TYPES OF COUNTY GOVERNMENT

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INTRODUCTION

The Georgia Constitution (Constitution) provides that each county in this state shall have a governing authority with such powers and limitations as are provided in the Constitution and in law.[1] A county governing authority is created by a local Act or local law — passed by the General Assembly — that typically applies to a specific local jurisdiction, such as one county or one city. By contrast, a general Act or a general law of the General Assembly commonly applies consistently throughout the entire state. General laws are typically codified in the Official Code of Georgia Annotated (O.C.G.A.).

The purpose of this chapter is to provide a clear understanding of the following:

- Functions of the county governing authority and differences between policymaking, executive, and administrative roles.
- The types of county government in Georgia.
- Professional management in county government and differences between county manager and county administrator.
- Legal requirements to change the type of county government.

Throughout the chapter, the term "county governing authority" will be used to represent boards of commissioners, sole commissioners, and consolidated governments.

FUNCTIONS OF COUNTY GOVERNING AUTHORITY

When considering the role and functions of the county governing authority, it is important to understand the form of government in which it operates. In Georgia, county governing authorities typically fall within one of two categories: (1) sole commissioner and (2) board of commissioners. Consolidated governments, which vary in title, function like a board of commissioners, but with duties of both a county and city. While many variations exist within the categories, the two primary roles of the governing authorities — policymaker and executive — remain fairly consistent.

Primary Roles

Understanding the differences between the roles of policymaker and executive is essential, as they help define the form of a county government. Policymaker is an "enabling" role and executive is an "implementing" role. Once it is determined how narrow or broad those roles are to be, the appropriate form of government for the county can then be delineated in the local Act.

Policymaker: Enabling Role

A county governing authority is acting in the role of a policymaker when it performs legislative actions and functions of government. For example, when a county governing authority proposes, votes upon, and adopts official measures — such as ordinances, resolutions, or regulations — it is acting in a policymaking capacity. This function includes the basic actions of county government, such as adoption of county zoning and land use ordinances, the county's annual budget, or the county personnel policy, to name but a few. Acting in this capacity, the governing authority assumes the role of policymaker via legislative action, a function directly authorized by the Constitution.[2]

When the county governing authority is operating within this enabling role, it serves a legislative and policy-setting function. Setting a policy on a matter provides the structure and framework within which that policy can then be administered. This role is the basic function of local government — to set forth policy which provides for the health, welfare, and public safety of its citizens.

Executive: Implementing Role

A county governing authority is acting in an executive role when it performs the administrative responsibilities and duties necessary for the daily operations of county government. It makes sure that county policies are conducted (e.g., implementing county policies and priorities as described and funded in the annual county budget).

Once a policy has been set and its structure and framework established by legislative action, the policy is then implemented by administrative action. A person or persons acting in an executive capacity oversee this function. This could be the county commission chair, the county manager or administrator, or the entire board of commissioners.

To better understand the nuances of the implementing role, it is important to distinguish between the terms "executive" and "administrative." Executive generally means a person or group of people in power putting laws, plans, and actions into effect. Administrative generally means overseeing or managing those laws, plans, and actions. However, in Georgia county governments, such distinctions are not always readily apparent and can be difficult to deduce.

For example, in the purest form of executive power, counties that employ managers delegate the hiring and firing of county department heads to that person. In the purest form of administrative power — in counties that employ administrators — the governing authority retains the power to hire and fire department heads (perhaps subject to a recommendation from the county administrator). However, the administrator manages daily operations overseen by the department head. Yet in some counties, managers do

not possess the power to hire and fire department heads; in some counties, administrators have been granted such power. (Note: *Employees of a county constitutional officer, such as the sheriff, are considered to be employees of that constitutional officer and are not subject to this power by the county governing authority, the county manager, or the county administrator.*[3])

In another example, if a chair is designated and given powers as chief executive officer of the county, then the county governing authority cannot take away the chair's title and powers and give them to a county manager. That change would require passage of a local Act of the General Assembly because executive powers would be altered (see Board of Commissioners on p. 5). More information about this process and related legal ramifications follows later in this chapter.

