

Research Office

Room 609
Legislative Office Building
18 Capitol Square
Atlanta, Georgia 30334
Telephone: (404) 656-0305
Fax: (404) 657-8449



General Assembly
Joint Study Committee on Fulton County

Final Report

Co-Chairman Edward Lindsey
Representative, 54th District

Honorable Kathy Ashe
Representative, 56th District

Honorable Harry Geisinger
Representative, 48th District

Honorable Bob Holmes
Representative, 61st District

Honorable Jan Jones
Representative, 46th District

Honorable Joe Wilkinson
Representative, 52nd District

Honorable Wendell Willard
Representative, 49th District

Co-Chairman Dan Moody
Senator, 56th District

Honorable Judson Hill
Senator, 32nd District

Honorable Kasim Reed
Senator, 35th District

Honorable Horacena Tate
Senator, 38th District

Honorable Lynne Riley
Commissioner, District 3, Fulton
County Board of Commissioners

Mr. Brad Carver
Attorney, Hall, Booth, Smith & Slover

Mr. Mark Hennessy
President, Hennessy Automotive Group

Mr. Al Nash
Executive Vice President, The Columns Group

2007

Prepared by the House Research Office

I. Introduction

The House Study Committee on Fulton County was created by House Resolution 351 during the 2007 Legislative Session of the Georgia General Assembly.

House Resolution 351 provided for the membership of the Committee consisting of 16 members, with eight to be appointed by the Lieutenant Governor, and eight appointed by the Speaker of the House of Representatives, with one cochairperson to be designated by each the Speaker of the House and the Lieutenant Governor. The Speaker of the House appointed Rep. Edward Lindsey (R-Atlanta), Rep Bob Holmes (D-Atlanta), Rep. Wendell Willard (R-Sandy Springs), Rep. Kathy Ashe (D-Atlanta), Representative Jan Jones (R-Alpharetta), Representative Margaret Kaiser (D-Atlanta), Representative Harry Geisinger (R-Roswell), and Rep. Joe Wilkinson (R-Sandy Springs). The Lieutenant Governor appointed Sen. Dan Moody (R-Alpharetta), Sen. Judson Hill (R-Marietta), Sen. Kasim Reed (D-Atlanta), and Sen. Horacena Tate (D-Atlanta), Fulton County Commissioner Lynne Riley, Mr. Brad Carver, Mr. Mark Hennessy, and Mr. Al Nash. Rep. Lindsey and Sen. Moody were designated as cochairmen. .

In order to best investigate the most pressing problems in Fulton County, the committee formed three subcommittees. The subcommittee on the Fulton County Commission Structure was chaired by Rep. Wilkinson and vice chaired by Rep. Ashe, with the subcommittee on the Courts system chaired by Rep. Willard and vice chaired by Senator Reed, and the subcommittee on the Office of the Sheriff was chaired by Commissioner Riley and vice chaired by Senator Reed. In total the committee and subcommittees met 11 times. The Office of the Sheriff subcommittee held meetings on September 17th, October 15th, and November 8th. The Courts subcommittee met on September 20th, October 18th, and November 15th. The County Commission Structure subcommittee met September 12 and October 25. The Full Committee convened on August 2nd, again on November 29th to hear recommendations from the three subcommittees and for a final time on December 17th to vote on recommendations and proposed legislation.

II. Background

A. Fulton County Blue Ribbon Commission

In creating the Joint Study Committee on Fulton County, House Resolution 351 stated “that the committee shall undertake a study of the conditions, needs, issues and uses of the Fulton County government structure and operations and the problems found by the Blue Ribbon Commission or related thereto...”¹

In its January 31, 2006 report to the Fulton County Board of Commissioners, the Fulton County Blue Ribbon Commission on Fulton County Governance (BRC), made several recommendations to the Board for improvements to Fulton County. The first issue the BRC studied was delivery of various services. The BRC recommended that the county government structure was the “best mechanism for providing a wide range of services: Justice, Health, Human Services, Libraries, 911 Dispatch, Solid waste landfill, Storm water system planning and cooperative extension.”² The BRC also found “certain service functions that the BRC recommends be provided by municipalities and unincorporated areas through the SSD (Special Service Districts, at the time of the BRC report, the majority of which are now incorporated municipalities, ed.) roads, fire protection, law enforcement, ambulance services, parks and recreation, planning/permitting enforcement, stormwater system maintenance, solid waste, water collection, and housing and community development.”³

County Commission Structure

The BRC studied the structure and size of the Fulton County Board of Commissioners and issued a recommendation that the “current County Commission structure be revised to include seven district commissioners instead of five and eliminate the county-wide at-large positions.”⁴ In his testimony to the study committee during the August 2nd meeting, BRC Chairman Dr. Robert Eger III acknowledged that the seven member commission was based on a BRC subcommittee study of comparable metropolitan counties, and that seven was a good fit, but that there was support within the committee for both a nine member and five member commission. Dr. Eger further acknowledged that in the time since the BRC had delivered the report, Fulton County had incorporated three new cities, but in his view the final recommendations of the BRC report would be significantly changed due to the new incorporations, only that the county would be providing fewer services within the newly incorporated areas.

The BRC also recommended “major changes in the county’s transportation programs”⁵ and some spending reductions through elimination of the arts program, the county

¹ 07 HR 351/AP

² Fulton County Blue Ribbon Commission on Fulton County Governance, p.6 (hereafter BRC)

³ Ibid

⁴ BRC pp.6-7

⁵ BRC, p.6

supplement for aging services, and improved benchmarking and performance standards.”⁶
The committee did not study either of these recommendations in detail.

Additionally, the BRC “deferred action on or suggested no significant changes in several areas: Justice System (deferred pending the report on the Blue Ribbon Commission on Justice Systems), parks and recreation, and cooperative extension.”⁷

B. Criminal Justice Blue Ribbon Commission

To provide a starting point for the Courts and Office of the Sheriff subcommittees, the committee reviewed the final recommendations of the Criminal Justice Blue Ribbon Commission (CJBRC), delivered September 20, 2006. The CJBRC made final recommendations on seven issues, of which, six were studied in detail by the study committee.

