

House Bill 658

By: Representatives Burkhalter of the 36th, Jones of the 38th, Campbell of the 39th, Willard of the 40th and Martin of the 37th

A BILL TO BE ENTITLED
AN ACT

1 To provide a procedure for the establishment of a new county from portions of one or more
2 existing counties; to define terms; to provide standards for any proposed county; to provide
3 for initiation of proceedings by petition; to provide for the circulation, signing, and
4 verification of petitions; to provide for the creation of a County Formation Review
5 Commission and the members, powers and duties, and proceedings of the commission; to
6 provide for determination by the commission of matters relative to a proposed county; to
7 provide for a special election to determine whether a proposed county shall be formed; to
8 provide for a special election to determine the county seat and county officers if creation of
9 a new county has been approved by the voters; to provide for the transfer of pending tax
10 collections, assets and obligations, and funds to a new county; to provide for the school
11 system of a new county; to provide for the judicial system of a new county; to provide for
12 related matters; to provide a contingent effective date; to repeal conflicting laws; and for
13 other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

16 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
17 by inserting a new Chapter 3A to read as follows:

18 "CHAPTER 3A

19 36-3A-1.

20 As used in this chapter, the term:

- 21 (1) 'Affected county' means each county from which territory is proposed to be
22 transferred to create a new county.
23 (2) 'Commission' means the County Formation Review Commission.
24 (3) 'Contiguous' means territory which adjoins the boundary line of the proposed county.

1 (4) 'Indebtedness' means the net obligations of a county arising from contract or through
 2 the operation of law, other than short-term operational expenses, but including and not
 3 limited to obligations arising under general obligation bonds, leases, and similar
 4 obligations or contracts entered into by the county prior to the date on which a petition
 5 is filed. Net obligation shall be deemed to mean the gross obligation outstanding after
 6 deduction of offsetting revenues, other than tax revenues.

7 (5) 'Principal county' means the county from which it is proposed that territory with the
 8 greatest proportion of assessed taxable value, relative to the total amount of assessed
 9 taxable property within the boundaries of a proposed county, is to be transferred to create,
 10 in part, that proposed county.

11 36-3A-2.

12 (a) New counties may be formed and created from portions of one or more existing
 13 counties solely pursuant to the provisions of this chapter.

14 (b) A proposed county shall not be created if:

15 (1) The population of any affected county shall be reduced to less than 20,000;

16 (2) The population of the proposed county shall be less than 10,000; or

17 (3) The area of any affected county will be reduced to less than 150 square miles.

18 The most recent federal decennial census shall be used for purposes of determining
 19 population.

20 (c) No boundary line of a proposed county shall pass through or divide the territory of any
 21 incorporated city.

22 36-3A-3.

23 Proceedings for the creation of a proposed county shall be initiated by petition. Any such
 24 petition shall contain the following:

25 (1) An accurate description of the boundaries of the proposed county;

26 (2) A statement that such boundaries do not pass through or divide the territory of any
 27 incorporated city;

28 (3) A statement of the population of the proposed county, as near as may be determined;

29 (4) A statement of the population which will remain in the affected county or counties
 30 if the territory of the proposed county is detached therefrom, as near as may be
 31 determined;

32 (5) A statement of the area in square miles which will remain in the affected county or
 33 counties if the territory of the proposed county is detached therefrom;

34 (6) The name of the proposed county;

- 1 (7) The name of the affected county or counties; and
2 (8) A request that proceedings for creation of the proposed county be initiated.

3 36-3A-4.

4 (a) Where the population of the proposed county is less than 5 percent of the total
5 population of the affected counties, a petition initiating proceedings shall be signed by
6 qualified electors residing within the territory of the proposed county as described in the
7 petition equaling in number not less than 25 percent of the number of electors of the
8 territory of the proposed county registered within the territory on the date of the last
9 preceding gubernatorial election and by not less than 10 percent of the electors registered
10 within the balance of the affected counties on the date of the last preceding gubernatorial
11 election.

12 (b) Where the population of the proposed county is 5 percent or more of the total
13 population of the affected counties, a petition initiating proceedings shall be signed by
14 qualified electors residing within the territory of the proposed county as described in the
15 petition equaling in number not less than 25 percent of the number of electors of the
16 territory of the proposed county registered within the territory on the date of the last
17 preceding gubernatorial election. Each elector, after signing a petition, shall add the name
18 of the county in which the elector resides, the elector's place of residence, giving a street
19 and number or a designation sufficient to enable the place of residence to be readily
20 ascertained, and the date the elector signed the petition. The petition may consist of a
21 single instrument or several counterparts. The petition may designate not more than three
22 persons as chief petitioners setting forth their names and mailing addresses.

