

House Bill 684 (AS PASSED HOUSE AND SENATE)

By: Representative Twiggs of the 8th

A BILL TO BE ENTITLED
AN ACT

1 An Act to amend, restate, revise, and modernize the law relating to the Board of
2 Commissioners of Rabun County; to provide for commissioner districts; to provide for the
3 election, qualifications and filling of vacancies of members of said board; to provide for
4 continuation in office of current members of the board; to provide for an oath; to provide for
5 giving a bond by the members of said board and the clerk; to provide for the compensation
6 of the board members; to provide for a chairperson; to provide for a supervisor of roads; to
7 provide for meetings, quorum, and employment of a clerk; to provide for powers; to
8 authorize employment of an attorney; to provide for audits and the publication thereof; to
9 provide for compensation of county employees; to provide that the board may in its
10 discretion become a self-insurer as to all insurance and security bonds acquired by said
11 county; to provide for the levy of taxes for said self-insurance; to provide for other matters
12 relative to the foregoing; to repeal an Act creating a Board of Commissioners of Rabun
13 County, approved March 26, 1969 (Ga. L. 1969, p. 2397), as amended; to provide for a
14 certain submission; to provide effective dates; to repeal conflicting laws; and for other
15 purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 **SECTION 1.**

18 There shall be a Board of Commissioners of Rabun County as provided for in this Act. The
19 board of commissioners shall be the successor to and continuation of the existing Board of
20 Commissioners of Rabun County and shall continue to have the obligations and liabilities
21 of the board of commissioners as it existed immediately prior to the effective date of this Act.
22 The board of commissioners shall constitute the governing authority of Rabun County and
23 shall exercise the powers, duties, and responsibilities vested in and upon said officers by the
24 provisions of this Act. The term "board," whenever used in this Act, shall mean the Board
25 of Commissioners of Rabun County, including the chairperson and all members.

1 COMMISSIONER DISTRICT 4: NORTH: Bordered By Centerline of US 76 W
 Beginning At US 441 Intersection In Clayton
SOUTH: Bordered By Habersham / Rabun County
 Line
EAST: Bordered By Centerline of US 441
 Beginning At US 76 W Intersection In Clayton
WEST: Bordered By Towns - Habersham / Rabun
 County Line

2 COMMISSIONER DISTRICT 5: NORTH: Bordered By NC / GA State Line
SOUTH: Bordered By Centerline of US 76 W
 Beginning At US 441 Intersection In Clayton
EAST: Bordered By Centerline of US 441
 Beginning At US 76 W Intersection In Clayton
WEST: Bordered By Towns / Rabun County Line

3 (c) For purposes of the commissioner districts described in subsection (b) of this section:

4 (1) Any part of Rabun County which is not included in any commissioner district
 5 described in subsection (b) of this section shall be included within that commissioner
 6 district contiguous to such part which contains the least population according to the
 7 United States decennial census of 2000 for the State of Georgia; and

8 (2) Any part of Rabun County which is described in subsection (b) of this section as
 9 being included in a particular commissioner district shall nevertheless not be included
 10 within such commissioner district if such part is not contiguous to such commissioner
 11 district. Such noncontiguous part shall instead be included within that commissioner
 12 district contiguous to such part which contains the least population according to the
 13 United States decennial census of 2000 for the State of Georgia.

14 (d) At the 2004 general election the at-large commissioner and two district commissioners
 15 from districts 2 and 3 shall be elected to be voted on by the qualified voters of the entire
 16 county. Such members of the board shall take office on the first day of January following
 17 said election. The members from districts 2 and 3 and the at-large commissioner shall serve
 18 for a term of four years and until their successors are elected and qualified. Successors to
 19 such members and future successors shall be elected at the general election in the year in
 20 which their respective terms of office expire and shall take office on January 1 following said
 21 election for a term of four years and until their successors are duly elected and qualified.

