

House Bill 957 (COMMITTEE SUBSTITUTE)

By: Representative Coleman of the 118<sup>th</sup>, Oliver of the 121<sup>st</sup>, Post 2, and Barnard of the, 121<sup>st</sup>, Post 1

A BILL TO BE ENTITLED  
AN ACT

1 To amend an Act creating the office of commissioner of roads and revenues in and for the  
2 County of Telfair, approved August 27, 1931 (Ga. L. 1931, p. 566), as amended, so as to  
3 reconstitute the board of commissioners of Telfair County and revise and restate the law  
4 relating to the board; to provide for elections and for commissioner districts; to provide for  
5 terms of office; to provide for oaths of office and surety bonds; to provide for the filling of  
6 vacancies; to provide for the compensation and expenses of the chairperson and members of  
7 the board; to provide for the compensation of the clerk and other county employees; to  
8 provide for regular and special meetings; to provide for a vice chairperson; to provide for a  
9 quorum; to provide for a clerk; to provide for formal bids for certain purchases; to provide  
10 for audits of county finances and financial records; to provide for the powers, duties, and  
11 authority of the chairperson and members of the board; to provide for receipt of contributions  
12 for public roads and bridges; to provide for conflicts of interest; to provide for a quarterly  
13 report for receipt and disbursement of funds; to provide for term limits; to provide for a  
14 referendum election with respect to the effectiveness of the foregoing; to provide for  
15 construction with contemporaneously enacted legislation; to provide for submission of this  
16 Act pursuant to Section 5 of the federal Voting Rights Act of 1965, as amended; to provide  
17 for related matters; to repeal conflicting laws; and for other purposes.

18 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

19 **SECTION 1.**

20 An Act creating the office of commissioner of roads and revenues in and for the County of  
21 Telfair, approved August 27, 1931 (Ga. L. 1931, p. 566), as amended, is amended by striking  
22 Section 1 and all other substantive sections of said Act and inserting in place thereof the  
23 following revision and restatement of the law relating to the board of commissioners of  
24 Telfair County:

1 "SECTION 1.

2 The Board of Commissioners of Telfair County which was created by an order of the  
3 United States District Court of the Southern District of Georgia, Dublin Division, entered  
4 on October 26, 1988, in Civil Action No. CV 387-25, as amended by subsequent orders of  
5 said court entered on December 17, 1990, in Civil Action No. CV 386-61 and August 1,  
6 1991, in Civil Action No. CV 386-61, is continued in existence but shall be constituted in  
7 the future as provided in this Act.

8 SECTION 2.

9 As used in this Act, the term 'board,' means the Board of Commissioners of Telfair County,  
10 including the chairperson and all members.

11 SECTION 3.

12 (a) Those members of the Board of Commissioners of Telfair County who are serving as  
13 such immediately prior to the effective date of this section and any person selected to fill  
14 a vacancy in any such office shall continue to serve as such members until the regular  
15 expiration of their respective terms of office and upon the election and qualification of their  
16 respective successors. On and after the effective date of this section, the Board of  
17 Commissioners of Telfair County shall consist of five members who shall be elected as  
18 described in subsection (b) of this section.

19 (b) For purposes of electing members of the board of commissioners, Telfair County is  
20 divided into four commissioner districts. One member of the board shall be elected from  
21 each such district. The fifth member who shall serve as chairperson of the board shall be  
22 elected from the county at large. The four commissioner districts shall be and correspond  
23 to those four numbered districts described in and attached to and made a part of this Act  
24 and further identified as Plan Name: tel4dis Plan Type: Local User: staff Administrator:  
25 Telfair Co.

26 (c) When used in such attachment, the terms 'Tract' and 'BG' (Block Group) shall mean  
27 and describe the same geographical boundaries as provided in the report of the Bureau of  
28 the Census for the United States decennial census of 2000 for the State of Georgia. The  
29 separate numeric designations in a Tract description which are underneath a 'BG' heading  
30 shall mean and describe individual Blocks within a Block Group as provided in the report  
31 of the Bureau of the Census for the United States decennial census of 2000 for the State of  
32 Georgia. Any part of Telfair County which is not included in any such district described  
33 in that attachment shall be included within that district contiguous to such part which  
34 contains the least population according to the United States decennial census of 2000 for  
35 the State of Georgia. Any part of Telfair County which is described in that attachment as

1 being in a particular district shall nevertheless not be included within such district if such  
2 part is not contiguous to such district. Such noncontiguous part shall instead be included  
3 within that district contiguous to such part which contains the least population according  
4 to the United States decennial census of 2000 for the State of Georgia. Except as otherwise  
5 provided in the description of any commissioner district, whenever the description of such  
6 district refers to a named city, it shall mean the geographical boundaries of that city as  
7 shown on the census map for the United States decennial census of 2000 for the State of  
8 Georgia.