23 36-3A-5.

24 (a) Before circulating any petition pursuant to this chapter, the proponents shall file with
25 the election superintendent as provided in Code Section 36-3A-6, a notice of intention to
26 do so. The notice shall be accompanied by a printed statement not exceeding 500 words
27 in length, stating the objectives to be achieved by creating the new county. The notice shall
28 also specify the date of a public hearing, which shall be set not less than 30 days nor more
29 than 60 days after filing of the notice, to be held in an appropriate place, as determined by
30 the election superintendent of the county from which the new county is to be formed or the
31 election superintendent of the principal county, as the case may be, for purposes of
32 discussing the placement of the boundaries of the proposed county.

33 (b) The notice of intention required pursuant to subsection (a) of this Code section shall
34 be published by the election superintendent at least once in a newspaper of general

1 circulation in each affected county. It shall also be posted by the election superintendent
2 in such appropriate public places as determined by the election superintendent.

3 (c) The election superintendent shall also act as an impartial moderator of the public
4 hearing required by this Code section.

5 (d) No petition shall be accepted for filing pursuant to this chapter unless the signatures
6 thereon shall have been secured within six months of the date on which the first signature
7 on the petition was affixed and such petition is submitted for filing as provided in Code
8 Section 36-3A-6 within 60 days after the last signature is affixed. If the time between the
9 date on which the last signature is affixed and the date on which the petition is submitted
10 for filing exceeds 60 days, or if any signature on the petition has been secured more than
11 six months from the date on which the first signature was affixed, the petition shall be
12 considered insufficient and shall be filed by the election superintendent as a public record
13 without prejudice to the filing of a new petition.

14 (e) No petition shall be circulated pursuant to this chapter until 60 days after the filing of
15 the notice of intention pursuant to this Code section.

16 36-3A-6.

17 (a) All petitions shall be filed with (1) the election superintendent of the county from
18 which the new county is to be formed if it is to be formed from but one county, or (2) the
19 election superintendent of the principal county if it is to be formed from portions of two or
20 more counties. All counterparts of a petition shall be filed at the same time.

21 (b) Within 30 days after the date of filing of a petition, the election superintendent of the
22 principal county shall examine the petition and determine whether it is signed by the
23 requisite number of signers. When the election superintendent has completed such
24 examination, the election superintendent shall certify the results of such examination.

25 (c) If the election superintendent certifies a petition to be insufficient, the election
26 superintendent shall give mailed notice thereof to each of the chief petitioners, if any, and
27 file the petition as a public record without prejudice to the filing of a new petition.

28 (d) If the election superintendent certifies a petition to be sufficient, the election
29 superintendent shall immediately transmit a copy of the certification to the governing
30 authority of each affected county and to each of the chief petitioners, if any.

31 (e) In certifying the sufficiency of a petition, the election superintendent shall compare the
32 name of each person signing the petition with the registration records of the county in
33 which the person signing the petition resides.

34 (f) Upon certification of a petition, the governing authority of the principal county shall
35 forthwith transmit a copy of the petition certification to the Governor.

1 (g) No person shall file a petition pursuant to this chapter within five years of the date of
 2 the election on a prior petition which included in its description of boundaries for the
 3 proposed county any territory which is the subject of the new petition.

4 36-3A-7.

5 Upon receipt of notice pursuant to subsection (f) of Code Section 36-3A-6, the Governor
 6 shall create a County Formation Review Commission to review the proposed county
 7 creation and appoint five persons to be members of the commission. Of the five persons
 8 appointed to the commission, two shall reside within the territory of the proposed county,
 9 two shall reside within the territory remaining in the affected county or counties should the
 10 proposed county be created, and one shall not be a resident of either the territory of the
 11 proposed county or the affected county or counties. The Governor shall appoint the
 12 members of the commission within 120 days following his or her receipt of the petition
 13 certification pursuant to subsection (f) of Code Section 36-3A-6.

14 36-3A-8.

