for public money due this state or any political subdivision or authority
 51 thereof. I am not the holder of any office of trust under the government of the United
 52 States, any other state, or any foreign state which I by the laws of the State of Georgia am
 53 prohibited from holding. I am otherwise qualified to hold said office according to the
 54 Constitution and laws of Georgia. I have been a resident of my district and the City of
 55 Stonecrest for the time required by the Constitution and laws of this state and by the
 56 municipal charter. I will perform the duties of my office in the best interests of the City
 57 of Stonecrest to the best of my ability without fear, favor, affection, reward, or
 58 expectation thereof.'

59 (b) Following the induction of the mayor and councilmembers, the city council, by a
 60 majority vote of the councilmembers, shall elect a councilmember to be the council
 61 president, who shall serve for a term of two years and until a successor is elected and

62 qualified. The number of successive terms an individual may hold the position of council
 63 president shall be unlimited. The council president shall preside over all meetings of the
 64 city council and set the agenda for each meeting after receiving input from the
 65 councilmembers, city manager, the mayor, and the public; provided, however, that
 66 additional items shall be added to the agenda upon the written request of any two
 67 councilmembers.

68 (c) The council president shall assume the duties and powers of the mayor during the
 69 mayor's temporary disability, suspension, or absence. If the council president is absent
 70 because of sickness or disqualification, any one of the remaining councilmembers, chosen
 71 by a majority of the councilmembers present, shall be clothed with all the rights and
 72 privileges of the mayor as described herein and shall perform the mayor's duties in the
 73 same manner as the council president."

74 "(e) Special meetings of the city council may be held on the call of either the council
 75 president, the mayor and one councilmember, or three councilmembers. Notice of such
 76 special meetings shall be delivered to the council president, all councilmembers, the mayor,
 77 and the city manager personally, by registered mail, or by electronic means at least 24
 78 hours in advance of the meeting. Such notice of any special meeting may be waived by the
 79 council president, mayor, a councilmember, or the city manager in writing before or after
 80 such a meeting, and attendance at the meeting shall also constitute a waiver of notice. The
 81 notice of such special meeting shall state what business is to be transacted at the special
 82 meeting. Only the business stated in the notice may be transacted at the special meeting."

83 **SECTION 4.**

84 Said Act is further amended by revising subsection (a) of Section 2.10 as follows:

85 "(a) Three councilmembers shall constitute a quorum and shall be authorized to transact
 86 business for the city council. Voting on the adoption of ordinances shall be taken by voice
 87 vote and the yeas and nays shall be recorded in the minutes, but on the request of any
 88 member there shall be a roll-call vote. In order for any ordinance, resolution, motion, or
 89 other action of the city council to be adopted, the measure shall receive at least three
 90 affirmative votes and shall receive the affirmative votes of a majority of those voting. No
 91 councilmember shall abstain from voting on any matter properly brought before the city
 92 council for official action except when such councilmember has a reason which is disclosed
 93 in writing prior to or at the meeting and made a part of the minutes. Each councilmember
 94 when present at a meeting shall have one vote on all matters brought before the council."

95 **SECTION 5.**

96 Said Act is further amended by adding a new subsection to Section 2.11 to read as follows:

97 "(c) Except for actions brought pursuant to Article IV of this charter, the city council shall
 98 have the sole authority to initiate any legal action or lawsuit, whether at law or equity, on
 99 behalf of the City of Stonecrest, and any such legal action may only be filed in a court of
 100 appropriate jurisdiction upon approval of such by at least four members of the city council.
 101 To the extent permitted by general law, nothing herein shall require such approvals to be
 102 made in open or public meetings of the city council."

103 **SECTION 6.**

104 Said Act is further amended by revising subsections (a) and (b) of Section 2.14 as follows:

105 "(a) All members of boards, commissions, and authorities of the city shall be residents of
 106 the city and appointed by the city council by majority vote for such terms of office and
 107 such manner of appointment as provided by ordinance, except where other appointing
 108 authority, term of office, or manner of appointment is prescribed by this charter or by
 109 applicable state law.

110 (b) No member of any board, commission, or authority of the city shall hold any elective
 111 office in the city or DeKalb County. However, the mayor, and up to two members of the
 112 city council, including the council president, may be appointed by the city council to serve
 113 as ex officio members of such boards, commissions, or authorities, without a vote for a
 114 term expiring December 31 following the date of appointment."