#### 9 SECTION 4.

10 (a) No person shall be a member of the board if that person is ineligible for such office  
11 pursuant to Code Section 45-2-1 of the O.C.G.A. or any other general law applicable to that  
12 office.

13 (b) In order to be elected as a member of the board from a commissioner district, a person  
14 must receive the number of votes cast as required by general law for that office in that  
15 district only. Only electors who are residents of that commissioner district may vote for  
16 a member of the board for that district. At the time of qualifying for election as a member  
17 of the board from a commissioner district, each candidate for such office shall specify the  
18 commissioner district for which that person is a candidate. A person elected or appointed  
19 as a member of the board from a commissioner district must attain residency in the district  
20 the person seeks to represent at least by the time the person qualifies as a candidate for the  
21 position and must continue to reside in that district during that person's term of office or  
22 that office shall become vacant.

#### 23 SECTION 5.

24 The members of the reconstituted Board of Commissioners of Telfair County shall be  
25 elected as provided in this subsection. The first members from Commissioner Districts 2,  
26 3, and 4 shall be elected at the general election on the Tuesday next following the first  
27 Monday in November, 2004. Those members of the board elected thereto from  
28 Commissioner Districts 2, 3, and 4 in 2004 shall take office the first day of January  
29 immediately following that election. The members so elected from Commissioner Districts  
30 3 and 4 shall serve for initial terms of office which expire December 31, 2008, and the  
31 member so elected from Commissioner District 2 shall serve for an initial term of office  
32 which expires December 31, 2006. Members from Commissioner Districts 1 and 2 and the  
33 chairperson who is elected at-large shall be elected at the general election on the Tuesday  
34 next following the first Monday in November, 2006. Those members of the board elected  
35 in 2006 and thereafter shall take office the first day of January immediately following that

1 election and shall serve for terms of four years. Future successors to members of the board  
2 whose terms of office are to expire shall be elected at the time of the state-wide general  
3 election immediately preceding the expiration of such terms, shall take office the first day  
4 of January immediately following that election, and shall serve for terms of office of four  
5 years each. Members of the board shall serve for the terms of office specified therefor in  
6 this subsection and until their respective successors are elected and qualified.

7 (b) All members of the board who are elected thereto shall be nominated and elected in  
8 accordance with Chapter 2 of Title 21 of the O.C.G.A., the 'Georgia Election Code.'

9 (c) Any vacancy in office upon the board which occurs for any reason shall be filled  
10 pursuant to Code Section 36-5-21 of the O.C.G.A.

#### 11 SECTION 6.

12 (a) Until December 31, 2006, the members of the board shall elect one of their number to  
13 serve as chairperson of the board, and such chairperson shall serve in that capacity at the  
14 pleasure of the board. On and after January 1, 2007, the member of the board who is  
15 elected from the county at-large shall be the chairperson of the board.

16 (b) At its first meeting each year, or as soon thereafter as practicable, the board shall  
17 choose one of the members as vice chairperson, and such vice chairperson shall hold his  
18 or her office until his or her successor is elected. Nothing in this section shall prevent the  
19 reelection of any vice chairperson.

#### 20 SECTION 7.

21 In addition to the oath required of all county officers, the commissioners shall take an  
22 additional oath to perform the duties of their office truly and faithfully, to the best of their  
23 skill and knowledge, and to account for all money, property, and effects of such county,  
24 going into their possession, custody, or control and or expended by or under their direction.

#### 25 SECTION 8.

26 Before entering upon the discharge of their duties, each member of the board of  
27 commissioners shall give bond in the sum of \$25,000.00 except the chairperson of said  
28 board who shall give bond in the sum of \$50,000.00 with some responsible surety company  
29 authorized to do business in Georgia, as his or her surety, payable to and approved by the  
30 judge of the probate court of the county and conditioned for the faithful performance of the  
31 duties of the office and the full and true accounting for all moneys, funds, and effects of  
32 said county coming into his or her hands or going into his or her custody or possession to  
33 be filed in the office of the judge of the probate court and be there recorded and safely kept.  
34 The premiums on said bonds shall be paid by the county.