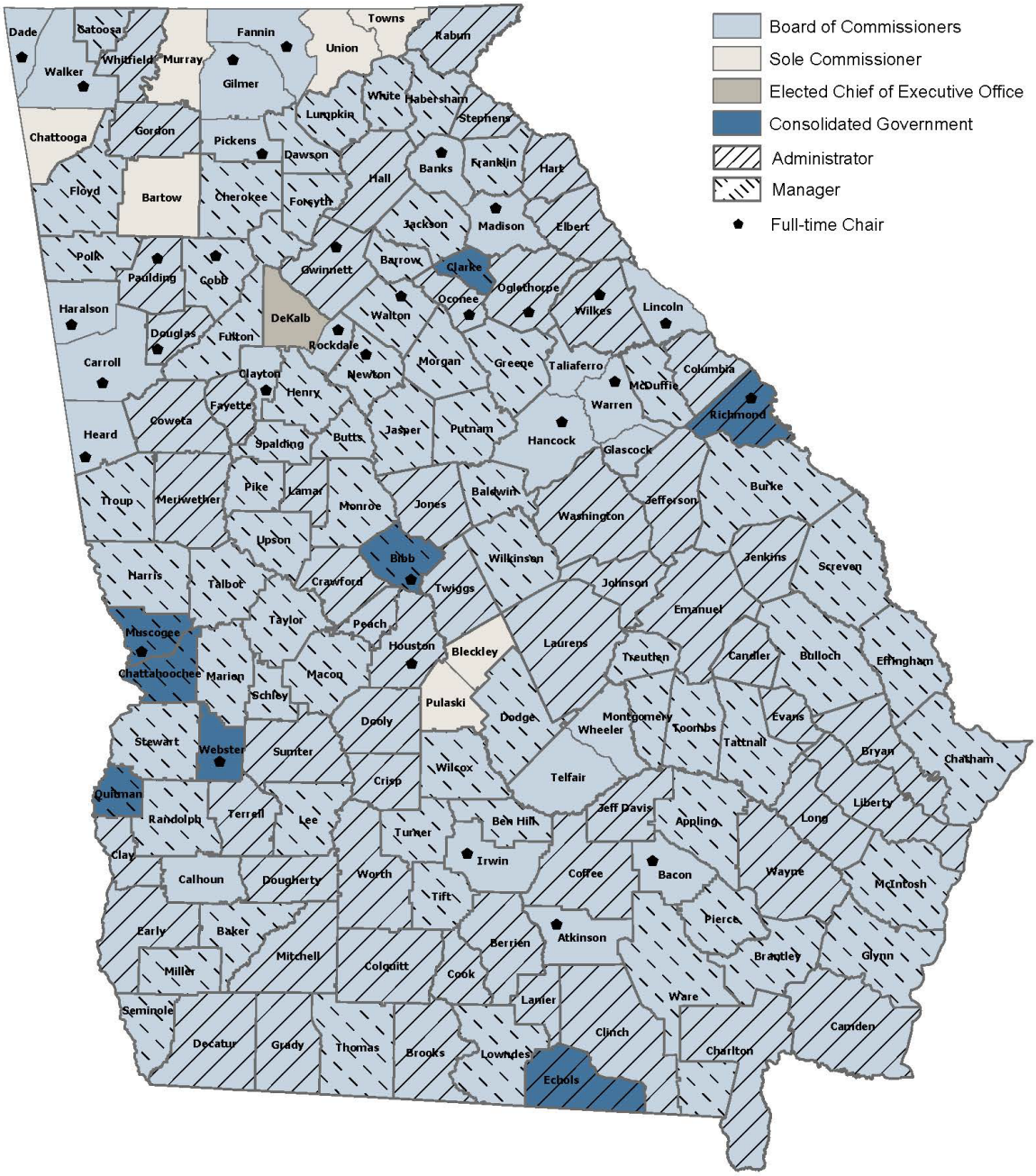
TYPES OF COUNTY GOVERNMENT

The form of government often influences how and when policymaker and executive roles are used. Historically, there were five broad categories of county government in Georgia:

1. Sole commissioner.
2. Board of commissioners.
3. Consolidated government.
4. Elected chief executive officer.
5. Judge of the probate court.

While counties use the first four of these categories today, no counties may change to the last category. The purpose and structure of each category have bearing on government operations across the state. The map on the following page gives an overview of the forms of government as they exist by county in Georgia.

County Government Structure



Sole Commissioner

The sole commissioner form of county government is exactly what the name suggests — a single individual serves as the elected official of the county. The commissioner is responsible for the powers, duties, and functions usually performed by a board, thus consolidating both policymaking and executive roles and responsibilities into one person.

In some cases, sole commissioners opt to hire a county manager or administrator to assist with county management. As of 2021, seven counties in Georgia have this form of government; four of the counties utilize a county manager or administrator (see County Government Structure map, p. 4 for greater detail regarding which counties operate under this form of government).

The Association County Commissioners of Georgia (ACCG) maintains a model Act for the sole commissioner form of government (see Model Sole Commissioner Act V11). Counties desiring to switch to a sole commissioner form of government or update an existing sole commissioner government would need to submit the model Act to their local delegation to the General Assembly for drafting into bill form and introduction as local legislation.

