

House Bill 1757 (AS PASSED HOUSE AND SENATE)

By: Representatives Smith of the 87th, Westmoreland of the 86th, Brown of the 89th, Harper of the 88th, Post 2, and Butler of the 88th, Post 1

A BILL TO BE ENTITLED
AN ACT

1 To continue the State Court of Coweta County; to specify the location of the court and
2 provide for facilities therefor; to provide for jurisdiction, powers, practice, and procedure;
3 to provide for terms of court; to specify business hours of the court; to specify costs and fees
4 and provide for their use; to provide for institution of criminal cases; to provide for appeals;
5 to provide for selection, number, and compensation of jurors; to provide for election,
6 appointment, qualification, and terms of office of judges of the court and for judicial posts;
7 to provide for restrictions and discipline of such judges and powers and duties thereof; to
8 provide for the election, qualifications, and terms of office of a solicitor-general of the court
9 and the powers and duties thereof; to provide for a clerk and sheriff of the court and the
10 duties thereof; to provide compensation for the judges, solicitor-general, and other officers
11 and staff of the court; to provide for a judge pro hac vice, an official court stenographer, and
12 other personnel; to provide an effective date; to provide for a specific repeal; to repeal
13 conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

16 The State Court of Coweta County, originally established as the City Court of Newnan by
17 an Act approved October 5, 1887 (Ga. L. 1887, p. 692), is continued in existence and shall
18 have the power, jurisdiction, and method of procedure as provided by Chapter 7 of Title 15
19 of the O.C.G.A. As used in this Act, the term "state court" means the State Court of Coweta
20 County.

21 **SECTION 2.**

22 The State Court of Coweta County shall be located in the county site of Coweta County in
23 facilities provided by the governing authority of Coweta County.

SECTION 3.

The State Court of Coweta County shall have such rules of practice and procedure as provided by Chapter 7 of Title 15 of the O.C.G.A. or by rules promulgated by the Supreme Court of Georgia.

SECTION 4.

The State Court of Coweta County shall have quarterly terms beginning on the second Monday of January, April, July, and October in the county site of Coweta County and such terms shall remain open for the transaction of business until the next succeeding term. If the date fixed for the convening of any term is a legal holiday, then that term shall begin on the next day thereafter which is not a legal holiday. Said court shall at all times be open for the purpose of receiving pleas of guilty in criminal cases and passing sentence thereon and for the transaction of civil business before the court.

SECTION 5.

The clerk of the state court shall be required to keep his or her office open the same hours for business as the clerk of the Superior Court of Coweta County.

SECTION 6.

(a) The clerk of the state court shall be entitled to charge and collect the same fees as the clerk of the Superior Court of Coweta County is entitled to charge and collect for the same or similar services pursuant to state law. All such fees shall be paid into the county treasury, except those sums which are directed by law to be paid otherwise.

(b) The clerk of the state court shall be entitled to charge and collect a technology fee to be set by the court in an amount not to exceed \$5.00 for the filing of each civil action and not to exceed \$5.00 as a surcharge to each fine paid. Technology fees shall be used exclusively to provide for the technological needs of the court. Such uses shall include only the following:

- (1) Computer hardware and software purchases;
- (2) Lease, maintenance, and installation of computer hardware and software, including the cost of training court personnel to use that hardware and software; and
- (3) Purchase, lease, maintenance, and installation of imaging, scanning, facsimile, communications, projection, and printing equipment and software.

The funds collected pursuant to this subsection shall be maintained in a segregated fund by the clerk of the state court and the county treasurer and shall be used only for the purposes authorized in this subsection at the direction of the chief judge of the state court.

SECTION 7.

1
2 All prosecutions in criminal cases instituted in the State Court of Coweta County shall be by
3 written accusation, uniform traffic citation, or summons as provided for by Code Section
4 17-7-71 of the O.C.G.A.

SECTION 8.