- **Issue One: Additional Jail Capacity/Adjacent Courtrooms:** The CJBRC recommended that the county “Provide additional jail beds and adjacent courtrooms by Fulton County leasing or purchasing both the Atlanta City Jail and the former Municipal Courthouse. The Atlanta City jail would be the principal intake facility for the booking and processing of detainees with the Municipal Court being the site of First Appearance Hearings, All Purpose Hearings, Plea and Arraignment and any other hearings other than trials.”⁸
- **Issue Two: First Appearance Hearings:** The CJBRC recommended that “Magistrates conduct First Appearance Hearings at the Fulton County Jail on a twenty four hour basis seven days a week instead of the current schedule so as to expedite the release of detainees.”⁹
- **Issue Three: Backlog and Delays:** The CJBRC endorsed “the development, implementation and evaluation of a case management system that ensures the active management of cases from filing to disposition and establishes case processing time standards depending on the complexity of the case.”¹⁰
- **Issue Four: Uniform Case Processing Data:** The CJBRC endorsed “the collection and publication of uniform case processing data from the filing of a case to final disposition.”¹¹
- **Issue Five: Information Systems:** The CJBRC recommended that the county “Establish as soon as possible an integrated and operational criminal justice information system.”¹²
- **Issue Six: Diversion of the Homeless and Mentally Ill:** The CJBRC recommended that the county “Provide diversion programs for individuals who are homeless,

⁶ BRC, p.7

⁷ Ibid

⁸ Final Recommendations, Criminal Justice Blue Ribbon Commission, September 20, 2006 (CJBRC), p.1

⁹ CJBRC, p.4

¹⁰ CJBRC, p.6

¹¹ CJBRC, p.8

¹² CJBRC, p.10

mentally ill, or have substance abuse problems that have been charged with non-violent crimes. These individuals need clinically supportive community-based (i.e., not jail-based) crisis management, housing, and intervention services.”¹³

Note: This issue was not studied in detail by the committee.

- **Issue Seven: Fragmentation of the Criminal Justice System:** The CJBRC recommended “Criminal Justice System consolidation/unification with the Fulton County and City of Atlanta should be studied.”¹⁴

C. Current State of Fulton County

County Commission Structure

The Fulton County Board of Commissioners is currently comprised of seven commissioners, with five commissioners elected from districts and two, including the chairman, elected countywide to at-large posts. Commissioners are elected to four year terms and the entire commission is elected during the same election cycle.

The board meets twice monthly and a majority (4 votes) is required to pass any motion before the commission. The commission has no committee structure; all issues are heard before the full commission. All commission members have the ability to place items on the agenda at any meeting. The County Manager, County Attorney and County Clerk report to all seven commissioners. The prison and courts system operate independently of the county commission.

Size of Commission

The study committee recognized that with several new cities incorporating in recent years to the point that Fulton is now over 95% incorporated, that the responsibilities of the county commission have significantly changed. The committee sought to determine if the Board might better serve the citizens of Fulton County with a different structure and thus sought input from current and former Commission chairmen and members.

Authority of Commission Chairman

The committee recognized that relative to the Commission Chairman/Chief Executive in other large metro counties in Georgia, the Fulton Commission chairman has relatively little authority and sought input on strengthening the Chairman position.

Office of the Sheriff

The Office of Sheriff of Fulton County is an elected office, as per the Constitution of the State of Georgia. The Fulton County Sheriff serves a four year term, and elections are held on presidential election years, through party primary and general elections. The Office of Fulton County Sheriff currently employs over 1,000 personnel, with responsibility for

¹³ CJBRC, p.13

¹⁴ CJBRC, p.

management of the Fulton County Jail, Fulton County Courthouse security, and process delivery services. Total expenditures for the Office of Sheriff of Fulton County for the calendar year ended December 31, 2007 were \$90,347,583.

Fulton County Government is currently under a Federal consent decree to improve conditions at the Fulton County Jail. One of the terms of the consent decree limits maximum inmate population to 2,250 at the Fulton County Jail. Fulton County is currently budgeting \$10,000,000 annually for inmate outsourcing to other Georgia correctional facilities to maintain compliance with this mandate. Delayed transfer of state inmates to state correctional facilities has burdened the system capacity further, and insufficient reimbursements from the State of Georgia for state inmate housing have caused the cost to the taxpayers of Fulton County to increase accordingly. Fulton County has appropriated over \$50,000,000 for a multi-year contract to provide mechanical, electrical and plumbing improvements to the Fulton County Jail per the Federal consent decree. Minimum staffing levels within the Jail must also be maintained per the decree.

Fulton County Courts

Fulton County is contained in a single judicial circuit, known as the Atlanta Judicial Circuit. The Superior Court of the circuit is assigned 19 Superior Court Judges. Also, Fulton has approved, by local legislation, 10 State Court Judges, and numerous part-time Magistrate Judges.

Funding of the Superior Court and parts of its staff is mainly through state funding, although the county does provide financial supplemental salary and additional support staff. State & Magistrate Court is fully funded by the county.

All Superior Court and State Court Judges are elected for four (4) year terms, and all Magistrate Judges are subject to appointment by the State Court Chief Judge.

County Court Officials

As part of the Court System, there are numerous other elected or appointed officials serving the court and processing criminal and civil litigation.

1. Clerk of the Superior Court - an elected Constitutional officer, and the Clerk's staff, is the repository and recording office of all court filings and property title records.
2. District Attorney – An elected Constitutional officer, and appointed Assistant District Attorneys, have responsibility to review matters of criminal felony conduct within the circuit jurisdiction, seek indictments and accusations where appropriate, and prosecute the responsible parties before the Superior Court.
3. Sheriff – An elected Constitutional officer, and appointed staff, have responsibility of protection of courts and security of the courthouse. In addition to the Sheriff's other responsibilities related to law enforcement, and service of court papers, the

Sheriff maintains the jail of the county.

State Court of Fulton County

The administration of the State Court is under the oversight of the Chief Judge of the Court.

1. Clerk of the State Court – An appointed official, and the Clerk’s staff, is the repository and recording office of all court filings.
2. Solicitor of the State Court - An elected officer, and appointed Assistant Solicitors, have responsibility to review matters of criminal misdemeanor conduct within the County, which may be assigned to the State Court by law, or transferred to it, seek accusations where appropriate, and prosecute the responsible parties before the State Court.
3. Marshall – An appointed official and appointed staff, have responsibility of protection of the State Courts in the courtroom, and service of State Court papers.