Board of Commissioners

The board of commissioners is an elected body that is responsible for the powers, duties, and functions of the county, fulfilling the policymaking and executive functions.

The local Act that creates the board (see Direct Creation by Local Act, p 12) determines how many commissioners there will be, and whether they will be elected from districts (including "super" districts that overlay other districts), at-large, and/or by "posts." There is no standard number of commissioners defined by law. The number of commissioners sometimes corresponds to the number and boundaries of local county board of education districts.

When the county governing authority is a board of commissioners, it can take many different forms. What is identified as appropriate for each jurisdiction determines the selection and implementation of variations in structure and function. ACCG maintains a model Act for the board of commissioners form of government, which provides greater detail regarding the specific provisions of these alternate distinctions (see Model County Commission Act V11). Counties desiring to switch to this form of government or update their local Act would need to submit the model Act to their local delegation of the General Assembly for drafting into bill form and introduction as local legislation.

Chair

A board of commissioners includes the position of chair, but the manner of selection and powers of the chair can vary greatly. A chair can be elected by the voting populace during a countywide election or can be annually selected from the members of the board. Regarding powers afforded the chair, he or she may merely serve as the presiding officer of the board or may function as the chief executive officer of the county.

When the chair is given the primary executive powers and the board is given primary policy functions, this structure is described as a "strong chair" form of government. In this scenario, the chair operates as the chief executive of the board and is usually responsible for daily operations of the county. Whether a chair is always empowered to vote on measures or only to break a tie is usually set forth in the enabling Act. Some chairs are authorized to veto measures passed by the board; the board can — usually with a super-majority — override a veto.

When the chair shares the primary executive powers and policy functions with the full board of commissioners, it is described as a "weak chair" form of government. The chair does not function as the chief executive of the board and, similarly, is not responsible for day-to-day operation of the county. In most cases, a weak chair does not have the power or authority to veto measures passed by the board, hire and/or fire department heads, or prepare the county budget.

The position of chair can be either full time or part time, as determined by the county's local Act. The distinction is usually based upon whether a county has a manager or administrator. In cases where there is no manager or administrator, having a full-time chair provides for a person to focus full time on the running of the county. In cases where there is a manager or administrator, then that individual is the person who focuses full time on the running of the county.

Professional Management

Most counties in Georgia with a board of commissioners form of government hire professional management to oversee executive functions and daily operations. Although not required, more than 120 of Georgia's 159 counties currently maintain professional management in one form or another — typically, a county manager or a county administrator. Slightly more than half of those 120 counties use professional staff with the title of county administrator. As there are significant differences in the two positions, careful and deliberate consideration should be given to the desired operation of government with clear understanding of and intention for the most appropriate management structure.

The following sections explain the differences between county managers and county administrators, how to know which is the most appropriate managerial function for the county, and how to know if professional management is appropriate for that government.

County Managers and Administrators

In general, the primary difference between these two positions is that managers typically have authority to hire or fire department heads (an executive power), while administrators do not. However, the actual roles and authority vested within county administrators and managers vary greatly across the counties in Georgia. This section addresses the variations in a general sense; see Model County Commission Act V11, Articles IV and V for specific differences and options addressed in greater detail.

When a county wants its manager to have executive powers, the position cannot be established under county home rule. It must be done by local Act of the General Assembly because the shift constitutes a change in the form of government itself.

When a county wants its administrator to have administrative rather than executive powers, the position can be established under county home rule by following O.C.G.A. § 36-5-22 (see County Home Rule Ordinance, p. 17). Because the county administrator is not granted executive powers, it does not constitute a change in the form of government and does not require a local Act by the General Assembly.

There is no strong line division between county managers and county administrators. Even state law is inconsistent and unclear regarding the distinctions between the two. Both terms are referenced in various places throughout the O.C.G.A.[4] in a seemingly interchangeable manner. However, O.C.G.A. § 36-5-22 — which grants counties the direct, self-help power to create the office of county manager — only allows the county manager so created to exercise *administrative* powers.[5] The granting of executive powers constitutes a change in the form of government and is thus excluded from county home rule action[6] under the Constitution.[7]

While a county manager may have direct control over departmental actions, procedures, personnel, and budget development, the county governing authority retains complete authority and the responsibility for overall government operations and policy. In other words, the board's control over the county manager is absolute.