15 (a) The commission shall determine all of the following:

16 (1) A fair, just, and equitable distribution, as between each affected county and the
 17 proposed county, of the indebtedness of each affected county;

18 (2) The fiscal impact of the proposed county creation on each affected county;

19 (3) The economic viability of the proposed county;

20 (4) The final boundaries of the proposed county, pursuant to subsections (c), (d), and (e)
 21 of Code Section 36-3A-9;

22 (5) A procedure for the orderly and timely transition of service functions and
 23 responsibilities from the affected county or counties to the proposed county;

24 (6) The division of the proposed county into five districts for the election of members of
 25 the county governing authority and county school board. The boundaries of the districts
 26 shall be established in a manner which results in a population in each district which is as
 27 equal as possible to the population in each of the other districts within the county;

28 (7) Which county offices shall be filled by election at the subsequent election of officials
 29 for an approved county and which of the offices shall be filled by appointments made by
 30 the governing authority of the approved county. At a minimum, the county offices to be
 31 filled by election shall be those which by law are required to be filled by election;

32 (8) That the boundaries of the proposed county do not create a territory completely
 33 surrounded by any affected county; and

34 (9) The location of the county seat of the proposed county.

35 The commission shall not be required to make any other determinations.

1 (b) In determining the fiscal impact of the creation of the proposed county on the affected
2 county or counties and the economic viability of the proposed county, the commission shall
3 consider:

4 (1) The cost of providing services in the proposed county and in each affected county;
5 and

6 (2) Projected revenues available to the proposed county and each affected county.

7 (c) Except as otherwise provided in this chapter, the commission may, in determining a
8 fair, just, and equitable distribution of the indebtedness of each affected county, as between
9 each affected county and the proposed county, provide for one or more of the following:

10 (1) The payment of a fixed or determinable amount of money by the proposed county
11 either as a lump sum or in installments, for the acquisition, transfer, use or right of use
12 of any part of the property, real or personal, owned by an affected county at the time a
13 petition was filed pursuant to subsection (a) of Code Section 36-3A-6;

14 (2) The levying or fixing and collection in the proposed county of: (A) special,
15 extraordinary or additional taxes or assessments; or (B) special, extraordinary or
16 additional service charges, rentals, or rates; or (C) both; or the issuance and sale of bonds
17 for purposes of providing for any payment required pursuant to paragraph (1) of this
18 subsection; and

19 (3) The imposition, exemption, transfer, division or apportionment, as between any
20 affected county and the proposed county, of liability for payment of all or any part of
21 principal, interest, or any other amounts which shall become due on account of all or any
22 part of any bonds, including revenue bonds, of an affected county which are outstanding
23 or authorized, at the time a petition is filed pursuant to subsection (a) of Code Section
24 36-3A-6, or other contracts or obligations of an affected county; and the levying or fixing
25 and the collection in the proposed county of any: (A) taxes or assessments; or (B) service
26 charges, rentals, or rates; or (C) both, as may be necessary to provide for such payment.

27 In making its determinations, the commission shall ascertain the current indebtedness of
28 each affected county. It shall also ascertain (A) the total assessed value of all property
29 located in each affected county, and (B) the assessed value of the territory of the proposed
30 county. The commission shall also identify and determine the location and value of all real
31 and personal property owned by each county and located within the boundaries of the
32 proposed county. Any real and personal property identified by the commission pursuant
33 to this Code section shall become property of the proposed county, should it be established
34 as provided in this chapter, upon settlement of the indebtedness in the manner specified by
35 the commission;

36 (d) For purposes of this Code section, the unfunded liability of a county retirement system
37 shall be deemed an indebtedness.

1 (e) For purposes of this Code section, a county school system shall be treated as a part of
2 the county.

3 36-3A-9.

4 (a) Within ten days after notice and acceptance of their appointments, the members of the
5 commission shall meet at the principal administrative office of the principal county and
6 organize by electing from their number a chairperson. They shall also appoint a secretary
7 who shall not be a member of the commission. Thereafter the members of the commission
8 may meet at such times and places as they select. A majority of the commissioners shall
9 constitute a quorum for purposes of transacting business and making the determinations
10 required pursuant to this chapter.

11 (b) The commission shall conduct a hearing to receive any protests and objections to and
12 any support for the creation of the proposed county. Notices of the hearing shall be given
13 in a newspaper of general circulation published in each affected county. In addition, the
14 commission shall cause mailed notice of the hearing to be given to each of the chief
15 petitioners, if any, at least two weeks prior to the date of hearing.