III. Study Committee Issues, Testimony & Findings

A. County Commission Structure

In an effort to determine its recommendation for the structure of the Board of Commissioners, the committee heard testimony from the current and former Chairmen and members of the County Commission, as well as former Atlanta Mayor and current President of the Buckhead Coalition Sam Massell, the Chairman of the BRC, as discussed above, and other interested parties.

Buckhead Coalition President Massell presented the committee with a six point plan for Fulton County Governance during his testimony to the County Commission Structure Subcommittee at its September 12 meeting. Chairman Massell’s plan included (1) Require that all members live in separate districts. (2) Elections for County Commission position should include a primary, in which the top two vote recipients in each district then run county-wide, so that every voter in the county would have an opportunity to elect every member of the commission. (3) That the commissioners have staggered terms to provide for some continuity and institutional knowledge within the commission. (4) That the Chairman continue to be elected as a county-wide at-large position, with the position becoming a full time position and increase the powers of the Chairman, to bring it more in line with other large, metro county Chairman positions. (5) Change elections to non-partisan elections. Chairman Massell felt that changing the City of Atlanta’s elections to non-partisan helped keep the focus on local issues. (6) Grant the county the power to provide specific services to local municipalities, such as traffic direction and enforcement.

Former Atlanta City Councilman and 2006 candidate for Fulton County Commission Chairman Lee Morris testified before the County Commission subcommittee at the September 12 meeting. Morris spoke in favor of Chairman Massell's proposal for non-partisan elections, stating that during his recent campaign, voters throughout the county were more focused on national issues, rather than county/local issues and provided data to the subcommittee that he felt supported his theory that votes were cast strictly on partisan lines down the entire ballot in the most recent (2006) election. Morris disagreed with Massell's proposal for the district primaries with county-wide runoffs (proposal 2 above).

Secretary of State and former Fulton County Commission Chairman Karen Handel provided testimony to the County Commission subcommittee. Secretary Handel stressed that the Board of Commissioners should be a policy making body, noting that during her tenure as Chairman that commissioners regularly become too involved in the day-to-day running of individual county departments.

Size of Commission

In his testimony to the committee at the initial full committee meeting on August 2nd, current County Commission Chairman John Eaves stated that he opposed reducing the number of commissioners, on the basis that the districts would be too large.

Secretary Handel spoke in favor of a five member commission, with three districts and two members elected at-large, with one of the at-large members being the Chairman. Handel stated that prior to the county becoming nearly fully municipalized, there was a need for more commissioners, in order for the commissioners to be "closer" to their constituents for zoning issues, which occupied the majority of the commissioners' time. Since the incorporation of the new cities, which now handle their own zoning issues, Secretary Handel felt that now would be appropriate time to discuss reducing the size of the Board of Commissioners.

At the Full Committee meeting on November 29, Chairman Lindsey proposed reducing the size of the commission to 5 members with two options: (1) 3-2 Plan: 3 Districts with 1 member and the Chairman elected at-large and (2) 4-1 Plan: 4 Districts, with the Chairman elected at large.

Chairman Lindsey stated that the advantages of the 3-2 Plan are that every Fulton County voter would have the ability to vote for a majority (3; one district commissioner and both of the at-large members) of the commission members. In either proposal, the changes would be effective for 2010 election.

During the November 29 meeting, the committee held significant debate regarding the size of the commission. A second proposal, from Senator Reed, for a 6-1 plan, with six districts and the Chairman elected at-large had support from some committee members.

Authority of Commission Chairman

Secretary Handel, in addressing the issue of the authority of the Chairman stated that there is probably less sense in electing the Chairman by popular vote, if the powers/authority of the Chairman position were not increased. Secretary Handel told the committee that she is in favor of increasing the authority of the Chairman. Her specific suggestions included giving the Chairman the ability to appoint county department heads, and the ability to hire and fire the County Manager and County Attorney.

Chairman Eaves, in his testimony before the full committee on November 29, gave the committee an overview of the authority that the Chairman position currently has, which he stated was not much more than every other member of the commission, outside of sitting on the Atlanta Regional Commission (ARC), transit planning boards and other boards, with little authority over the County Commission. Chairman Eaves stated that without additional authority, it is hard to articulate an executive vision, and felt that the Cobb and Gwinnett County Commissions were good models to base the Fulton Chairman's authority on.

In response to a question from Senator Reed during his testimony, Chairman Eaves stated that the three powers that he thought would make the position most helpful were: (1) Ability to set and control the County Commission agenda (2) Recommend County Manager and Department Director appointments (3) General oversight of county hiring processes.

Staggered Terms for Commissioners

Committee Member Lynne Riley stated that the concurrent terms of service of the seven members of the Fulton County Board of Commissioners is an anomaly among the 159 counties in the State at Georgia. Concurrent terms of service does not provide for a carry-forward of institutional knowledge should all commissioners fail to seek re-election or fail to win re-election to office. Staggered terms of office will provide for a continuity of policy oversight. Staggered terms will serve to allow an un-interrupted flow of public service to the citizens of Fulton County during election campaigns.

Future of South Fulton Area

After the September vote in which the South Fulton area voted not to incorporate, the County Commission subcommittee heard testimony from South Fulton resident Andre Walker at the October 25 meeting on his plan, which would allow a four year window for South Fulton Residents to annex into existing municipalities, followed by the General Assembly annexing remaining unincorporated areas after the four year period.

Chairman Lindsey assigned Senator Reed to study the South Fulton issue to the full committee. At the November 29 meeting, Sen. Reed recommended a "cooling off" period for the residents of South Fulton and that there be no annexations or incorporations by the General Assembly. Sen. Reed noted that the South Fulton Reserve Fund will provides

services for the area through 2008, and that proposed township legislation pending in the General Assembly could potentially address land use concerns.

Non Partisan Elections

Committee member Brad Carver presented a proposal to the full committee, similar to the proposals presented by Chairman Massell and Councilman Morris to change the Fulton County Commission elections from partisan to non-partisan elections. The committee elected not to consider the proposal as a recommendation at the final meeting.