In contrast, the county administrator form of government typically retains a more political flavor due to the authority retained by the county governing authority. In some instances, the role of the county administrator may be reduced to performing functions more in line with that of a coordinator or administrative assistant. The county

administrator may sometimes be responsible primarily to the commission chair, rather than to the board. With a secondary accountability to the board, this type of structure may join an administrator to the political fortunes of the chair. This scenario is not recommended since it may dilute or distort management recommendations that might otherwise be provided to the full board under a more direct reporting arrangement.[8]

The county administrator's ability to control county operations and bureaucracy may be undermined if any commission members have or are assigned a direct responsibility to oversee departments in terms of budgeting, personnel issues, and operations. While a county governing authority may benefit from having an individual member serve as a liaison to one or more county departments in an administrator form of government, only the board as a whole can exercise executive powers. A single member cannot "direct" any given county department.

As evidenced by the relationships, intricacies, responsibilities, and varying powers that county managers and administrators face, true professional management is a highly valued asset for county government. Going beyond the mere employment of a full-time administrator or manager, most counties seek to hire an educated, experienced professional to serve as the chief executive of its government. As such, they are typically granted extensive executive authority that goes with that responsibility. Among professional local government managers, desired credentials increasingly include graduate level education, such as a Master of Public Administration (MPA) degree.

Many elements are included in granting extensive formal executive authority, but three stand out as being most crucial. First, the authority to appoint and remove department heads is a key element of executive control. If the county governing authority retains control over the appointment or removal of department heads, then personnel decisions and many operational decisions will likely remain political.

Second, the county manager's responsibility for preparing the proposed budget increases the likelihood that professional management considerations will be favored during initial preparation of a county budget. There is advantage in county departments submitting budget requests based on sound management proposals, rather than the ability to "play politics." Those management considerations are tempered ideally by political judgments only at the point of review by the board of commissioners.

Third, formal executive authority lies in the direct reporting relationship between the county manager and the full board of commissioners, providing opportunity for the board of commissioners to receive direct managerial advice. When that scenario is not in place and the manager reports through the chair on budgetary and other key matters, it allows for possible filtering by the chair of managerial recommendations. This would

deprive the board of commissioners of the full benefit of professional guidance and expertise. It could result in having politics, rather than professionalism, control county management.

Should a County Have Professional Management?

While there is no right or wrong answer to this question, there are some compelling reasons why a county might consider having a manager or an administrator, including, but not limited to:

- Better delivery of services through increased efficiency, effectiveness, and equity.
- Enhanced ability to tackle difficult issues, understand the principles and practices of local government management, and oversee day-to-day operations.
- Elimination or reduction of political pressures on executive and administrative functions, allowing professional management to play a stronger role in service delivery.
- Greater utilization of department heads and other professional staff in planning, financial, and employment or personnel-related matters.

Perhaps the most compelling reason lies in the premise of the old adage that claims, "you get what you pay for." Today, many Georgia counties are getting a great return on their investment from professionally trained and educated county managers and administrators who competently demonstrate their skills as they address the tremendous, adverse pressures affecting counties.

Though their functions vary somewhat, each county governing authority generally delegates a similar set of core responsibilities to the manager or administrator. According to the International City-County Management Association (ICMA),[9] the following responsibilities are generally shared by most county managers and/or administrators:

- Recruit, hire, and supervise employees.
- Administer county laws, ordinances, and resolutions.
- Prepare an annual budget for the county.
- Exercise control over county departments and agencies.
- Keep the county governing authority informed about the county's fiscal condition.
- Oversee purchases of supplies and materials.
- Perform other duties as delegated by the county governing authority.

Additional information regarding the responsibilities of county managers and/or administrators can be found on the International City/County Management Association (ICMA) website.

Despite the many benefits and assets that professional management brings to a county, it is common for citizens to question the value of a county manager or administrator. A simple evaluation of the "return on investment" for paid professional staff is easy to calculate. Following the process described below, elected officials can determine the value of professional management.

1. Determine the value, or cost, of work completed by the manager or administrator that would have been performed by outside sources.
2. Next, add the cost savings and/or additional revenues identified by the manager or administrator.
3. Finally, subtract the cost of the management (salary + benefits) from the savings/additional revenues achieved.

The final calculation should represent the monetary value of professional management.[10]

Continuing Education and Peer-to-Peer Networking for Professional Managers

While there is no rigorous definition of minimum criteria to qualify as a candidate for a county manager, most counties seeking professional management require (or at a minimum, prefer) an MPA degree or a related field of study and several years of experience. However, some counties will accept more experience in lieu of the desired educational credentials.

Although many managers and administrators have earned an MPA or related degree, formal education does not constitute the end of training in public administration. In fact, it is only the beginning. Most managers and administrators participate in one or more professional organizations, such as the Georgia City-County Management Association (GCCMA) and/or ICMA. Both offer ongoing opportunities to participate in extensive continuing education and training courses, as well as peer-to-peer networking. Professional associations provide an opportunity to improve management skills through interaction and exchange of information with other professionals in the field, as well as sharing experiences and best practices in small group settings.