22 (e) The two commissioners who were elected at the 2002 general election under prior law
 23 and whose terms began January 1, 2003, shall continue to serve the terms of office to which

1 they were elected. These two commissioners, Eston Melton and Virgil Kilby, shall be
2 deemed to be district commissioners representing districts 4 and 5, respectively, as such
3 districts are defined in subsection (b) of this section. Successors to such two district
4 commissioners shall be elected at the general election next preceding the expiration of their
5 terms of office and shall take office on January 1 following said election for a term of four
6 years and until their successors are duly elected and qualified. In the event of a vacancy prior
7 to the expiration of term of office of either of these existing commissioners, such vacancy
8 shall be filled in accordance with Section 6 of this Act and by a resident of such vacated
9 district, as such district is defined in subsection (b) of this section.

10

SECTION 3.

11 Any person, to be eligible to serve as a member of the board, must be at least 25 years of age
12 on the date of the election, must have resided in Rabun County for at least one year
13 immediately preceding the date of the election, must be qualified to vote for the members of
14 the General Assembly, and must receive the requisite number of the votes cast for that office
15 by the electors of the entire county. Each district commissioner must be a resident of the
16 commissioner district from which he or she offers for election. The at-large commissioner
17 must be a resident of Rabun County.

18

SECTION 4.

19 Before entering upon his or her duties as a member of the board, such member shall take an
20 oath to faithfully perform his or her duties in accordance with the provisions of this Act, the
21 Constitution, and the laws of the State of Georgia. Such oath shall be administered by any
22 person authorized to administer oaths.

23

SECTION 5.

24 Before entering upon the discharge of his or her duties, each member of the board and the
25 clerk hereinafter provided for shall each give bond in the sum of \$10,000.00 with a reputable
26 surety company authorized to do business in Georgia as surety, payable to the probate judge
27 of Rabun County, for the use of Rabun County. Such bond shall be conditioned for the
28 satisfactory performance, by each of the members and the clerk, of the duties of his or her
29 office and for a true accounting of all moneys and effects of said county coming under his
30 or her custody, possession, or control. Such bond shall be filed in the office of the probate
31 judge and shall be recorded upon his or her minutes. The premium on each bond shall be paid
32 from the funds of Rabun County.

SECTION 6.

In the event a vacancy occurs on the board for any reason other than the expiration of the member's term of office, such vacancy shall be filled by a special election called by the probate judge, if the vacancy occurs with more than one year left in said term. The election shall be called and held under the laws relating to special elections, but the election shall be held not more than 60 days after the vacancy occurs. If there is less than one year left in said term, the four remaining members of the board shall appoint a member to fill the unexpired term.

SECTION 7.

The four members of the board other than the chairperson shall be compensated in the amount of \$450.00 per month and the chairperson shall be compensated in the amount of \$600.00 per month, such compensation to be paid in equal monthly installments from the funds of Rabun County. Each member of the board and the chairperson shall be compensated for actual expenses incurred while on official business of the county, which reimbursement for expenses shall be approved by the board prior to payment.

SECTION 8.

- (a) A chairperson shall be elected at the first meeting of the board in each year by the members of the board, and shall serve for a term of one year.
- (b) The board shall appoint a supervisor of roads, who shall serve at the pleasure of the board, shall perform such duties as may be assigned by the board, and shall be compensated in an amount set by the board.

SECTION 9.

The board shall hold a regular meeting once each month on a specific day in such month, which day shall be set by the board at its first regular meeting of each year. The board may, at its first regular monthly meeting following approval of this Act, set the days for its monthly meetings for the remainder of the calendar year. The board may continue its meetings from day to day and may hold other meetings as deemed advisable upon the call of the chairperson or upon the call of any three of the members. The board shall maintain an office at the courthouse of Rabun County.

SECTION 10.

Three members of the board shall constitute a quorum and no action shall be taken by the board without the concurring vote of at least three members of said board. The chairperson of said board shall preside at meetings and shall perform such duties and have such powers

1 as are or may be conferred upon him or her by law or authorized by said board and shall at
2 each regular meeting of said board submit a report of the condition of the county affairs and
3 make to said board such recommendations as he or she may deem proper.