Special Service Districts (SSD) Funds

County Finance Director Pat O'Connor addressed the County Commission Subcommittee regarding the SSD funds held in reserve for areas that are now incorporated. In 2005, the County had one SSD, to provide municipal services (i.e. fire & police protection, parks, business license, zoning and permitting to the then unincorporated areas. The legislation created the new counties required the County to separate the budget for the SSD into three different areas, defined by the General Assembly: Northwest, Northeast, and South. The SSDs have "reserve" funds remaining in them, which cannot be used by the county, but cannot be transferred to the new cities, without specific legislation authorizing the transfers

Review of Authorities, Boards, Commissions

During its review, the study committee found that Fulton has an usually high number of boards, authorities and commissions, some of which have not met for years. At the November 29 meeting, Chairman Lindsey assigned Representatives Kaiser, Ashe, and Holmes to review the boards and bring a recommendation to the committee. The report from Reps. Kaiser, Ashe and Holmes is printed in its entirety below. The full committee recommends that the Fulton County Commission give further study to all recommendations printed in this section. The recommendation passed by the full committee is printed is printed in Section IV.

It is the recommendation of the Fulton County Joint Study Committee that the Georgia General Assembly review the purpose with which Boards, Authorities, Commissions, and other entities to which appointments are made by the Fulton County Commission, hereinafter referred to as Boards, created in the service of the citizens of the County of Fulton, State of Georgia.

The Study Committee finds that appointments to any Board should be done so with limited terms and clear qualifications on the part of the appointee, and further that the appointee reside within the community/area affected by the decisions of such a body.

The Study Committee further recommends:

All Boards should be structured so that the membership of the Board is geographically representative of the community which the Board is designed to serve. Therefore, for those

Boards which have a county-wide function, such as the Library Board, representatives should be drawn from the entire county. However, for those Boards which have a more localized function the representatives should be drawn from the neighborhoods immediately affected. In this way, it is assured that a given Board will be responsive to the community which it is designed to serve.

Board members' terms should be staggered into at least three separate cycles of appointments so as to assure that expiring terms do not leave Board without continuity, but where Board still has a quorum;

Each Board shall have a Presiding Officer, selected by the other Board members on an annual basis, who is responsible for verifying that the Board is acting in compliance with all applicable laws and regulations, for making budget submissions, and for annual reporting of Board operations to County Commission;

That the Fulton County Commission appoint a special Commission every four years, made up of members who have never been members of any Fulton County Board or elected Official in Fulton County, which shall review the functioning of all Boards and report to the Fulton County Commission. The purpose of the report is to make recommendations which maximize the efficiency of the functioning of each Board. The report shall address whether any of the existing Boards should be combined with each other, whether any new Boards should be created, whether the number of members of any Boards should be increased or decreased, whether the terms of the members of Boards should be increased or decreased, whether the qualifications required of the members should be modified, and any other changes to the Boards which will maximize the efficiency of their functioning;

That all Boards have process and procedures in place to make verify they are in compliance with the Georgia Open Meetings Act (O.C.G.A. § 50-14-1 through 50-14-6) and Georgia Open Records Act (O.C.G.A. § 50-18-70 through 50-18-76);

That all Boards provide full disclosure on every financial transaction, and that financial reports be posted on the internet, and budgets are submitted and follow city or county budgeting guidelines;

That full disclosure of any conflict(s) of interest by any candidate for any Board vacancy is disclosed immediately upon consideration for Board appointment. If any such conflict should occur following appointment, Board member shall be required to announce the conflict and recuse him/herself any action with regard to that issue. If any conflict occurring after appointment requires recusal on a regular basis, the Board member shall be required to resign from appointment;

That any disbursement made to any Board is made payable to a corporate entity. Under no circumstances shall any disbursement, be made to any individual Board member by name;

[Additional Proposals for your Consideration]

That the agendas of all Boards be posted on the internet at least five (5) business days prior to the scheduled meeting of each Board and that minutes as well as any recordings of Board meetings are posted on the internet within five (5) business days of their ratification in the case of minutes and within five (5) business days of the meeting in the case of recordings;

That a listing of all Boards be posted on the Fulton County Website. For each Board, all members shall be listed showing the term of each member's appointment. No later than two months prior to the expiration of any Board member's term, a notice of vacancy shall be published which shall include all required qualifications and the contact information for submitting requests for nomination.

That each Board shall make any annual written report to the Fulton County Commission regarding its operations during the preceding year, which shall be posted to the Fulton County Website.

That an entity be created to assist and monitor all Boards. The entity shall make an annual report to the Fulton County Commission, which shall be posted on the Fulton County website, detailing compliance of all Boards with regard to their legal and reporting requirements. The entity shall conduct training sessions for all new Board members regarding the procedures of each Board, as well as any specific information necessary to the functioning of that particular Board, and any further training deemed necessary by the entity and/or any Board.

Regional Distribution of Funds

The study committee recognized that certain regional planning boards, specifically the Atlanta Regional Commission's (ARC), funding and governance formulas were put in place over 40 years ago, and that most of the dynamics and demographics of Fulton County have changed since then. The committee believes that the governance and funding formulas should be reviewed to reflect the current nature of the municipalities that now make up the region. Chairman Lindsey assigned Mr. Al Nash to bring a recommendation to the committee.

B. Office of the Sheriff

County Authority to take Control of the Fulton County Jail

Due to concerns for courthouse security, the committee researched the possibility of turning the authority for jail administration and security over to the Fulton County Board of

Commissioners. The subcommittee's research revealed Fulton County Code §1-122 which reads:

The governing authority of Fulton County is hereby authorized to maintain and operate facilities within or without the boundaries of said County for the detention, incarceration, or confinement of all persons (including juveniles) subject to detention, incarceration, or confinement under the laws of this State, under any County resolution or under any City ordinance. Such facilities, whether designated as a jail, public works camp or detention center, shall be under the control of such person or official as may be designated by the governing authority of Fulton County, and need not be used exclusively for any one class of prisoner or person.

"Code §1-122 is a local amendment to the Georgia Constitution and was promulgated in 1972, and continued in effect in 1986."¹⁵

The subcommittee also heard that even with this authority, the County Commission would be reluctant to take direct control over the jail absent the County Commission jailer have the same immunity protections afforded to the Sheriff under current law.

Reimbursement for Housing of State Prisoners

During his testimony, Fulton County Sheriff Myron Freeman provided the committee with evidence that the approximate daily cost of housing an inmate in the Fulton County Jail of \$78.00. A "snapshot" of the jail's population on September 27, 2007, shows 92 state inmates, 52 of which had been sentenced in the previous thirty days.