Continuing education provides benefit not only to managers and administrators, but ultimately to the county and its governing authority. Ongoing training ensures that professional management is up to speed on innovative practices. Learning from their peers and experts from around the state and across the country, managers and

administrators expand their understanding of best practices in governance and management trends. Investing in continuing education makes a difference in the quality of services provided to citizens. It often results in long-term cost-savings and, potentially, new or enhanced revenues.

Additionally, managers and administrators may also participate in educational programs offered by ACCG, including the "Administrators/Managers Section" meetings held in conjunction with ACCG conferences and events throughout the year. ACCG also offers continued opportunities for peer-to-peer interaction and sharing through its online listserv.

As managers and administrators participate in professional development opportunities, they do so with a singular goal — to perform their responsibilities and duties in ways that maximize the value of local government for taxpayers. The task may not be easy for county management, but the reward for the public is the continuance of vital government services. Commitment to professional development by managers and administrators – with the support of county governing authorities – results in a positive return on investment well beyond any perceived additional cost.

Consolidated Government

The third form of government for Georgia counties, which requires a somewhat more complicated or involved process to establish, is known as consolidated government. Consolidated government represents a type of county government in which the traditional governmental powers and functions that are vested in one or more cities are combined, or consolidated, with the traditional governmental powers and functions of the county.[11]

In Georgia, there are currently eight consolidated governments created through varying methods, as allowed by state law. With five ways of consolidating, it is important to understand the differences of each — particularly for counties that may be considering undertaking a potential referendum for consolidation. However, only the following four options remain available for the consolidation process:

1. Direct creation by local Act.
2. Charter commission.
3. Alternative method under general law.
4. County consolidation when no city exists.

The fifth method — through a local constitutional amendment (LCA) — is no longer available.[12]

Direct Creation by Local Act

The Constitution specifically authorizes the direct creation of a consolidated government by local Act.[13] Any such local Act requires approval by the voters of the county through a referendum, as well as by the voters of each city participating in the consolidation that contains at least 10% of the total population of the county.[14] The consolidated government of Macon-Bibb County was created by this method in 2014.

Charter Commission

The Constitution specifically authorizes the direct creation of a consolidated government charter commission by local Act.[15] The charter commission is appointed and given the authority to study any and all issues pertaining to the potential consolidation. Upon review, the commission is given the task of drafting a charter to establish the new consolidated government. The charter also serves to define the powers and jurisdiction of the new government throughout the limits of the county itself, replacing the existing municipal and county governments.

Following drafting of the proposed charter — and dependent upon the provisions in the local Act which established the charter commission — it can either become effective without further action by the General Assembly or be made contingent upon its subsequent ratification by local Act.[16] In either case, voter approval through referendum is still required. The consolidated governments of Athens-Clarke, Georgetown-Quitman, Cusseta-Chattahoochee, and Webster counties were created by this method.

Alternative Method Under General Law

Through the Constitution, the General Assembly is authorized to provide by general law for alternative methods of consolidation, subject to voter approval. It did so in 1986, enacting O.C.G.A. Chapter 36-68. Although perhaps less flexible than direct creation by local Act, this alternative method provides numerous optional features, as well as mandatory requirements of a consolidation by local Act.[17]

Mandatory matters include:

1. The creation of a special tax district — consisting of the territory lying within the corporate boundaries of the municipality — for the purpose of the successor county government levying a tax therein sufficient to retire the municipality's bonded indebtedness, which was outstanding on the effective date of the repeal of the charter of the municipality.
2. The effectiveness of local laws described in items 3 and 4 below shall be contingent upon their approval by the governing authorities of the affected municipality and county prior to the referendums under items 3 and 4.

3. The effectiveness of a local law repealing the charter of a municipality shall be contingent upon its approval by a majority of the voters voting within the municipality and upon the parallel local law described by item 4 below becoming effective.
4. The effectiveness of a local law shall be contingent upon its approval by a majority of the voters voting throughout the territorial boundaries of the applicable county and upon the parallel local law described by item 3 above becoming effective.

