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**Office of Legislative Counsel
General Assembly of Georgia**

January 28, 2022

Representative Viola Davis
District 87
viola.davis@house.ga.gov

Re: DeKalb County Redistricting Referendum

Dear Representative Davis:

You have requested an opinion as to whether or not a referendum is required to either:

- 1 - Change the two super district commission seats on the DeKalb County Board of Commissioners into a sixth and seventh regular district commission seat, or
- 2 - Add two more regular commission district seats to the DeKalb County Board of Commissioners, for a total of nine commissioners.

Either one of these changes would require the approval of the voters of DeKalb County voting in a referendum.

The current Chief Executive Officer-Board of Commissioners form of government for DeKalb County was established with the adoption of an Act establishing the form of government of DeKalb County and fixing the powers and duties of the officers constituting the governing authority of DeKalb County, approved April 9, 1981 (Ga. L. 1981, p. 4304), as amended. The General Assembly's authority to adopt and amend this local Act arises from a local constitutional amendment, (Ga. L. 1978, p. 2370), that was continued in force and effect as part of the current Georgia Constitution pursuant to Article XI, Section I, Paragraph IV (the 1978 LCA).

The 1978 LCA governing the form of government in DeKalb County provides in part:

The effectiveness of any law adopted pursuant to the authority herein granted shall be conditioned on the approval of a majority of the qualified electors of DeKalb County voting at elections held for such purpose when any such law affects the DeKalb

County government in any one or more of the following ways:

- (a) Changing the number of members, terms of office or the manner of electing the members of the governing body of DeKalb County.

As originally set up in 1981, the governing body of DeKalb County was a Board of Commissioners consisting of five district commissioners and two commissioners elected at large by the voters of the entire county. In 1992, the Act establishing the form of government for DeKalb County was amended by replacing the two at-large commissioners with two super districts, and each super district electing one commissioner. Ga. L. 1992, p. 6566. The 1992 amendment was subject to a referendum, and the change was subsequently approved by the voters of DeKalb County in an election held on July 21, 1992.

A local redistricting bill that attempts to change the Board of Commissioners from five regular district commissioners and two super district commissioners to seven regular district commissioners would be a law changing the manner of electing members of the governing body of DeKalb County.

Similarly, a local redistricting bill that attempts to provide for seven regular district commissioners and two super district commissioners would be a law changing the number of members of the governing body of DeKalb County.

In either event, such a change would trigger the requirement of the 1978 LCA that the law enacting such change must be approved by the voters of DeKalb County voting in a referendum.

Pursuant to O.C.G.A. § 21-2-540(c)(2), in an even-numbered year like 2022, a special election to present a question to the voters shall only be held on either "the date of the general primary," May 24, 2022, or "the Tuesday after the first Monday in November," November 8, 2022. Since both of the available dates for a referendum in 2022 occur after March 7, 2022, the date that qualifying begins for the 2022 election cycle, a law changing either the size or manner of electing the Board of Commissioners, and any associated redistricting, cannot be implemented for this year's elections.

A redistricting bill regarding the DeKalb County Board of Commissioners that neither changes the size of the board nor the manner of electing the commissioners would not trigger the referendum requirement of the 1978 LCA. Neither the 2012 nor the 2002 bills redistricting the five regular and two super districts were subject to approval by the voters of DeKalb County.

Please do not hesitate to contact me if you have got any questions or if I can be of further assistance.

Sincerely,

/s/ D. Stuart Morelli
D. Stuart Morelli
Deputy Legislative Counsel

Approved for release: /s/RR