Consolidation of Public Safety Departments and Process Service

The subcommittee sought to determine the cost-effectiveness of having both the Fulton County Marshals and Sheriff's office performing similar functions, such as civil process service. The committee requested information on the cost of process service from each office and to study whether the entire process should be handled by one of the offices, or privatized. Marshal Johnson reported that the annual cost of civil process service for his office is \$600,000, with revenue of \$1.9 million. Sheriff Freeman did not provide cost or revenue data for the civil process service.

Outsourcing of Prisoners

The committee sought to determine the extent to which the Fulton County prisoners are outsourced and the costs associated with the outsourcing of prisoners. The Sheriff's office provided written information in a "snapshot" of its Daily Inmate Count on October 22, 2007. This snapshot revealed that of a total population of 2,797 inmates, 537 were being

¹⁵ Fulton County Attorney Gerry L. Clark October 9, 2007 memorandum to Deputy County Manager Suzanne Alliegro, provided to the Sheriff's Subcommittee for October 15, 2007 meeting

held at other facilities, including: Bellwood, Cook County, Marietta, Pelham City, Alpharetta, Decatur, Dekalb County, and the Atlanta Detention Center. The rates paid are negotiated on individual contract basis with each facility, and vary from \$35 to \$68/inmate/day, inclusive of transportation.

C. Courts System

The Subcommittee finds the accessibility of the County's Courts, the speedy resolution of civil litigation and disposition in a timely manner of criminal cases is of the utmost importance to our citizens.

The Subcommittee further finds our county's numerous elected and appointed officials at all levels of our judicial system are dedicated to performance of their respective responsibilities, yet there is a disconnect, with a lack of communication and cooperation between the various offices and branches of the courts. The disconnect is apparent from various officials who have appeared before the Subcommittee and acknowledged problems within the overall court systems which could be readily improved by better cooperation among officials and direct communication between the elected and appointed officials.

The Subcommittee suggests representatives of the Courts and the other elected and appointed officials (i.e. District Attorney, Clerk of Superior Court, Sherriff, State Solicitor, Court Administrator, etc.) consider joint meetings periodically to review issues addressing the various court and judicial operations.

Unification of Jury Pools

The Courts subcommittee noted that Superior and State Courts of Fulton County separately manage jury pools although both jury pools report to the same assembly area.

Court Case Load Tracking System

In their testimony to the subcommittee, the Chief Judges of both State and Superior Court cited dramatic increases in case filed, and in turn, pending cases and backlogs. The Courts attribute much of the increase to population growth in Fulton County and noted that Fulton is projected to keep, or increase its population growth rate in the near future. Although both courts strive to keep accurately track of their Case Loads, both would benefit from implementation of a Comprehensive Justice Information System (CJIS).

Speedy Trial Demands

In testimony to the Subcommittee, the Fulton County District Attorney addressed a disparity which exists between court circuits in Georgia with defendants filing of demands for a speedy criminal trial. When a demand is filed in Fulton Superior Court, the case must be tried before the end of the next court term (court terms are two months in length). Some

court circuits have much longer court terms and this difference of length of terms results in a risk of having a defendant being set free of the charge for which he or she may be guilty.

Superior Court Chief Judge

In her testimony to the subcommittee Chief Judge Downs demonstrated that the Superior Court Chief Judge's position has substantial administrative responsibilities for the court, but very limited statutory authority. Judge Downs specifically noted that having autonomy over personnel, budget (having control over how the money allocated to the Superior Court is spent on line items), automation and case management issues, as well as the ability to appoint magistrates, would be helpful to the overall operation of the court.

Greater Utilization of Magistrate Judges

Fulton County is unique in that the Chief Magistrate position is an appointed, rather than elected position, as it is in the rest of the State. The Fulton County Chief Magistrate has limited statutory authority with respect to management of the magistrate court. In testimony to the committee, the Chief Judges of the State & Superior Courts agreed greater utilization of Magistrate Judges would help alleviate some of the backlog issues currently present in the courts.

Courthouse Security

The courthouse shootings and tragic loss of life at the Fulton County Courthouse in March 2005 have highlighted the need for greater courthouse security. During Courts and Sheriff's subcommittee hearings, testimony revealed that a comprehensive security plan for the Fulton County Courthouse, with all stakeholders participating has yet to be authorized and funded. Currently, the county is paying millions of dollars annually for contract housing of prisoners in other detention facilities, including the City of Atlanta Detention Center, all of which are subject to contract. A major security concern is the daily transportation of prisoners over the lengthy distance from the County's Rice Street facility and the courthouse.

IV. Study Committee Recommendations

At its final meeting, on December 17, the Study Committee made recommendations from the three subcommittees as follows.

From the County Commission Structure Subcommittee:

A minority of the committee voted in favor of a seven commissioner plan, with six commissioners elected from districts and that only the chairman be elected countywide. The minority opinion is printed in the appendix.

Authority of Chairman

The committee recognized that in comparison to other large metro area counties, the position of Fulton Commission Chairman is significantly lacking in authority. The committee recommended that the position of chairman be strengthened by making the chairman a full-time position and allowing the chairman to nominate and terminate the County Manager and department heads (with majority consent of the commission), and to control the commission's agenda, subject to an override by a majority of the commission.

Passed unanimously.

Staggered Terms for Commissioners

In conjunction with the Joint Study Committee recommendation to reduce the number of Fulton County Commissioners from seven to five members, the Committee recommends that the terms of the Fulton County Board of Commissioners be staggered at the general election of 2010. The position of County Commission Chairperson and two district Commissioners shall be elected to serve terms of four years, and shall take office on January 1, 2011. The at-large Commissioner and the third district Commissioner shall be elected to serve terms of two years, and shall take office on January 1, 2011. Thereafter, the successors to all said commissioners shall be elected at the general election immediately preceding the expiration of their terms of office and shall take office on January 1 immediately following their election for terms of four years, or until their successors are elected and qualified.

Passed unanimously.

Future of South Fulton

The committee voted to recommend that the General Assembly not pass any legislation in 2008 relating to incorporations or annexations in South Fulton.

Passed unanimously.

Process/Efficiency of County Fund Transfers

The committee voted to recommend that local legislation be passed to permit Fulton County to transfer SSD funds to the newly incorporated cities for their use.

Passed unanimously.