16 (c) On the date and at the time fixed for hearing, the commission shall hear all protests and
17 objections to and all support for the creation of the proposed county and may grant or deny
18 any requests for exclusion from, or inclusion in, the proposed county filed pursuant to
19 subsections (d) and (e) of this Code section. The hearing may be continued from time to
20 time during the course of the commission's determinations.

21 (d) At any time prior to the final hearing on the creation of the new county, any owner of
22 real property contiguous to the boundary line of the proposed county may make a written
23 request, filed with the commission, for exclusion of such person's property from, or
24 inclusion of such person's property in, the proposed county. Such a request shall contain
25 sufficient information to identify the property for which the exclusion or inclusion is
26 sought.

27 (e) Written request for exclusion from, or inclusion in, the proposed county of any territory
28 contiguous to the boundary of the proposed county may be filed with the commission by
29 any registered elector of the territory. Such a request shall contain sufficient information
30 to identify the territory for which the exclusion or inclusion is sought.

31 (f) By citation or subpoena signed by its chairperson and secretary, the commission may
32 compel the attendance of such persons and the production of such books, papers, and other
33 documents before it as it deems necessary for the performance of its duties.

34 (g) All officers and employees of any state agency, board, or commission and any affected
35 county shall cooperate with, perform any functions required by, and produce any books,

1 records, or other documents requested by the commission and necessary for the
2 performance of the commission's functions.

3 (h) Anything in a county or city and county charter to the contrary notwithstanding, the
4 commission, in lieu of using the county attorney of the affected county, may appoint
5 counsel and fix and order paid such counsel's compensation to provide legal assistance to
6 the commission in the performance of any function requested by the commission and
7 necessary for the performance of its duties.

8
9 36-3A-10.

10 (a) The commission shall within 180 days after its initial meeting adopt a resolution
11 making its determination and transmit its report in writing to the governing authority and
12 election superintendent of each affected county. The resolution shall be signed and attested
13 to by all the members of the commission. The commission may be granted up to 180
14 additional days to comply with the provisions of this Code section upon a majority vote of
15 the commission and the approval of the Governor.

16 (b) The determinations of the commission shall become the terms and conditions for
17 creation of the proposed county. Further, the commission may impose additional terms and
18 conditions as it deems necessary to ensure an efficient and effective transition. All terms
19 and conditions shall be final and binding in each affected county and the proposed county
20 should the proposed county be legally established as provided in this chapter.

21 36-3A-11.

22 Each member of the commission shall receive as compensation a per diem not to exceed
23 \$50.00 a day for every day such member is actually employed, together with the actual
24 expenses incurred in performing his or her duties. If the proposed county is created, all
25 expenses of the commission, together with the reasonable costs of stationery, postage, and
26 incidental expenses, shall be borne by the new county or, if the proposed county is not
27 created, by each affected county in equal shares.

28 36-3A-12.

29 The commission may borrow such moneys as may be necessary to meet its expenses until
30 the costs of the commission have been determined pursuant to the provisions of Code
31 Section 36-3A-11.

32
33 36-3A-13.

34 Upon receiving the commission's determinations, the election superintendent of each
35 affected county shall order and give proclamation and notice of a special election to be held

1 in each affected county on the same specified day which shall be the next state-wide
 2 primary or general election date not less than 74 days after receipt of the commission's
 3 determinations for the purpose of determining whether the proposed county shall be
 4 created.

5 36-3A-14.

6 The proclamation and notice of election provided for pursuant to this chapter shall be
 7 published at least once a week for three weeks commencing not less than 70 days prior to
 8 the date of the election in the legal organ of each affected county.

9 36-3A-15.

10 If the election for the purpose of determining whether the proposed county shall be created
 11 results in the county being created, a special election for purposes of determining the
 12 location of the county seat and the selection of county officers shall be held in the approved
 13 county at the next state-wide primary or general election.

14 36-3A-16.

15 The notice of election shall:

- 16 (1) State distinctly the propositions to be submitted;
- 17 (2) State the name of the affected county or counties;
- 18 (3) State the date of the election;
- 19 (4) Instruct the voters as to the methods and procedures of voting in the election;
- 20 (5) Request the submission of written arguments for and against the creation of the
 21 proposed county;
- 22 (6) Include a statement that the governing authority of an affected county or any city
 23 within an affected county, any qualified elector entitled to vote at the election, any bona
 24 fide association of citizens, or any combination of qualified electors and associations may
 25 submit and file written arguments with the election superintendent of the principal county
 26 for printing and distribution in the ballot pamphlet;
- 27 (7) Include a statement that only one argument for and one argument against shall be
 28 selected and printed in the ballot pamphlet;
- 29 (8) Include a statement that arguments shall not exceed 500 words in length and shall be
 30 accompanied by at least one and not more than three signatures; and
- 31 (9) Include a description of the boundaries of the proposed county.