4 **SECTION 11.**

5 The board is authorized to employ a clerk to be compensated in an amount to be determined
6 by the board, to be paid from the funds of Rabun County in equal monthly installments. It
7 shall be the duty of the clerk to keep the minutes and records of all proceedings of the board
8 and to discharge such other duties as the board may prescribe.

9 **SECTION 12.**

10 (a) In addition to all of the powers bestowed by the law of Georgia, the board shall have
11 exclusive power and control over public roads and bridges; the levying and collection of
12 taxes, fees, and penalties as allowable by law; the management, collection, control, and
13 disbursing of county funds; the erection, repair, management, and maintenance of public
14 buildings; the establishing, abolishing, and changing of election precincts and establishing
15 the number and location of polling places in the several precincts; the auditing of books and
16 records of all county officials; the settling of all claims against or for the county; the
17 management, control, purchase, and sale of assets and property; the creation, hiring,
18 management, and control over all county employees; and the creation of rules of procedure
19 to govern the board, organize itself, and establish the powers and duties of the chairperson
20 and remaining members.

21 (b) The board shall establish rules and regulations for the expenditure of all funds, for
22 securing written reports from all other county officers, which shall contain proposed salaries
23 and expenses for office operations on an itemized basis, and for submitting an annual budget
24 broken down into quarterly amounts. The board shall study and act on all budget requests,
25 making changes that are fiscally sound and in the best interests of the county.

26 **SECTION 13.**

27 The board shall have the authority to employ a competent attorney at law as county attorney
28 to advise the board and represent Rabun County in such matters as the board may direct,
29 which county attorney shall serve at the pleasure of the board and shall be compensated out
30 of the funds of Rabun County as approved by the board. Whenever it is deemed necessary,
31 said board may employ additional counsel to assist the county attorney, who shall be paid
32 such compensation out of the funds of Rabun County as approved by the board.

SECTION 14.

1
2 The fiscal year of the county shall begin on the first day of July and end on the last day of
3 June of the succeeding year. The board shall have a complete and independent audit in
4 compliance with generally accepted audit standards performed annually by a qualified
5 external auditor in accordance with Code Section 36-81-7 of the O.C.G.A. The audit will
6 be accepted by the board at a regular or special meeting and made available for inspection
7 by any interested person during regular business hours.

SECTION 15.

8
9 The board shall establish the salary and pay scale of all employees of Rabun County, except
10 elected officials whose salary is set by local or general law, and shall specifically set the
11 salary and salary scale for all clerical employees of Rabun County. The board shall, in
12 establishing such salaries and salary scales, take into consideration the prevailing
13 compensation for such services being paid by private industry and business in Rabun County
14 and by other counties within the State of Georgia and the recommendations of the office
15 holder or person having immediate supervision of such employee. The decision and
16 determination of the board in setting and establishing such salary and salary scale shall be
17 final.

SECTION 16.

18
19 (a) Rabun County is authorized in the discretion of the board to become a self-insurer
20 against all claims incurred by reason of liability to a third party or parties and losses by
21 reason of fire, windstorm, and providential cause and other comprehensive damages to its
22 property and for each and every other contingency against which the board may in its
23 discretion elect to insure.

24 (b) Rabun County is authorized through the board to levy taxes for the funding and payment
25 of costs for such self-insurance if the same is implemented and which funds may be
26 established as continuing and perpetual reserves.

27 (c) Nothing in this Act shall be construed as waiving any immunity or privilege of any kind
28 now or hereafter enjoyed by Rabun County or any member of the board thereof or any
29 supervisor, administrator, employee, or other elected or appointed officer nor of any public
30 body, board, agency, or other instrumentality of said county, so that all such immunities and
31 privileges from liability now held by such county shall continue to be of full force and effect
32 after the passage of this Act.