Makeup of Authorities and Boards

It is the recommendation of the Fulton Study Committee that the General Assembly move to reform the standards for the Creation of all Boards, Authorities, Commissions, and any entity to whom the Fulton County Commission appointments members existing to service the County of Fulton and further recommend that the Fulton County Commission, under the leadership of the Fulton County Commission Chair and in collaboration with legal counsel, not to exclude counsel by the County Attorney.

The committee recommends that the Fulton County Commission give further study to the issues presented under this heading in Section III, above.

Passed unanimously.

Regional Distribution of Funds

It is the recommendation of the Fulton County Joint Study Committee that the General Assembly review how State funds are distributed to Fulton County for planning and transportation purposes and review the make up of Regional Planning Boards, such as the Atlanta Regional Commission (ARC).

The Study Committee finds that the make up of certain Planning Boards and funding procedures were set up a number of years ago when Fulton County was more of a rural county and was not heavily incorporated, and its population was low. Now, with Fulton County being almost entirely incorporated and a population of approaching over one million citizens, the current model for funding and representation does not work.

Therefore, it is the Study Committee's recommendation that the General Assembly move to reform the funding procedure and the make up of Regional Planning Boards in order to accommodate the current model for Fulton County. It is the Study Committee's opinion that these proposed changes will serve the citizens of Fulton County more efficiently and provide proper funding and representation to the citizens of Fulton County.

Passed unanimously.

Size of Fulton County Commission:

Recognizing that Fulton County is now over 95% municipalized and that many of the previous functions of county government are now handled by municipal governments, the committee voted to recommend reducing the size of the commission to five members, with three districts and two members, including the chairman, elected countywide. This recommendation allows each citizen to vote for a majority of the board members and saves Fulton County an estimated \$1million annually.

Passed by vote of 6 to 5

Powers, Duties and Responsibilities of Fulton County Commission

The study committee heard extensive testimony that the Commissioners were involved in the day-to-day operations of certain “pet” departments they were interested in and that this involvement was interfering with the operations of the Fulton County Government. The committee voted to affirm to the Fulton County Commission that their role is to be limited to a policy-making body only and to not interfere with day-to-day operations of county departments.

Passed by vote of 7 to 4.

A minority of the committee voted against this recommendation. The minority response is printed in the appendix.

From the Office of the Sheriff Subcommittee:**County Authority to take Control of the Fulton County Jail**

The Study Committee recognized the authority of the County Commission to take over the operation of the jail under the Local Constitutional Amendment §1-122. The Study Committee recommends that the General Assembly pass legislation to give a jailer appointed by the County Commission the same immunity protection enjoyed by the Sheriff.

Passed unanimously.

Courthouse Security

The committee voted to recommend that the General Assembly enact legislation giving authority to the Fulton County Board of Commissioners to hire a qualified person other than the county sheriff to provide security at the Fulton County Courthouse.

Passed unanimously

Reimbursement for Housing of State Prisoners

The committee voted to recommend that the General Assembly enact legislation requiring the state to fully reimburse the county for actual and verifiable cost of housing state prisoners in the Fulton County Jail.

Passed unanimously.

Consolidation of Public Safety Departments and Process Service

The committee determined that while the statutory authority exists to either appoint a single sole agency for process service, or privatize civil process servicing, further study is needed to determine the best, most cost effective course of action.

Passed unanimously.

From the Courts Subcommittee:

Legislative Recommendations:

Unification of Jury Pools

Superior and State Courts of Fulton County separately manage jury pools although both jury pools report to the same assembly area. A single, unified jury pool would reduce administrative efforts and costs on both courts and simplify the process for the courts and Fulton County residents.

The committee recommends that the General Assembly pass a General Law mandating that counties having a co-located Superior Court and State Court be required to have a single jury pool.

Passed unanimously.

Court Case Load Tracking System

Information is not readily available to gauge case load of civil and criminal cases filed, disposed of, and pending. This information is vital to determine court needs and work distribution for budgeting and personnel. The information is also lacking uniformity throughout the state.

The committee recommends that the General Assembly pass a General Law that requires all trial courts in the state to provide a monthly accounting of case load with uniform standards.

Passed unanimously.

Speedy Trial Demands

The committee recommends that the General Assembly pass a General Law that provides a speedy trial request requires a trial be granted within six (6) months, or by the end of the next court term, whichever is longer.

Passed unanimously.

Superior Court Chief Judge

The committee recommends that the General Assembly pass a Local Law to grant the Chief Judge authority to govern and administer the budget needs and day-to-day operation of the Superior Court, including re-assignment of cases between the judges and courts.

Passed unanimously.

Greater Utilization of Magistrate Judges

The committee recommends that the General Assembly pass a Local Law to bring Fulton County Magistrates into the same statutory provisions as other Magistrate Courts in Georgia. The Chief Magistrate would be an elected position, with the Chief Magistrate having the ability to appoint, assign, and re-assign and Magistrate Judges. Magistrate Court would become the original court of jurisdiction for misdemeanor cases in Fulton County, with the exception of jury trials, which would be tried in State Court.

Passed unanimously.

Suggestions to the Fulton County Board of Commissioners:

Courthouse Security/Location of Detention Center

To relieve issues associated with jail overcrowding, outsourcing, prisoner transport and security, the committee suggests that the Fulton County Commission build a detention center near the Courthouse of approximately 400 beds.

Passed unanimously.

Lieutenant Governor and Mr. Speaker, these are the findings and recommendations of the Joint Study Committee on Fulton County Governance.

We would like to thank the members of this study committee for their hard work and dedication to improving the lives of the people of Fulton County.

Respectfully submitted,



Representative Edward Lindsey
Co-Chairman



Senator Dan Moody
Co-Chairman

Prepared by:
R.J. Briscione
House Research Office

KASIM REED
District 35
420-D State Capitol
Atlanta, Georgia 30334
(404) 463-1379
Fax: (404) 657-9728
Email: kasim.reed@senate.ga.gov



The State Senate
Atlanta, Georgia 30334

COMMITTEES:
Ethics
Judiciary
Special Judiciary
State & Local Governmental Operations
Transportation
Urban Affairs

January 14, 2008

MEMORANDUM

TO: Chairman Ed Lindsey
FROM: Senator Kasim Reed 
RE: Minority Report Regarding the Size of the Fulton County Commission

I write to provide you and the members of the Committee with our view concerning the need to maintain a seven-member commission which shall consist of six (6) members from newly created districts with a Chairperson who shall be elected countywide. This approach will reform the current seven (7) member commission structure which currently consists of five (5) district commissioners, one (1) at-large commissioner, and the Chairman, who is also elected countywide.