## SECTION 9.

(a) The salary and expense allowance for the chairperson and the other members of the board shall be the same as immediately prior to the effective date of this section and may be changed pursuant to Code Section 36-5-28 of the O.C.G.A.

(b) The clerk and other county employees shall be compensated in an amount to be determined by the board. The board shall conduct periodic evaluations of all employees and compensation of employees shall be based upon length of employment, job performance, and special training or other requirements for the job.

(c) The total compensation to the chairperson, the county commissioners, and employees shall be paid from the funds of Telfair County. No members of said board shall receive any other compensation for any services or expenses incurred within the Telfair County but may be reimbursed for their expenses as provided for in this subsection. Should it become necessary for any member of said board to transact business for the county outside the limits of the county, then his or her expenses shall be paid out of the general funds of the county when and only after said itemized expense account has been approved by a majority of the board.

## SECTION 10.

(a) The board shall hold at least one regular meeting each month, and the initial meeting shall be properly advertised so that the public will be notified and may appear before the board for any purpose. The board may conduct special meetings at any time, provided all members of the board shall have been notified of such special meeting which shall be open to the public.

(b) The vice chairperson shall, in the absence or disqualification of the chairperson or during any vacancy in office of chairperson, perform and discharge all duties of the chairperson, and in the event of a vacancy in the office of vice chairperson the same shall be filled by the board at its next regular meeting after such vacancy becomes known. The chairperson shall be the chief executive of the board. He or she shall see that all orders, resolutions, and rules of the board are faithfully filled and impartially executed and enforced and that all the officers, employees, and agents of said board faithfully and impartially discharge the duties required of them. The chairperson shall have the general supervision of the affairs of the county, acting under orders of the board, and shall preside at all meetings of the board. The chairperson shall have the power to convene the board in extra session upon his or her own motion or upon written request of two other members of the board and shall do so whenever two other members make such request in writing.

## SECTION 11.

Any three members of board shall constitute a quorum. The affirmative vote of three members shall be necessary for any action by the board, and the chairperson shall have the right to vote on all matters before the board.

## SECTION 12.

The board is authorized to elect a clerk. Any citizen of the county, not a member of the board, shall be eligible to hold the office of clerk of the board and shall receive a salary for his or her services to be fixed by the board, which salary shall be paid in equal monthly installments. The clerk before entering upon his or her duties shall give bond, with some responsible surety company authorized to do business in Georgia, as his or her surety in the sum of \$50,000.00, to be approved by the board with the premium on such bond to be paid by the county, payable to the judge of the probate court and his or her successors in office and conditioned for the faithful performance of his or her duties as such clerk and to account for any and all funds, property, or effects which may come into his or her hands as such clerk or otherwise, which bond shall be filed with the judge of the probate court and recorded on his or her minutes and may be sued on in like manner as the bonds of the commissioners. The clerk shall keep minutes of all meetings of the board, an inventory of all properties, and such books and records as may be required of the clerk by the board and do such other acts and things as may be required of the clerk by law or by the board. The clerk shall serve at the pleasure of the board.

## SECTION 13.

The board, either itself or by its duly appointed agent, shall purchase all equipment, material, and supplies necessary for said county, of such kind and quality and in such quantities as may be needed, and, wherever practicable, purchases of all equipment, materials, and supplies shall be by competitive bids, which bids shall be kept on file in the office of the board and subject to inspection by the grand jury or other interested citizens. All purchases shall be charged to Telfair County; and before bills therefor are submitted to the board for approval, they shall be audited and payment therefor recommended by the parties making such purchase; and, if approved by the board at a regular meeting of the board, such approval shall be endorsed on such bills by the chairperson and a list thereof entered upon the minutes of the board, and when this is done warrants therefor shall be regularly drawn, which warrants shall be signed by the chairperson and clerk as all other warrants drawn on the treasury shall be signed before payment thereof is made, except that in the absence of the chairperson, the vice chairperson shall be authorized to sign warrants.

1 No purchases shall be paid for or be reimbursed by Telfair County without approval prior  
2 to purchase by the board or its duly appointed purchasing agent.