115 **SECTION 7.**

116 Said Act is further amended by revising Section 3.01 as follows:

117 "SECTION 3.01.

118 Powers and duties of the mayor.

119 (a) The mayor shall:

120 (1) Serve as the ceremonial head of the city and as its official representative to federal,
 121 state, and local governmental bodies and officials;

122 (2) Sign as a matter of form, but with no discretion in the matter, all orders, checks, and
 123 warrants for payment of money within a level of authorization as established by the city
 124 council;

125 (3) Execute as a matter of form, but with no discretion in the matter, all contracts, deeds,
 126 and other obligations of the city within a level of authorization as established by the city
 127 council;

128 (4) Make appointments as provided by this charter, subject to confirmation by the city
 129 council;

- 130 (5) Serve and be compensated accordingly; and
131 (6) Perform any other duties and exercise any other powers required by state or federal
132 law or authorized by a duly adopted ordinance that is not in conflict with this charter.
133 (b) The mayor shall have all of the powers specifically granted to the mayor elsewhere in
134 this charter regardless of whether such powers are enumerated in this section of this
135 charter."

136 **SECTION 8.**

137 Said Act is further amended by revising Section 3.02 as follows:

138 "SECTION 3.02.

139 City manager; appointment and qualification.

- 140 (a) The city manager shall be appointed as provided by subsection (b) of this section,
141 without regard to political beliefs and solely on the basis of his or her education and
142 experience in the accepted competencies and practices of local government management.
143 The city manager need not be a resident of the City of Stonecrest.
144 (b)(1) The mayor shall nominate, subject to confirmation by the city council, an
145 individual to be the city manager;
146 (2) In the event that the city council does not confirm the mayor's initial nomination, the
147 mayor shall nominate a second individual to be city manager, who shall also be subject
148 to confirmation by the city council; and
149 (3) In the event that the city council does not confirm the mayor's second nomination,
150 the council president shall nominate an individual to be city manager who shall also be
151 subject to confirmation by the city council. The council president may offer as many
152 nominations as are needed until the required approval is achieved."

153 **SECTION 9.**

154 Said Act is further amended by revising Section 3.03 as follows:

155 "SECTION 3.03.

156 Role delineation.

157 Based upon the firm belief that the proper, efficient, and effective administration and
158 operation of the city's council-manager form of government will be fostered by a clear
159 definition of the roles and responsibilities of the city council, council president, mayor, and

160 city manager, this section states the following principles, which are intended to be fully
161 consistent with this article:

162 (1) The full and complete legislative and policy-making authority of the city resides in
163 the part-time city council, council president, and mayor; and the full-time city manager
164 shall take no action which impinges upon or interferes with the city council's or the
165 mayor's policy-making role. Other than providing information relevant and germane to
166 the city council's legislative deliberations, the city manager shall strive to remain a neutral
167 party in such legislative deliberations. To ensure the actuality and appearance of
168 neutrality, neither the city manager nor any department heads shall participate in any
169 political activity on behalf of the mayor, any councilmember, or any candidate for such
170 offices, nor shall the city manager or any department head make any political contribution
171 to the mayor, any councilmember, or any candidate for such offices. The mayor, council
172 president, and councilmembers shall not solicit or accept any campaign contributions
173 from any city employee;

174 (2) The city manager is the full-time chief executive officer of the city, and, as such, all
175 department heads, except those who are appointed by and report to the city council, shall
176 report to the city manager. The mayor, council president, and councilmembers shall
177 observe the management authority of the city manager;

178 (3) Except as otherwise provided in this charter, the mayor, council president, and
179 councilmembers shall not in any manner dictate the appointment or removal of any city
180 administrative officers or employees whom the city manager or any of his or her
181 subordinates are empowered to appoint;

182 (4) Except for the purpose of conducting an investigation or inquiry authorized by the
183 city council pursuant to Section 3.12 of this charter, the mayor, council president, and
184 councilmembers shall deal with city officers and employees who are subject to the
185 direction and supervision of the city manager solely through the city manager, and neither
186 the mayor nor any councilmembers shall give orders to any such officers or employees,
187 either publicly or privately;