32 36-3A-17.

33 All qualified electors of each affected county are entitled to vote at the election.

1 36-3A-18.

2 Ballots at the election shall contain the statement:

3 '() YES Shall the new County of (insert the name of the proposed county) be
4 () NO formed?'

5 36-3A-19.

6 The election shall be governed and controlled by the general election laws of the state so
7 far as applicable, except as otherwise provided in this chapter.

8 36-3A-20.

9 If more than one argument for or more than one argument against creation of the proposed
10 county is filed with the election superintendent of the principal county, the election
11 superintendent shall select one of the arguments for and one of the arguments against
12 creation of the proposed county for printing and distribution to the electors. In selecting
13 arguments, the election superintendent shall give preference and priority in the order
14 specified to arguments submitted by the following:

- 15 (1) The governing authority of an affected county;
- 16 (2) The governing authority of any city located within an affected county; and
- 17 (3) Qualified electors or bona fide associations of citizens or combinations of electors
18 and associations.

19 36-3A-21.

20 The election superintendent shall cause a ballot pamphlet concerning the proposed county
21 formation to be printed and mailed to each qualified elector of each affected county. The
22 ballot pamphlet shall contain the following in the order prescribed:

- 23 (1) An impartial analysis of the creation of the proposed county prepared by the
24 commission;
- 25 (2) A summary of the commission's report on fiscal impact and financial viability;
- 26 (3) A summary of the commission's terms and conditions;
- 27 (4) The argument for creation of the proposed county; and
- 28 (5) The argument against creation of the proposed county.

29 The election superintendent shall mail a ballot pamphlet to each qualified elector at least
30 ten days prior to the date of the election.

1 36-3A-22.

2 The election superintendent shall also prepare and mail to the qualified electors of each
3 affected county a sample ballot. The sample ballot shall be mailed with and at the same
4 time as the ballot pamphlet.

5 36-3A-23.

6 Except as otherwise provided by this chapter, the election shall be conducted as other
7 elections in the principal county.

8 36-3A-24.

9 If necessary for the purposes of the election, each affected county shall change the
10 boundaries of the election precincts in the county to make them conform to the boundaries
11 of the proposed county. The boundary lines of any precinct shall not extend beyond the
12 boundary lines of the existing county in which it is located.

13

14 36-3A-25.

15 The election superintendent of each affected county shall certify the results of the election
16 to the Secretary of State.

17 36-3A-26.

18 If upon certification of the total votes cast in all the affected counties at the election within
19 each affected county more than 50 percent of the total number of all votes cast in the
20 affected county and more than 50 percent of the total number of all votes cast in the
21 proposed county are in favor of creation of the proposed county, the governing authority
22 of the principal county, by resolution, shall:

23 (1) Declare the results of the election and that the proposed county shall not be deemed
24 created until the election of its officers at a special election held at the time of the next
25 state-wide primary or general election. At the time that the officers of the county are
26 elected and qualified, the proposed county is deemed created, and it shall be responsible
27 for and discharge all the duties, powers, and functions of a county as required by law,
28 except as provided in this chapter; and

29 (2) State the effective date or dates upon which the various service responsibilities and
30 functions for the proposed county shall be transferred from each affected county to the
31 proposed county. The date or dates shall be established in accordance with the terms and
32 conditions established by the commission and in a manner to provide for the orderly and
33 expeditious transition of responsibilities and functions, but shall in no event exceed two

1 fiscal years from the date on which the proposed county shall be deemed legally created
2 as provided in paragraph (1) of this Code section.

3 36-3A-27.

4 The governing authority of the principal county shall cause a copy of the resolution
5 adopted pursuant to Code Section 36-3A-26 to be filed with the Secretary of State and the
6 governing authority of each affected county.

7 36-3A-28.

8 If upon certification of the votes cast at the election, it appears that the votes cast for
9 creation of the proposed county are 50 percent or less of the total number of votes cast
10 within any affected county or 50 percent or less of the total number of votes cast within the
11 proposed county, the governing authority of the principal county shall, by resolution,
12 declare creation of the proposed county defeated and no further proceedings for creation
13 of a county including any part of the same territory as the proposed county shall be initiated
14 for a period of five years after the date of the election.