33 (d) Any self-insurance program thus inaugurated by Rabun County through the board shall
34 be in the sole discretion of the board in all respects as to its coverage. The board is, however,
35 specifically granted the authority to utilize such self-insurance program in providing liability

1 insurance for members of such board, supervisors, administrators, employees, or other
2 elected or appointed officers against personal liability as is provided in Article 2 of Chapter
3 9 of Title 45 of the O.C.G.A., as now or hereafter amended.

4 (e) Such self-insurance program may be implemented by resolution of the board, which
5 resolution shall specifically set forth the purposes for which such self-insurance is
6 maintained; the amount of funds allocated to such program for the year in which the same
7 is established; the intent as to the future allocation of funds for such program; the amounts
8 or percentages of such reserve thus established to be made available for the payment of
9 claims against such reserve including, but not limited to, any such amount or percentage
10 which may be allocated for payment of the claim of any one individual, the payment of the
11 claim for any one incident, and, in the discretion of the board, payment of the claim for
12 property damage or other specific damages.

13 (f) The board may extend the provisions of such self-insurance program as to any part or all
14 of its coverages to any other governmental agency of Rabun County including, but not
15 limited to, the Hospital Authority of Rabun County. The board is further authorized in its
16 discretion to participate with any such agency of Rabun County in the providing of such
17 self-insurance program upon such basis as may be mutually agreeable between or among
18 such participating agencies.

19 (g) Nothing in this Act shall constitute a prohibition against Rabun County or any agency
20 thereof from the purchasing of any contract of insurance whether liability, comprehensive,
21 official bond, or other contract. It is the intent of this subsection that Rabun County may
22 utilize such self-insurance program to provide partial coverage of its insurance needs and
23 may purchase contracts of insurance for a portion of its insurance needs.

24 (h) Rabun County is authorized by the General Assembly of Georgia to waive its immunity
25 from legal complaint or claim up to the amounts of its reserve in such self-insurance program
26 and in accordance with the limits of its coverage thereunder as set forth in its resolution
27 establishing such program. Any such waiver of immunity must be by specific resolution of
28 the board.

29 (i) All such funds collected by the levy of taxes or other revenue by the board setting up
30 such self-insurance program shall become and be the funds of Rabun County unless the same
31 are paid or disbursed in accordance with the plan of self-insurance. The board establishing
32 such plan of self-insurance may terminate the same at any time at its sole discretion, provided
33 that, upon such termination, there shall be retained in the reserve account of said program a
34 sum reasonably sufficient to pay any known claims which may at the time of termination be
35 pending against Rabun County and which are within the class of claims and limits as to
36 amount for which such self-insurance program is maintained. Any funds retained in the
37 reserve subsequent to termination and not paid to a claimant shall be paid into the general

1 fund of Rabun County upon resolution of such pending claim or when such claims become
2 barred by the statute of limitations. All funds removed from such reserve upon partial or
3 complete termination of such program shall be paid into the general fund of Rabun County
4 and shall be disbursed and accounted for as are other funds.

5 **SECTION 17.**

6 An Act creating a Board of Commissioners of Rabun County, approved March 26, 1969 (Ga.
7 L. 1969, p. 2397), as amended, is repealed in its entirety.

8 **SECTION 18.**

9 The board shall through its legal counsel cause this Act to be submitted for preclearance
10 under the federal Voting Rights Act of 1965, as amended; and such submission shall be made
11 to the United States Department of Justice or filed with the appropriate court no later than
12 45 days after the date on which this Act is approved by the Governor or otherwise becomes
13 law without such approval.

14 **SECTION 19.**

15 This Act shall become effective January 1, 2005, except that the following provisions shall
16 become effective on approval of this Act by the Governor or upon this Act's becoming
17 effective without such approval:

- 18 (1) Provisions relating to the election of commissioners at the 2004 election; and
19 (2) The provisions of subsection (e) of Section (2) relating to residency requirements for
20 filling of certain vacancies.

21 **SECTION 20.**

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