

Senate Bill 124

By: Senators Setzler of the 37th, Albers of the 56th, Kirkpatrick of the 32nd, Gooch of the 51st, Anavitarte of the 31st and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 5 of Title 36 of the Official Code of Georgia Annotated,
2 relating to county governing authorities, so as to restate constitutional limitations on the
3 authority of county governing authorities to reapportion or redistrict their election districts;
4 to address local laws relating to consolidated governments; to provide for legislative findings
5 and declarations; to provide for construction; to provide for applicability; to provide for
6 related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 The General Assembly finds and declares that:

10 (1) The Georgia Constitution sets forth the home rule powers and responsibilities of
11 counties in Article IX, Section II, Paragraph I, and such provision provides that, "The
12 governing authority of each county shall have legislative power to adopt clearly reasonable
13 ordinances, resolutions, or regulations relating to its property, affairs, and local government
14 for which no provision has been made by general law and which is not inconsistent with
15 this Constitution or any local law applicable thereto.";

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16 (2) The same paragraph of the Constitution further provides that such county home rule
17 powers shall not extend to actions affecting any county elected office or actions affecting
18 the composition, form, or procedures for election of a county governing authority;

19 (3) Until recently, it has been undisputed that county governing authorities lack the
20 authority to undertake the reapportionment or redistricting of their own election districts;
21 and

22 (4) This legislation is intended to supplement these existing constitutional provisions by
23 restating and emphasizing the divisions of power that the people of this state have granted
24 to the General Assembly and to county governing authorities.

25 **SECTION 2.**

26 Article 2 of Chapter 5 of Title 36 of the Official Code of Georgia Annotated, relating to
27 county governing authorities, is amended by revising Code Section 36-5-23, which is
28 reserved, as follows:

29 "36-5-23.

30 (a) Where the General Assembly has enacted a local law providing that members of a
31 county governing authority shall be elected from election districts, such districts shall only
32 be altered, amended, reapportioned, redistricted, or revised by local law enacted by the
33 General Assembly. No county governing authority shall alter, amend, reapportion,
34 redistrict, or revise the election districts from which its members are elected.

35 (b) Where the General Assembly has not enacted a local law providing that members of
36 a county governing authority shall be elected from election districts, such districts shall
37 only be created by local law enacted by the General Assembly. No county governing
38 authority shall create or establish election districts from which its members are elected.

39 (c)(1) Nothing in this Code section shall pertain to a consolidated government where the
40 local law establishing such consolidated government provides procedures for the
41 reapportionment or redistricting of the election districts of such governing authority of

42 such consolidated government or provide that such governing authority is a municipal
43 governing authority for the purposes of reapportionment or redistricting.

44 (2) This Code section shall apply to any consolidated government where the local law
45 establishing such consolidated government provides that any election district for such
46 governing authority shall be established, altered, amended, reapportioned, redistricted,
47 or revised by the General Assembly, or such local law provides that the governing
48 authority of the consolidated government is a county for the purpose of reapportionment
49 or redistricting.

50 (d) Nothing in this Code section is intended to impact or infringe upon the authority of any
51 court of competent jurisdiction exercising its judicial powers in relation to any case or
52 controversy related to county election districts before such court Reserved."

53 **SECTION 3.**

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