15 36-3A-29.

16 All costs of an election shall be paid by the principal county if the creation of the proposed
17 county is defeated or by the proposed county if it is created pursuant to this chapter.

18 36-3A-30.

19 If the election for the purpose of determining whether the proposed county shall be created
20 results in the county's creation being approved, a special election for purposes of
21 determining the location of the county seat and the selection of county officers shall be held
22 in the approved county at the next state-wide primary or general election date. The election
23 superintendent of each affected county shall order and give proclamation and notice of the
24 election.

25 36-3A-31.

26 The proclamation and notice of election provided for pursuant to this chapter shall be
27 published at least once a week for three weeks in the legal organ of the approved county,
28 commencing not less than 70 days prior to the date of the election.

29 36-3A-32.

30 The content of the notice of election for the election to select the county officers for the
31 approved county and the location of the county seat in the approved county shall be

1 determined by the election superintendent of the principal county. The notice of election
2 shall include a statement that any governing authority in a city within the approved county,
3 any qualified elector entitled to vote at the election, any bona fide association of citizens,
4 or any combination of qualified electors and associations may submit and file written
5 arguments with the election superintendent of the principal county for printing and
6 distribution in the ballot pamphlet.

7 36-3A-33.

8 All registered voters residing in the boundaries of the approved county are entitled to vote
9 in such election.

10 36-3A-34.

11 Ballots at the election shall contain the statement:

12 '() YES For (name of county seat as determined by commission) as county
13 () NO seat.'

14 36-3A-35.

15 The election shall be governed and controlled by the general election laws of the state so
16 far as applicable, except as otherwise provided in this chapter.

17 36-3A-36.

18 The election superintendent of the principal county shall cause a ballot pamphlet
19 concerning the election of county officers for the approved county and the location of the
20 county seat in the approved county to be printed and mailed to each registered voter of the
21 approved county. The ballot pamphlet shall contain the following:

- 22 (1) The names of the persons to be voted for to fill the county offices designated by the
23 commission;
24 (2) The argument for the location of the county seat in the approved county; and
25 (3) The argument against the location of the county seat in the approved county.

26 36-3A-37.

27 The election superintendent shall also prepare and mail to the registered voters of the
28 approved county a sample ballot. The sample ballot shall be mailed with and at the same
29 time as the ballot pamphlet.

1 36-3A-38.

2 The election superintendent of each affected county shall certify the results of the election
3 to the Secretary of State.

4 36-3A-39.

5 The Secretary of State shall forward to the governing authority of the principal county a
6 certified copy of the election results, giving the number of votes cast for each candidate and
7 the number of votes cast for and against the proposed location of the county seat in the
8 approved county.

9 36-3A-40.

10 Upon receiving a certified copy of the results, the governing authority of the principal
11 county, by resolution, shall:

12 (1) Declare the results of the election on the county seat. If more than 50 percent of the
13 total number of all votes cast within the approved new county are in favor of the county
14 seat, such location shall be the county seat until removed in the manner provided by law.

15 Where the proposed county seat is not affirmed by the voters, the governing authority of
16 the approved county shall designate a temporary county seat until removed in the manner
17 provided by law; and

18 (2) Name the persons elected to the several offices filled at the election and declare those
19 persons duly elected to the respective offices and that they shall enter upon the duties of
20 their offices upon election and qualification, and prescribe the amount of the bonds such
21 elected officers shall provide upon taking office.

22 36-3A-41.

23 All the officers elected at the election shall hold their offices until the times provided by
24 general law for the election and qualification of such officers and until their successors are
25 elected and qualified; provided that for this purpose only, their terms of office shall be
26 deemed to commence on the first day of January next following their election.

27 36-3A-42.

28 All costs of an election shall first be paid by the principal county. The new county shall
29 then reimburse the principal county for all costs of the election held pursuant to this
30 chapter.

1 36-3A-43.

2 After the creation of the proposed county, its officers shall proceed to complete all
3 proceedings necessary for the assessment or collection of the state and county taxes for the
4 current year, and all acts and steps taken by the officers of the affected county or counties
5 prior to the creation of the proposed county shall be deemed performed by the officers of
6 the proposed county for the benefit of the proposed county.

7 36-3A-44.