188 (5) The mayor, council president, and city council shall not give directives to any city
189 officers or employees, other than the city manager or officers appointed by the city
190 council, regarding any matters including, but not limited to, constituent complaints and
191 complaints regarding the services, operation, or administration of any department or
192 function of city government. Although the mayor, council president, and city council
193 shall not be prohibited from communicating with city officers or employees with
194 constituent complaints or concerns, the city manager must be copied on all such
195 communications;

196 (6) The mayor, council president, and councilmembers, unless acting pursuant to a duly
 197 authorized investigation or inquiry, shall not discuss in open session the performance of
 198 or complaints against any city officer or employee during a city council meeting. This
 199 provision is not intended to prevent the mayor, council president, or city council from
 200 discussing, in general terms, the performance of or any issue relating to any department
 201 or function of city government;

202 (7) It shall be prohibited for the mayor, council president, or any councilmember to sit
 203 in on personnel and management meetings between the city manager and city employees
 204 unless such participation is consented to by the city manager and approved by the city
 205 council;

206 (8) The mayor shall have no management authority or responsibility with respect to the
 207 operations and administration of city government; and

208 (9) The mayor, council president, and councilmembers, as elected officials, shall possess
 209 fundamental oversight duties and responsibilities with respect to all operations and
 210 administration of city government, and the city manager shall be responsible and duty
 211 bound to facilitate the mayor and city council's oversight function. Once the city council
 212 has passed the operating and capital budgets of the city, it shall be the responsibility of
 213 the city manager to administer such budgets and to keep the mayor, council president,
 214 and city council fully informed as to the city's progress against such budgets. The city
 215 manager shall provide monthly financial updates on the budgets with year to date
 216 information, and such updates shall contain all material information necessary for the
 217 mayor and city council to evaluate the financial performance and condition of the city.
 218 However, once the city council has appropriated funds in the budget and encumbered
 219 such funds through subsequent legislative action, the city manager shall have the
 220 authority to administer such budget, including contract administration and account
 221 payables, as part of the management function."

222 **SECTION 10.**

223 Said Act is further amended by revising paragraph (4) of Section 3.04 as follows:

224 "(3) Remove employees appointed and employed under paragraph (2) of this section,
 225 without the consent of the city council but must give notice to the city council prior to but
 226 not later than the next regular scheduled council meeting;"

227 **SECTION 11.**

228 Said Act is further amended by revising Section 3.05 as follows:

229 "SECTION 3.05.
230 City council interference with administration.

231 Except for the purpose of inquiries and investigations under Section 2.08 of this charter or
232 as provided in Sections 3.01 and 3.03 of this charter, neither the mayor, council president,
233 nor any councilmembers shall interfere with the performance of services by or give orders
234 to any such officer or employee, either publicly or privately."

235 **SECTION 12.**
236 Said Act is further amended by revising Section 3.06 as follows:

237 "SECTION 3.06.
238 City manager; removal.

239 (a) The city manager may be removed from office in accordance with the following
240 procedures:

241 (1) The city council by resolution by affirmative vote of a majority of all its members
242 may remove the city manager from office after a suspension of the city manager from
243 duty for a period not to exceed 45 days. A copy of such resolution of the city council
244 shall be delivered promptly to the city manager;

245 (2) Within five days after a copy of such resolution is delivered to the city manager,
246 he or she may file with the city council a written request for a public hearing and a
247 reconsideration of the removal. This hearing shall be held at a city council meeting
248 especially set for such purpose not earlier than 15 days nor later than 30 days after the
249 request is filed. The city manager may file with the city council a written reply to the
250 removal not later than five days before the hearing; and

251 (3) If the city manager either (i) does not request a public hearing and a reconsideration
252 of the removal five days from the date when a copy of such proclamation or resolution
253 was delivered to the city manager; or, (ii) if after the conclusion of the public hearing
254 requested by the city manager for reconsideration of the removal, the city council does
255 not pass a resolution either reversing the action or rescinding its resolution of removal,
256 the city manager's removal shall be effective as of such date without further action by
257 the city council.