Optional matters, which are available to counties as they consider consolidation under this method, include:

- The form of government of the county which is the successor to the corporate powers, functions, rights, properties, and obligations of the municipality.
- The county to constitute a municipality, as well as a county, for the purposes of the application of the general laws and the Constitution
- The exercise by the county of the powers vested in the former municipality and in municipalities generally, as well as the powers vested in the county and counties generally.
- The county to receive any grants or other types of funds or revenues which the former municipality was entitled to receive, as well as grants or other types of funds or revenues which the county is entitled to receive.
- The status of the county relative to any municipalities, other than the municipality having its charter repealed, located wholly or partially within such county.
- The transfer of all assets and properties of the municipality, or municipalities, to the county.
- The assumption by the county of all contractual and other obligations of any constituted municipality.
- The transfer of employees of the municipality, or municipalities, to the county and for the preservation of any rights of such employees and their beneficiaries existing under any retirement or pension system of the municipality.
- Any other matters reasonably necessary or convenient to achieve and implement effectively a governmental reorganization described by O.C.G.A. § 36-68-1.

County Consolidation When No City Exists

If a county that is providing at least three services (such as fire protection, police, roads, etc.[18]) has no city, and wishes to constitute itself as a consolidated government, it can do so by adopting a resolution that must be approved in a local referendum.[19] The consolidated government of Echols County was created by this method.

Local Constitutional Amendment

The fifth type of consolidation that existed, but which may no longer be used, was through the adoption of an LCA.[20] This method created the consolidation of Columbus-Muscogee County in 1970. As Georgia's first consolidated local government, the consolidated government of Columbus-Muscogee County was established under the authority of an LCA.[21]

The LCA that created Columbus-Muscogee County predated the general provisions of the Constitution now in effect regarding consolidation. The LCA authorized the General Assembly to create a charter commission to draft the new county-wide government. A subsequent LCA provided for a charter review commission for the consolidated government, where the charter itself is reviewed at ten-year intervals.[22]

See the County Government Structure map on page 4 for details regarding what counties operate under a consolidated government.

Elected Chief Executive Officer

The chair of the board of commissioners is sometimes designated as its chief executive officer (CEO) by the local Act that created the board. As discussed previously, the chair can be elected county-wide or selected from among the members of the board.[23] With that in mind, designation as CEO is often nothing more than a title.

Uniquely, DeKalb County has an elected CEO in its form of government. Although the county has an elected board of commissioners, the elected CEO wields a great deal of executive and administrative power. The board of commissioners fulfills the primary policymaking role, while the CEO and the board share the executive role. The DeKalb CEO form of government includes numerous restrictions regarding initial enactment of its implementing local Act and any subsequent alteration or repeal of that local Act. These restrictions include the requirement that such items be approved in a local referendum.

What makes this CEO structure unique is its authorization by an LCA to the Constitution that applied solely to DeKalb County.[24] Under the current Constitution, the adoption of any LCA is prohibited.[25] While this specific CEO form of government could not be duplicated because of the current LCA prohibition, it is possible that a local Act of

the General Assembly could enact a different form of CEO government. As noted previously, the Constitution only specifies that a county must have a "governing authority with such powers and limitations as are provided in this Constitution and by law."[26] Neither the Constitution nor general law specifies or prohibits any form of county government.[27] Consequently, there does not appear to be an impediment to providing for an elected CEO form of government by a local Act,[28] just like a local Act can provide for a sole commissioner or a board of commissioners. To date, however, no county has opted to change its form of government to any type of elected CEO. As such, DeKalb County remains the only example to be found in the state.

Judge of the Probate Court

This form of government is no longer legally permissible due to the separation of powers under the Constitution, but understanding the concept of the judge of the probate court serving as a county governing authority is important. Allowed under former constitutions, it does have some bearing under unique or emergency circumstances. The following sections explain this form of government as previously allowed and in its current state.

Former Constitutions

Prior to 1987, the Constitution and general law allowed for government by the judge of the probate court.[29] Under the constitutions of 1945[30] and 1976,[31] the judge of the probate court could have original and exclusive jurisdiction over matters of county administration in such manner as provided by law. In other words, the judge of the probate court served as the governing authority of the county. Both of the former constitutions contained a separation of powers clause that provided no person could discharge simultaneously the duties of legislative, judicial, or executive powers. The provision allowing the judge of the probate court to serve as the county governing authority was a direct exception to separation of powers.[32]

Current Constitution

When the Constitution of 1983 was ratified, it removed the enabling language which provided the option of having the judge of the probate court function as the county governing authority. The implementing general law authorization was repealed in 1987.[33] Therefore, a local Act can no longer enact this form of government.

The Constitution states that a county must have a "governing authority with such powers and limitations as are provided in this Constitution and by law."[34] The Constitution and general law do not specify or prohibit any form of county government. However, the Constitution does require that each class of court, including the judge of the probate court, have uniform powers.[35] Consequently, a mere local Act of a single

county cannot allow the county's governing authority to be the judge of the probate court.