While we are aware that Fulton County is now more than 95% municipalized, the Fulton County Commission remains responsible for the delivery of healthcare, human services, courts, corrections, and other mandated services. We do not believe that the five (5) member commission structure passed by a one vote margin will provide for effective and efficient delivery of all these services, for the following reasons:

1. A shift to a five (5) member commission under the proposed structure would consist of three (3) district commissioners. As a result, commission districts will have more than 300,000 constituents, and the two at-large members will be running for office in a county that has 900,000 residents. This is substantially larger than Congressional Districts, larger than several small states, and the District of Columbia. Indeed, Georgia House members represent only 45,000 constituents and a Georgia State Senator represents approximately 145,000 residents. It makes little sense for the citizens of Fulton County to be represented by Commissioners who serve much larger constituent populations, particularly when the Commissioners are responsible for the delivery of essential county governmental services. We submit that government serves our citizens best when it is closer to its citizens; and that creating these super-districts moves us away from this fundamental principle.

MEMORANDUM
Chairman Ed Lindsey
January 14, 2008
Page Two

2. Expanding the size of the commission districts will act as a bar to ordinary citizens who wish to serve on the Fulton County Commission. Simply put, running for public office has become increasingly costly, and running for a position in a district with 300,000 residents will place public service out of the reach of many Fulton County Residents who have a great deal to offer, but who may not have the resources to mount an effective campaign. We should not make a lack of money a bar to government service. Those of us who have been fortunate to be elected to office should not forget the difficult work that it took to win our first elections, and we should not create a structure that prevents others from performing the noble work of public service.
3. Having commission districts with 300,000 residents would increase, not reduce the need for support staff. The assertion that reducing the size of the commission from five (5) to seven (7) members would increase efficiency is not supported by the experience of other jurisdictions. On the contrary, during our study we were not able to identify any county commission of similar size and budget which was governed under a five (5) member structure. Rather, we submit that the super-district concept will require an enhanced staff to respond to constituent inquiries and requests. Further, if the newly formed commission does not respond to constituent concerns after the restructuring, it is likely that citizens' frustrations with Fulton County government will increase, taking us back to the point that required the formation of this Study Committee in the first place.

Under your leadership, this Committee has worked on a broad range of issues in an overwhelmingly bi-partisan manner. You have led with a firm but fair hand. I do not believe that we should allow this issue to pull us away from the high ground on which this panel's recommendations have been based. Accordingly, we request that you give the six-one plan your strongest consideration.

A Minority Report to the General Assembly Fulton County Study Committee

This report is being written to explain why I believe many of the actions and decisions made by a majority of the Study Committee were inappropriate and seemed to be based on preconceived positions that are devoid of any factual bases for decision making. From its inception, the process was fatally flawed and the outcome reflected this fundamental, major defect.

First, there were no funds to conduct the basic research needed to provide a detailed and factual analysis on many important aspects of the three major areas of purview. (I served on a Blue Ribbon Task Force in 1977 – 78 which examined how to improve service delivery in Atlanta and Fulton County, and a budget of \$200,000 was available to contract with the Carl Vinson Institute of Government of the University of Georgia and other experts to conduct research on issue areas identified by the various committees). The 2007 Study Committee had no such funds or any research staff assigned to it. Consequently, the major decisions were based on hearsay, ideology, opinions, partisan and racial considerations by default since there was no factual or objective basis for key votes. For example, in a 6 to 5 vote to reduce the size of the commission from 7 to 5, there was no data or analysis of comparable counties presented to substantiate the assertion that this configuration was best for the county. No data were presented comparing the performance of 2 at-large and 3 district commissions as being more effective or efficient than either the alternative proposal of 6 districts and 1 at-large or retaining the current 5 district and 2 at-large forms. The Fulton County Commissioner on the Committee asserted the 3 – 2 format would save \$1 million per position, but she provided no study or any data to substantiate her claim. I provided a comparative study of 8 comparable Southern County Commissions in Florida, Maryland, Tennessee, Texas and Virginia with populations from 801,515 to 998,948, and pointed out 3 had 9 member commissions, 3 had 7 on their Board, 1 had 5 (all elected by districts) and 1 had 4 members (all elected by districts). In each of the 7 and 9 member commissions, a majority was elected from the districts. In summary, the data show none had the form adopted by the Study Committee.

Second, the composition of the Study Committee was not reflective of the demographics of Fulton County by race or the legislative members by political party. For example, only 3 of the 16 members of the Committee were African Americans in a county which is almost 50 percent Black. No citizen member selected was an African American. Neither of the African American Chairs of the House and the Senate Fulton County legislative delegations was consulted before appointments were made of the 8 legislators on the Committee. The House delegation has 14 Democrats and 8 Republicans, but only 3 legislative appointments were Democrats and 5 were Republicans. In the Senate Fulton delegation, there are 4 Democrats and 3 Republican members, but of the 8 appointed from the Senate, 2 were Republicans, 2 were Democrats and all four citizens' members were Republicans. In short, it appears that a conscious and deliberate effort was made in

the appointments by the Republican leadership to “stack” the commission with a white Republican majority. Thus, the outcome on critical decisions was “preordained.”

Third, on the above mentioned, 1977-78 Blue Ribbon Commission, subcommittees were appointed and during their second meeting a schedule of dates and times for all subsequent meetings during the 1 year life of the commission were determined in the first month to accommodate as many members as possible. However, no input was sought in 2007 to ensure maximum attendance at all meetings. Despite several attempts by me to get the Co-Chair to follow this same procedure, the Co-Chairs of the full committee and subcommittees made no such effort to set a schedule --- except for the final meeting on December 17th. Therefore, some members had prior personal and professional commitments and were unable to attend some meetings. In my personal situation, I contacted the Sheriff Subcommittee Chair the day after she selected the final meeting if she could poll the members to find another date. I was told by the Committee Secretary that during the next three week period that the Chair was available to meet only on that one day that she had selected.