258 (b) Unless the resolution of removal of the city manager is rescinded by majority of the
259 members of the city council at the public hearing held at the request of the city manager
260 pursuant to this section, the city manager shall continue to receive his or her salary until
261 the effective date of his or her removal.

262 (c) If the city manager is suspended in accordance with subsection (a) of this section or
 263 becomes disabled and is unable to carry out the duties of the office or if the city manager
 264 dies, the acting city manager shall perform the duties of the city manager until the city
 265 manager's disability is removed or until the city manager is replaced. Removal of the city
 266 manager because of disability shall be carried out in accordance with the provisions of
 267 subsection (a) of this section.

268 (d) The mayor shall be authorized to propose a resolution to the city council seeking the
 269 removal of the city manager, but if the city council rejects such resolution, the mayor shall
 270 not propose another such resolution for a period of 180 days."

271 **SECTION 13.**

272 Said Act is further amended by revising Sections 3.08 through 3.11 as follows:

273 "SECTION 3.08.

274 City attorney.

275 (a) The city council shall appoint the city attorney together with such assistant city
 276 attorneys or special city attorneys as may be deemed appropriate. The mayor, council
 277 president, or any councilmember may nominate such attorneys for appointment by the city
 278 council. The city council shall provide for the payment of such attorneys for services
 279 rendered to the city. The rates or salary paid to any city attorney or assistant city attorney
 280 shall be approved in advance by the city council. The city attorney shall be responsible for
 281 representing and defending the city in all litigation in which the city is a party; may be the
 282 prosecuting officer in the municipal court; shall attend the meetings of the city council as
 283 directed; shall advise the city council, mayor, other officers, and employees of the city
 284 concerning legal aspects of the city's affairs; and shall perform such other duties as may be
 285 required by virtue of his or her position as city attorney. The city attorney shall review all
 286 contracts of the city but shall not have the power to bind the city unless authorized by
 287 resolution of the city council.

288 (b) In a conflict between the mayor and the city council, the city attorney shall engage
 289 separate outside firms to represent the interest of the city council and the mayor,
 290 respectively. Notwithstanding any law or ordinance to the contrary, the city attorney shall
 291 not represent the interests of the city council or the mayor against the other. Unless the
 292 litigation allegations specify individual wrongdoing by an individual member of the city
 293 council or the mayor, the outside firm shall be able to represent the entity rather than the
 294 individual and separate attorneys for the individuals of the city council shall not be
 295 necessary.

296 SECTION 3.09.

297 City clerk.

298 The city council shall appoint the city clerk, and the mayor, council president, or any
 299 councilmember may nominate individuals for appointment by the city council. The city
 300 clerk shall keep a journal of the proceedings of the city council, to maintain in a safe place
 301 all records and documents pertaining to the affairs of the city, and to perform such duties
 302 as may be required by law or ordinance or as the city council or city manager may direct.

303 SECTION 3.10.

304 Tax collector.

305 The city council may appoint a tax collector, and the mayor, council president, or any
 306 councilmember may nominate individuals for appointment by the city council. The tax
 307 collector if appointed shall collect all taxes, licenses, fees, and other moneys belonging to
 308 the city subject to the provisions of this charter and the ordinances of the city; and the tax
 309 collector shall diligently comply with and enforce all general laws of Georgia relating to
 310 the collection, sale, or foreclosure of taxes by municipalities.

311 SECTION 3.11.

312 City accountant.

313 The city council may appoint a city accountant, to perform the duties of an accountant.
 314 The mayor, council president, or any councilmember may nominate individuals for
 315 appointment by the city council."

316 SECTION 14.

317 Said Act is further amended by revising subsection (b) of Section 4.02 as follows:

318 "(d) The judge, or judge pro tempore, shall serve for a term of four years but may be
 319 removed as provided by general law."

320 SECTION 15.

321 Said Act is further amended by revising subsection (b) of Section 5.03 as follows:

322 "(b) Beginning in the third year of the city's operation, the city manager is required to
 323 present to the city council a budget, which is balanced in projected spending and revenues."

324 **SECTION 16.**

325 Said Act is further amended by revising subsection (b) of Section 5.04 as follows:

326 "(b) Beginning in the third year of the city's operation, the city manager is required to
327 present to the city council a budget, which is balanced in projected spending and revenues."

328 **SECTION 17.**

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