It is unlikely that the General Assembly would reenact a general law which provides for this form of government. For such a law to meet the uniform court powers test of the Constitution, it would have to apply to every county. This would mean replacing every sole commissioner and board of commissioners. There is an even more difficult problem — such a general law would constitute a clear violation of separation of powers.

Current Usage of the Judge of the Probate Court as the County Governing Authority

Under extremely limited circumstances, Georgia law still purports to allow the judge of the probate court to serve as the county governing authority. For example, if — as a result of a vacancy (or any combination of vacancies) — there is no longer an acting commissioner remaining in office to constitute the county governing authority, the judge of the probate court is required to serve as the county governing authority until an election and qualification of all successors to the vacated positions.[36]

CHANGING THE COUNTY GOVERNMENT LOCAL ACT – LEGAL REQUIREMENTS

As noted previously, the Constitution provides that each county in this state shall have a governing authority with such powers and limitations as are provided in the Constitution and in law.[37] The governing authority of every county in Georgia, regardless of the form of government, is established in a local Act.

Once a local Act has established a governing authority, there are two ways it can be amended or changed—by a new local Act or by a county home rule ordinance.

Amendment by Local Act

Changing the local Act of a county government can be done by a subsequent local Act of the General Assembly. Such a local Act can provide for a multitude of changes or alterations, including a completely new type of county government (e.g., changing from a sole commissioner to a board of commissioners). Typically, the only restrictions on these types of changes are:

- A local Act is not to infringe upon a county's home rule power[38]
- No office to which a person has been elected shall be abolished, nor the term of office shortened or lengthened, during that term of office unless approved by the voters in a referendum[39]

If a county governing authority desires a change that would require a subsequent local Act, cooperation of the members of the General Assembly who represent the county will

be necessary. Typically, a local legislative delegation maintains its own process and procedures for introducing local Acts. These requirements vary, but often include a signed letter or even a unanimous resolution from the county governing authority requesting the change. In addition, some statutory requirements apply, such as advertising in the county legal organ. Consequently, the county should familiarize itself with these requirements in order to be prepared to fulfill them.

ACCG provides additional information about the legislative process, including but not limited to, the advertising requirements. Further information can be accessed here.

Amendment by County Home Rule Ordinance

The second way of changing the local Act of a county government is by adoption of a county home rule ordinance. The Constitution grants the governing authority the legislative power to adopt clearly reasonable ordinances relating to its property, affairs, and/or management.[40] A specific part of this broad grant of constitutional authority is the ability of a county to amend a local Act of the General Assembly that falls within its home rule powers. Importantly, a home rule ordinance is not the same thing as a regular county ordinance. A county home rule ordinance requires that a special procedure be followed to enact such an ordinance.[41]

Also important is the number of items set forth within the Constitution that are excluded from a county's home rule power.[42] For example, a county home rule ordinance cannot affect the composition, form, or procedure for election or appointment of the county governing authority.[43] This means that if a county desired to change from a sole commissioner to a board of commissioners, it could not use a home rule ordinance to do so, but instead would have to use a local Act.[44] Also, a home rule ordinance could not be used to remove executive powers from the chair or the members of the board and vest those powers in a county manager, or vice versa. Similarly, if a county wanted to reduce (or increase) the number of commissioners on its board or to change the election schedule from concurrent to staggered terms of office, it could not do so by home rule ordinance because the actions would affect the composition and procedure for election of the board members.[45]

County home rule, as set out in the Constitution, is a lengthy and complex provision of fundamental importance. County commissioners wishing to utilize this power should discuss proposed home rule matters with the county attorney. For more information, see ACCG reference document, County Home Rule & Local Legislation.

Model Local Acts for Local Government

With 159 counties in Georgia, it is not possible to construct a one-size-fits-all approach that will satisfy the variety of social, political, and economic situations that exist across

the state. Instead, ACCG has developed a series of model local Acts for use by counties in the process of reviewing and amending their current Acts.

The model local Acts organize the basic provisions typically utilized along with additional options. Regardless of whether a county has determined that a complete revision and modernization is needed, or that simply updating selected provisions is the right approach, the model local Acts seek to provide a point of departure for either route.

Model Sole Commissioner Act

The model local Act that addresses the sole commissioner form of government contains the requisite variations for county manager or county administrator positions (see Model Sole Commissioner Act V11).

Model Board of Commissioners Act

The model local Act that addresses the board of commissioners form of government contains information related to a "weak chair" or "strong chair," as well as the position of a county manager or county administrator. This model Act contains provisions related to the election cycles of terms of office — staggered or concurrent — and for single or multi-member commissioner districts. It also contains the requisite variations for county manager or county administrator positions (see Model County Commissioner Act V11).