3 SECTION 14.

4 The board may at its discretion, and when it deems necessary, select a superintendent of  
5 roads and bridges. The superintendent shall give his or her entire time to said duties as  
6 such superintendent and shall not engage in any other business. The superintendent shall  
7 receive such salary as may be fixed by the board and shall hold his or her position at the  
8 pleasure of the board. The chairperson shall not be authorized to serve simultaneously as  
9 superintendent of roads and bridges.

10 SECTION 15.

11 The board may have the books and accounts of the tax commissioner; custodian of all  
12 county funds; sheriff; superintendent of schools; board of commissioners; and such other  
13 officers as may be necessary audited by a certified public accountant of this state after its  
14 takes charge of the affairs of the county to cover such period as it deems advisable and  
15 every year thereafter. Such audit shall be filed in the office of the board and shall at all  
16 times be subject to inspection by any citizen or taxpayer of the county. A summary of the  
17 audit shall be published in the official organ of Telfair County within 30 days after it shall  
18 have been completed.

19 SECTION 16.

20 The board shall have and it is vested with exclusive jurisdiction and control over the  
21 following:

- 22 (1) Directing, controlling, and caring for all the property of the county according to  
23 law;
- 24 (2) Levying taxes according to law;
- 25 (3) Establishing, altering, or abolishing public roads, private roads, private ways,  
26 bridges, and ferries, according to law;
- 27 (4) Establishing, abolishing, or changing election precincts and militia districts  
28 according to law;
- 29 (5) Supervising the tax commissioner's books and in allowing the insolvent lists for the  
30 county, according to law;
- 31 (6) Settling all claims against the county; examining and auditing all claims and  
32 accounts of officers having the care, management, keeping, collecting, or disbursement  
33 of money belonging to the county or appropriating for its use or benefit and bringing  
34 them to settlement; and especially it is charged with frequently examining and auditing

1 the books of all officers through whose hands any county funds much pass; it may  
2 require from all such officers, subject to an examination, such reports as may be  
3 necessary to keep such board fully informed at all times of the financial condition of  
4 the county;

5 (7) Controlling, caring for, and managing the convicts of the county, according to law;

6 (8) Making rules, regulations, and provisions for the support of the poor of the county,  
7 according to law;

8 (9) Promoting and preserving the public health of the county, with authority to  
9 quarantine against contagious diseases and epidemics, according to law;

10 (10) Regulating and fixing license fees as may be provided by law;

11 (11) Bringing and defending actions in the name of Telfair County;

12 (12) Exercising the power of eminent domain in the manner described by law;

13 (13) Generally having and exercising all powers vested previously in the former board  
14 when sitting for county purposes;

15 (14) Exercising such other powers as are granted by law or as may be indispensable to  
16 the jurisdiction over county matters or county finance;

17 (15) Selecting and appointing all officers of the county whose election or appointment  
18 is not otherwise fixed by law, such as superintendent and guards and public work  
19 forces, janitor of the court house, superintendent of the pauper farm should one be  
20 established, county physician and health officer, tax assessors, and county police  
21 officers, and other officers and guards as needed and authorized by law;

22 (16) Employing a competent attorney at law, resident of the county, as county attorney  
23 to advise the board and represent the county in such matters as the board may direct,  
24 who shall be paid such salary or compensation as the board may direct, out of the  
25 regular funds of the county, with authority of the board to fix his or her term of office  
26 or to discharge him or her at any time; and

27 (17) Regulating peddling licenses, according to law.

#### 28 SECTION 17.

29 The board may receive contributions for the improvement of the public roads or bridges  
30 of the county from persons who own property along the same or from any other person or  
31 persons or from the state government or the United States government or from any  
32 corporation or firm who may be interested in the improvement of the roads and bridges,  
33 and such contributions when received shall be used for the improvement of the roads or  
34 bridges designated by the contributor.



1 of this Act is not held, then the provisions of SB 278 shall control over the provisions of this  
2 Act. If SB 278 is not enacted at the 2003 session of the General Assembly, the provisions of  
3 this Act shall be construed with reference to existing law and without reference to SB 278.

4 **SECTION 5.**

5 The governing authority of Telfair County shall through its legal counsel cause this Act to  
6 be submitted for preclearance under the federal Voting Rights Act of 1965, as amended; and  
7 such submission shall be made to the United States Department of Justice or filed with the  
8 appropriate court no later than 60 days after the date on which this Act is approved by the  
9 Governor or otherwise becomes law without such approval.

10 **SECTION 6.**

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