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6 Any cases tried in the State Court of Coweta County shall be subject to review by the Court
7 of Appeals or the Supreme Court of Georgia, whichever court has jurisdiction, in the same
8 manner and under the same rules of appellate procedure as apply to cases in the Superior
9 Court of Coweta County.

SECTION 9.

10
11 (a) Traverse jurors shall be drawn, selected, chosen, and summoned for service in the State
12 Court of Coweta County under procedures established by the judges and as prescribed by
13 state law. Jurors in said state court shall receive the same per diem compensation for service
14 therein as in the Superior Court of Coweta County and shall be paid by Coweta County in
15 the same manner and out of like funds as jurors are paid in the Superior Court of Coweta
16 County.

17 (b) For the trial of any case in the State Court of Coweta County requiring the use of jurors,
18 a jury pool is created. Jurors may be selected as prescribed by law by judges of the State
19 Court of Coweta County to appear to be sworn and serve as jurors before either court.

20 (c) The jury for the trial of all civil cases tried in the State Court of Coweta County shall be
21 composed of the number of jurors set forth in Chapter 12 of Title 15 of the O.C.G.A.
22 Peremptory strikes in civil cases shall be exercised in the manner prescribed in Chapter 12
23 of Title 15 of the O.C.G.A.

24 (d) The jury for the trial of all criminal cases tried in the State Court of Coweta County shall
25 be composed of the number of jurors set forth in Chapter 12 of Title 15 of the O.C.G.A.
26 Peremptory strikes in criminal cases shall be exercised in the manner prescribed in Chapter
27 12 of Title 15 of the O.C.G.A.

SECTION 10.

28
29 (a) Until January 1, 2005, there shall be one judge of the State Court of Coweta County. The
30 judge of the state court in office immediately preceding the date upon which this Act
31 becomes effective shall continue to serve the term of office to which he or she was elected,
32 which shall expire December 31, 2004, and upon the election and qualification of his or her
33 successor. For the four-year term commencing January 1, 2005, the position shall be on the
34 ballot for nonpartisan election to be held and conducted jointly with the general primary in

1 2004 and quadrennially thereafter pursuant to Code Section 21-2-138 of the O.C.G.A., and
2 this position shall be judicial post 1.

3 (b) Effective January 1, 2005, there shall be two judges of the State Court of Coweta
4 County. The second judge added effective January 1, 2005, shall be appointed by the
5 Governor for an initial term of office ending on December 31, 2006, and until his or her
6 successor is elected and qualified. The successor to said judge shall be elected by the
7 qualified voters of Coweta County at a nonpartisan election to be held and conducted jointly
8 with the general primary in 2006 and quadrennially thereafter pursuant to Code Section
9 31-2-138 of the O.C.G.A., and this position shall be judicial post 2. The judge thus elected
10 to judicial post 2 shall serve a term of office of four years and until his or her successor is
11 elected and qualified.

12 (c) The judges of said court shall have such qualifications and shall be subject to such
13 restrictions and discipline as provided in Chapter 7 of Title 15 of the O.C.G.A. He or she
14 shall be vested with all the power and authority of the judges of the state courts by Chapter 7
15 of Title 15 of the O.C.G.A.

16 (d) The judges shall devote their full time to the duties of said office and shall be paid a
17 salary established by the governing authority of Coweta County. Said salary shall be payable
18 out of the funds of Coweta County at the same intervals as installments are paid to other
19 county employees.

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SECTION 11.

21 (a) There shall be a solicitor-general of the State Court of Coweta County. The
22 solicitor-general of that state court in office immediately preceding the date upon which this
23 Act becomes effective shall continue to serve the term to which that person was elected,
24 which shall expire December 31, 2004, and upon the election and qualification of a
25 successor. That and all future successors to solicitor-general of the State Court of Coweta
26 County whose terms of office are to expire shall be nominated in a partisan general primary
27 and elected at the partisan general election immediately preceding such expiration of term,
28 shall take office the first day of January immediately following such election, and shall serve
29 for a term of office of four years and until the election and qualification of a successor.