These three fatal flaws resulted in debates and decisions that lacked concrete data, and were based on hearsay and opinions devoid of facts and objective data. For example, the Chairs of the Courts Subcommittee, of which I was not a member asserted the Marshall’s Office was much more efficient than the Sheriff’s Office in delivering summons and warrants, and the committee should consider having only the Marshall’s’ Office to do this task. I ask if there were any`time-line studies which examined the two offices and reached this conclusion. No such study had been done, but a person from the Marshal’s Office had told the Committee that their office did things faster and better. This is a typical example of how discussion occurred in the absence of data. Another example is that, a Committee Member said the Fulton Commission should be non-partisan because national issues were intruding into the elections. When I asked him for evidence of this in commission elections, he could not cite a single election. At best, this Committee should have confined its efforts to identifying areas in need of research and then make sure critical decisions were based on objective data and facts gathered by professional researchers.

Therefore, I must dissent from this report because it appears that some discussions and major decisions were politically and racially biased and other decisions were made without any documentation based on objective, professional research findings.

Submitted by:



Bob Holmes

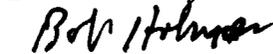
Representative, District 61

Minority Report on Reprimanding Fulton County Commissioners for Contacting Department Personnel

I oppose the inclusion of the recommendation to reprimand the Fulton County Commission to remind it that it is a policy making body and should not interfere in the day-to-day operations of county agencies and departments. It is an insult and a “political slap in the face” to a constitutional governing authority like the Board of Commissioners to reprimand them in using such language. Every governing authority knows they are a policy making body, but we all know that at times public agency personnel do not respond in an efficient and timely manner and that elected officials/policy makers at all levels of government (national, state and local) have contacted these personnel in an effort to assist our constituents in solving their problems concerning which there has not been either a timely or appropriate response. This is a responsibility of their offices.

Such a personal reprimand goes far beyond the purview of this Study Committee in implying with no data or facts cited that such “interference” is so rampant that it prevents county employees from doing their job. Sometimes, Commissioners do what probably every single State Legislator does who has served more than one term in the General Assembly- to contact an agency to assist a constituent. To formally reprimand the Fulton County Commission for doing the same thing reflects arrogance, a double standard and an inappropriate action by this Study Committee.

Submitted by



Bob Holmes

Representative, District 61

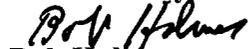
Minority Report on Vote to Change the Size of the County Commission

The 6 to 5 vote to adopt the proposal to reduce the size of the Fulton County Commission from 7 to 5 was an example of a policy decision based on partisan politics, ideological considerations and subjective judgment devoid of any facts or documentation to substantiate the objective basis for the majority's vote on this matter. I conducted some research on 8 Southern Counties comparable in size (800,000 to 1,000,000 in population) to Fulton County and reported that 3 had commissions with 9 members, 3 had 7 member bodies, one had 5 commissioners (all elected by districts), and one had 4 members (also elected by districts). Those with 7 and 9 members had a majority elected from districts and in some cases a Chair elected at-large. Also, the large size of the districts would result in very expensive campaign costs that are unaffordable for middle income candidates for the commission having to run in such large districts.

There was no written information or data presented by the proponents of the 5 and 2 member at-large and 3 district plan. No studies were provided with any evidence to support the reduction. Commissioner Riley said it would save \$1 million, but presented no study/report or data to substantiate the claim. No report was presented on the greater efficiency or effectiveness of 5 versus 7 member commission bodies. In short, the decision was based clearly on subjective criteria with no data to substantiate the position.

Finally, the votes cast were based along racial and partisan party lines with Republicans and whites in the majority who had an ideological orientation to reduce the size of the Commission despite having no objective data or facts to substantiate their decision.

Submitted by:



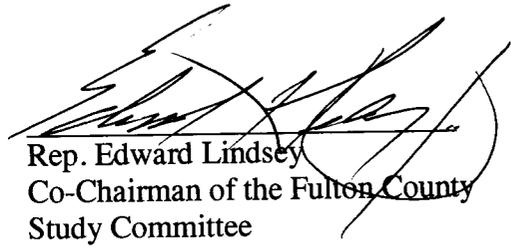
Bob Holmes

Representative, District 61

Chairman's Response to Representative Holmes' General Minority Report

In response to Rep. Bob Holmes' general criticisms to the operation of the Fulton County Study Committee, the following should be pointed out:

1. Rep. Holmes criticizes the fact that the Committee was not given funding to hire outside sources to assist in our investigation and claims that because of that we were not given sufficient data to reach our conclusions. In doing so he ignores the resources made available to us by legislative counsel, the Fulton County Attorney's office, the Fulton County budget office, the Fulton County Commission Chairman's office, the Fulton County Commission, the Fulton County Manager's office, the Fulton County Courts, the Fulton County Marshall's office, and the Fulton County Sheriff's office. In deed I would be remiss if I did not thank all of these offices for their help and cooperation. We could not have completed our work without their assistance. Combined they provided the Study Committee with thousands of pages of documentation and to my knowledge all of the information asked for by members of the Study Committee was provided. In addition, we heard over 30 hours of testimony from County officials, former officials, experts, and citizens of Fulton County. I thank them as well for their assistance.
2. Rep. Holmes criticizes the scheduling of the committee and sub committee hearings. He is correct that additional efforts were made to get full attendance at the critical first and last hearing dates. In regards to the other nine hearing dates, every attempt was made to give several weeks notice of hearing dates to committee members and to ask for members to notify us if they could not participate. On at least one occasion we rescheduled a sub committee meeting in order to maximize participation. This procedure allowed for overwhelming participation by committee members and I thank them for their dedication. (I must also add a personal note that in two terms in the General Assembly in which I have served under Representative Holmes in his capacity as Chairman of the Fulton County House Delegation, this is the same scheduling procedure adopted by Rep. Holmes.)
3. Rep. Holmes also criticizes the composition of the study committee. Every attempt was made to maximize participation across political, geographic, and demographic lines as evidenced by the fact that the vice chairs of the sub committees were Representative Kathy Ashe, Senator Horacena Tate, and Senator Kasim Reed. I thank them for their hard work in on each of the sub committees. In addition, it should be noted that over 90% of our conclusions and recommendations were made with the unanimous consent of the committee members. This unanimity across political, racial, and geographic lines reflects the need for changes in Fulton County.



Rep. Edward Lindsey
Co-Chairman of the Fulton County
Study Committee