8 The officers of each affected county shall immediately execute and deliver to the governing
9 authority of the proposed county copies of all assessments or other proceedings relative to
10 the assessment and collection of the current state and county taxes on property in the
11 proposed county. The copies shall be filed with the respective officers of the proposed
12 county who would have their custody if the proceedings had been originally had in the
13 proposed county and shall be deemed originals. All proceedings recited in such copies
14 shall be deemed original proceedings in the proposed county and have the same effect as
15 if the proceedings had been had at the proper time and in the proper manner by the
16 respective officials of the proposed county. The officials of the proposed county shall
17 proceed with the assessment and collection of the taxes as if the proceedings originally had
18 in the affected county or counties had been originally had in the proposed county.

19 36-3A-45.

20 The county superintendent of schools of each affected county shall furnish the county
21 superintendent of schools of the proposed county with a census of the students residing in
22 the territory forming the proposed county and transfer to the new county school district a
23 pro rata share of the funds of the affected county school system.

24 36-3A-46.

25 The clerk of the superior court of the new county shall provide suitable books and have
26 transcribed from the records of the affected county or counties all parts thereof relating to
27 or affecting the title to or property situate in the proposed county. When transcribed and
28 certified, the records shall have the same force and effect as original records. The clerk of
29 the superior court of each affected county shall compare the books of transcripts and attach
30 to each volume a certificate under his or her seal of office of the correctness of the records
31 copied.

1 36-3A-47.

2 All actions pending in the superior court of an affected county for the recovery of the
3 possession of, quieting the title to, or for the enforcement of liens upon real estate lying in
4 the new county or against a resident of the new county shall on motion of any party thereto
5 be transferred to the superior court of the new county and deemed originally brought in the
6 superior court of the new county. Any other action or special proceeding pending in the
7 superior court of an affected county which might have been commenced in the new county
8 if the new county had been in existence at the date of commencement may in the discretion
9 of the court in which it is pending and on motion of any party interested therein be
10 transferred to the superior court of the new county. The superior court of the new county
11 shall be a part of the same judicial circuit as the principal county.

12 36-3A-48.

13 The affected county or counties shall continue to provide necessary services from the date
14 of creation of the new county until service responsibilities and functions are transferred to
15 the new county according to the provisions of the resolution of the governing authority of
16 the principal county. The new county shall contract with the affected county or counties
17 for such purposes from the date of creation until actual transfer or the effective date or
18 dates for transfer as provided in such resolution. The contract shall specify the amount or
19 amounts to be paid by the new county to the affected county or counties for the
20 performance of such services and functions. The new county may continue to contract with
21 the affected county or counties for any services and functions subsequent to the date or
22 dates specified in the resolution of the governing authority of the principal county.

23 36-3A-49.

24 Except as provided by the commission, upon creation of the new county, the territory
25 located within the new county shall be relieved of annual tax liability for outstanding
26 indebtedness of each affected county in the year next succeeding the election on creation
27 of the new county when assessments or taxes are to be levied for payment of such
28 indebtedness. Territory remaining in the affected county or counties upon the creation of
29 the new county shall be relieved of annual tax liability for any outstanding indebtedness
30 of such affected county or counties that the commission determines is to be assumed by the
31 new county. Such relief shall become effective in the year next succeeding the year in
32 which the election on creation of the new county is held when assessments or taxes are to
33 be levied for payment of such indebtedness. Nothing in this Code section shall be construed
34 as in any way limiting the power of a bondholder to enforce his or her contractual rights.

1 36-3A-50.

2 When the new county is deemed created, all records and the title to any property owned or
3 held by or in trust for any of the affected counties and located in the new county is vested
4 in the new county.

5 36-3A-51.

6 Except as otherwise provided in this chapter, creation of the new county does not affect any
7 debts, demands, liabilities, or obligations of any kind existing in favor of or against the
8 affected county or counties. Creation of the new county does not affect any pending action
9 or proceeding involving any such debt, demand, liability, or obligation or any action or
10 proceeding brought by or against any affected county prior to creation of the new county."

11 **SECTION 2.**

12 This Act shall become effective January 1, 2005, only if there is approved at the 2004 general
13 election a constitutional amendment to increase to 160 the maximum number of counties in
14 the state. If such a constitutional amendment is not so ratified at the 2004 general election,
15 this Act shall not become effective.

16 **SECTION 3.**

17 This Act shall become effective upon its approval by the Governor or upon its becoming law
18 without such approval.