30 (b) The solicitor-general of said court shall have such qualifications as provided in Article
31 3 of Chapter 18 of Title 15 of the O.C.G.A. and shall be subject to such restrictions and
32 discipline as provided in Article 3 of Chapter 18 of Title 15 of the O.C.G.A. He or she shall
33 have all the duties and authority of the solicitors-general of state courts provided by Article
34 3 of Chapter 18 of Title 15 of the O.C.G.A.

35 (c) The solicitor-general shall be paid an annual salary as established by the governing
36 authority of Coweta County and shall devote his or her full time to the duties of said office.

1 Said salary shall be payable out of the funds of Coweta County at the same intervals as
2 installments are paid to other county employees.

3 **SECTION 12.**

4 The clerk of the Superior Court of Coweta County may serve as ex-officio clerk of the State
5 Court of Coweta County or the judges of the state court, with the consent of the governing
6 authority of Coweta County, may appoint some other person to serve at the pleasure of the
7 judges as clerk of the state court. Any person appointed by the judges to serve as clerk shall
8 receive such compensation as shall be fixed by the governing authority of Coweta County
9 upon recommendation by the judges of the state court. If the clerk of the Superior Court of
10 Coweta County also serves as clerk of the state court, such person shall be entitled to no
11 additional compensation for services as such except as otherwise required by general law.
12 The sheriff of Coweta County shall be ex-officio sheriff of the State Court of Coweta County
13 but shall be entitled to no additional compensation for services as such unless otherwise
14 required by general law. All fees, costs, percentages, forfeitures, penalties, allowances, and
15 other perquisites of whatever kind as may now or hereafter be allowed by law to be received
16 or collected as compensation for services by said officials as officials of the State Court of
17 Coweta County shall be received and diligently collected by said officials for the sole use of
18 Coweta County and shall be held as public moneys belonging to Coweta County and
19 accounted for and paid over to the fiscal authorities of Coweta County on the first Tuesday
20 in each month, at which time a detailed itemized statement shall be made showing such
21 collections and the sources from which collected.

22 **SECTION 13.**

23 The governing authority of Coweta County is authorized to supplement the salaries of the
24 sheriff of Coweta County in an amount it deems appropriate for those officers' services to
25 the State Court of Coweta County.

26 **SECTION 14.**

27 In the event any judge of the State Court of Coweta County is unable to preside in the court
28 or is disqualified for any reason, then the judges may appoint a judge pro hac vice to serve
29 in his or her absence. Said judge pro hac vice shall meet the same qualifications as the judge
30 of the State Court of Coweta County.

31 **SECTION 15.**

32 The judges of the State Court of Coweta County may appoint an official stenographer for
33 said court who shall report such cases as the court may require. He or she shall receive the

1 same fees as allowed for similar services in the Superior Court of Coweta County which shall
2 be taxed and enforced as in the Superior Court of Coweta County.

3 **SECTION 16.**

4 In the event of any dispute or difference of opinion between the state court judges regarding
5 any administrative or procedural issue related to the operation of the court, the opinion of the
6 judge having the longest tenure as judge of the State Court of Coweta County shall control,
7 and the judge with the longest tenure as judge of the State Court of Coweta County shall be
8 designated as the chief judge of the State Court of Coweta County.

9 **SECTION 17.**

10 The number and salaries of any necessary additional support staff for the clerk of the
11 Superior Court of Coweta County and the sheriff of Coweta County required to serve the
12 State Court of Coweta County and to serve the judges of that court shall be set by the
13 governing authority of Coweta County.

14 **SECTION 18.**

15 The State Court of Coweta County shall have the right to review decisions of lower courts
16 as provided by law.

17 **SECTION 19.**

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

20 **SECTION 20.**

21 An Act establishing the City Court of Newnan, approved October 5, 1887 (Ga. L. 1887, p.
22 692), and all amendatory Acts thereto are repealed in their entirety.

23 **SECTION 21.**

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