More Information

For additional information regarding the legal requirements pertaining to the governing authority of a county, see the County Commissioners: Roles and Responsibilities Chapter.

CONCLUSION

Each county in Georgia is required by the Constitution to have a governing authority, which can take one of several forms and is created by a local Act of the General Assembly.

While numerous variations exist within each of these types of government, they are tailored to what each county and its constituents see as appropriate. Policymaking, executive, and administrative roles are all assigned in different capacities to elected and appointed county officials, based on local preference. By following the legal requirements and methodologies allowed under the Constitution, a county may choose and implement the type of government best suited for the needs of its citizens and community.

[1] Ga. Const. art. IX, § I, para. I.
[2] Ga. Const. art. IX, § II, para. I.
[3] See, e.g., *Boswell v. Bramlett*, 274 Ga. 50 (2001).
[4] The Official Code of Georgia Annotated, or O.C.G.A., is the official compilation of general laws of the state. Hard bound volumes are available at the county law library and an online subscription version is available on the General Assembly website.
[5] Therefore, it is more accurate and technically correct for the term county administrator – rather than county manager – to be used in O.C.G.A. § 36-5-22.
[6] The subject of county home rule is discussed at length in the Amendment by County Home Rule Ordinance Section of this chapter, p. 17.
[7] *Krieger v. Walton County Board of Commissioners*, 271 Ga. 791 (1999); *Gray v. Dixon*, 249 Ga. 159 (1982).
[8] Ammons, D., Campbell, R., Wills, D. "County Government Structure," in *Handbook for Georgia County Commissioners,* ed. P.T. Hardy and B.J. Hudson, 5th ed., Chapter 1, p.16. Athens, GA: Carl Vinson Institute of Government, The University of Georgia.
[9] International City/County Management Association website, https://icma.org/professional-local-government-management. Accessed on June 5, 2020.
[10] Wills, D. "Professional County Management: A Positive Return in a Difficult Economy." *Georgia County Government Magazine*, May/June 2009.
[11] A city county consolidation is not required to include all cities in a county.
[12] Although prior constitutions specifically allowed local constitutional amendments, Ga. Const., art. X, § I, para. I currently requires all constitutional amendments to be general and to have uniform applicability throughout the state.
[13] Ga. Const. art. IX, § III, para. II(a).
[14] Id.
[15] Id.
[16] Id.
[17] O.C.G.A. §§ 36-68-2 and 36-68-3.
[18] The complete list of services is found in O.C.G.A. § 36-30-7.1.
[19] O.C.G.A. § 36-68-4.
[20] Ga. Const. art. IX, § III, para. II(a).
[21] Ga. L. 1968, p. 1508.
[22] Ga. L. 1980, p. 2045.
[23] See Board of Commissioners, p. 5 of this chapter.
[24] Ga. L. 1978, p. 2370.
[25] Ga. Const. art. IX, § III, para. II(a).
[26] Ga. Const. art. IX, § I, para. I.
[27] Other than the previously discussed judge of the probate court form of government.
[28] When the constitution uses the phrase 'provided by law,' that means either general or local law.
[29] Former O.C.G.A. §§ 36-5-1 through 36-5-8. These provisions date back to the Georgia Code of 1863.
[30] Constitution of 1945, Art. VI, Sec. VI, Para. II(a).
[31] Constitution of 1976, Art. VI, Sec. VI, Para. II(a).
[32] Ga. Const. art. I, § II, para. III.
[33] Ga. L. 1987, p. 1482, effective April 17, 1987.
[34] Ga. Const. art. IX, § I, para. I.
[35] Ga. Const. art. VI, § I, para. V.
[36] O.C.G.A. § 36-5-21(b).

[37] Ga. Const. art. IX, § I, para. I.
[38] Other limitations are that an elected office cannot be abolished, and the term of an elected officer cannot be shortened without a referendum. O.C.G.A. § 1-3-11.
[39] O.C.G.A. § 1-3-11.
[40] Ga. Const. art. IX, § II, para. I(a).
[41] Ga. Const. art. IX, § II, para. I(b) and (g).
[42] Ga. Const. art. IX, § II, para. I(c).
[43] Ga. Const. art. IX, § II, para. I(c)(1).
[44] *Krieger v. Walton County Board of Commissioners*, 271 Ga. 791 (1999); *Gray v. Dixon*, 249 Ga. 159 (1982).
[45] Concurrent terms are terms which all expire at the same time. This structure can prove disruptive if in a single election cycle all members of the board are replaced by new members. Staggered terms refer to a structure where only some (rather than all) of the board members face election at an election cycle.