

The Senate State and Local Governmental Operations Committee offered the following substitute to HB 957:

A BILL TO BE ENTITLED  
AN ACT

To amend an Act relating to the governing authority of Telfair County and entitled "An Act Creating the Office of Commissioner of Roads and Revenues in and for the County of Telfair, Georgia," approved August 27, 1931 (Ga. L. 1931, p. 566), as amended, and the several Acts amendatory thereof, so as to restate the law relating to the board of commissioners and make certain changes therein; to provide for a referendum election to determine whether there shall be a chairperson of the board of commissioners of Telfair County elected from the county at large; to provide for implementation of the chairperson position if approved by the voters; to restate provisions relating to election and term of office of members of the board, the clerk and county officers and employees, meetings, operations, financial matters, and other related matters; to provide for submission of this Act for preclearance under the federal Voting Rights Act of 1965, as amended; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

An Act relating to the governing authority of Telfair County and entitled "An Act Creating the Office of Commissioner of Roads and Revenues in and for the County of Telfair, Georgia," approved August 27, 1931 (Ga. L. 1931, p. 566), as amended, and the several Acts amendatory thereof, are amended by striking in its entirety the amendatory Act approved June 3, 2003 (Ga. L. 2003, p. 3992), which, inter alia, repealed said 1931 Act; reviving and reenacting said 1931 Act for purpose of amendment by this Act; and further amending said Act and amendatory Acts so that the revised and restated law relating to the governing authority of Telfair County shall read as follows:

"SECTION 1.

The Board of Commissioners of Telfair County which was created by an order of the United States District Court of the Southern District of Georgia, Dublin Division, entered on

1 October 26, 1988, in Civil Action No. CV 387-25, as amended by subsequent orders of said  
2 court entered on December 17, 1990, in Civil Action No. CV 386-61 and August 1, 1991,  
3 in Civil Action No. CV 386-61, is continued in existence but shall be constituted as provided  
4 in this Act.

## 5 SECTION 2.

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

## 8 SECTION 3.

9 (a) Those members of the Board of Commissioners of Telfair County who are serving as  
10 such immediately prior to the enactment of this Act and any person selected to fill a vacancy  
11 in any such office shall continue to serve as such members until the regular expiration of  
12 their respective terms of office and upon the election and qualification of their respective  
13 successors. The Board of Commissioners of Telfair County shall consist of five members  
14 who shall be elected from commissioner districts and a chairperson elected at large.

15 (b) For purposes of electing members of the board of commissioners, Telfair County is  
16 divided into five commissioner districts. One member of the board shall be elected from  
17 each such district. The five commissioner districts shall be and correspond to those five  
18 numbered districts described in and attached to and made a part of this Act and further  
19 identified as Plan Name: telfcc2 Plan Type: Local User: linda Administrator: Telfair Co.

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

1 a named city, it shall mean the geographical boundaries of that city as shown on the census  
2 map for the United States decennial census of 2000 for the State of Georgia.

3 SECTION 4.

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

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

17 SECTION 5.

18 The members of the Board of Commissioners of Telfair County shall be elected as provided  
19 in this subsection. The first members from Commissioner Districts 2, 3, and 4 shall be  
20 elected at the general election on the Tuesday next following the first Monday in November,  
21 2004. Those members of the board elected thereto from Commissioner Districts 2, 3, and  
22 4 in 2004 shall take office the first day of January immediately following that election and  
23 shall serve for initial terms of office which expire December 31, 2008, and upon the election  
24 and qualification of their respective successors. The first members from Commissioner  
25 Districts 1 and 5 shall be elected at the general election on the Tuesday next following the  
26 first Monday in November, 2006. Those members of the board elected thereto from  
27 Commissioner Districts 1 and 5 in 2006 shall take office the first day of January immediately  
28 following that election and shall serve for initial terms of office which expire December 31,  
29 2010, and upon the election and qualification of their respective successors. Those and all  
30 future successors to members of the board whose terms of office are to expire shall be elected  
31 at the time of the state-wide general election immediately preceding the expiration of such  
32 terms, shall take office the first day of January immediately following that election, and shall  
33 serve for terms of office of four years each. Members of the board shall serve for the terms  
34 of office specified therefor in this subsection and until their respective successors are elected  
35 and qualified.

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

(c) Commissioner Districts 1, 2, 3, 4, and 5, as they previously existed, shall continue to be designated as Commissioner Districts 1, 2, 3, 4, and 5, respectively, but as described under this Act.

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

#### SECTION 6.

(a) In addition to the five members of the board elected from Commissioner Districts 1 through 5, there shall be a chairperson of the board elected from among and by all the voters of the entire area of Telfair County. The first at-large chairperson of the board shall be elected at the 2006 general election to take office January 1, 2007; and he or she and his or her successors shall serve for terms of four years. Until January 1, 2007, the governing authority of Telfair County shall continue to consist only of the five members elected from commissioner districts and they shall elect a chairperson from among their number as provided by prior law.

(b) The chairperson shall be the chief executive of the board. The chairperson shall preside over meetings of the board of commissioners but shall not have a vote thereon.

(c) The chairperson shall not have a veto power.

(d) At its first meeting each year, or as soon thereafter as practicable, the board shall choose one of its members as vice chairperson, and the vice chairperson shall serve until his or her successor is elected. Nothing in this section shall prevent the reelection of any vice chairperson.

#### SECTION 7.

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

#### SECTION 8.

Before entering upon the discharge of their duties, each member of the board of commissioners shall give bond in the sum of \$25,000.00 except the chairperson of said board who shall give bond in the sum of \$50,000.00 with some responsible surety company authorized to do business in Georgia, as his or her surety, payable to and approved by the judge of the probate court of the county and conditioned for the faithful performance of the

1 duties of the office and the full and true accounting for all moneys, funds, and effects of said  
2 county coming into his or her hands or going into his or her custody or possession to be filed  
3 in the office of the judge of the probate court and be there recorded and safely kept. The  
4 premiums on said bonds shall be paid by the county.

#### 5 SECTION 9.

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

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

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

#### 21 SECTION 10.

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

27 (b) The vice chairperson shall, in the absence or disqualification of the chairperson or during  
28 any vacancy in office of chairperson, perform and discharge all duties of the chairperson, and  
29 in the event of a vacancy in the office of vice chairperson the same shall be filled by the  
30 board at its next regular meeting after such vacancy becomes known. The chairperson shall  
31 be the chief executive of the board. He or she shall see that all orders, resolutions, and rules  
32 of the board are faithfully filled and impartially executed and enforced and that all the  
33 officers, employees, and agents of said board faithfully and impartially discharge the duties  
34 required of them. The chairperson shall have the general supervision of the affairs of the  
35 county, acting under orders of the board, and shall preside at all meetings of the board. The

1 chairperson shall have the power to convene the board in extra session upon his or her own  
2 motion or upon written request of two other members of the board and shall do so whenever  
3 two other members make such request in writing.

4 SECTION 11.

5 Any three members of board shall constitute a quorum. The affirmative vote of three  
6 members shall be necessary for any action by the board.

7 SECTION 12.

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

23 SECTION 13.

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

1 treasury shall be signed before payment thereof is made, except that in the absence of the  
2 chairperson, the vice chairperson shall be authorized to sign warrants. No purchases shall  
3 be paid for or be reimbursed by Telfair County without approval prior to purchase by the  
4 board or its duly appointed purchasing agent.

5 SECTION 14.

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

12 SECTION 15.

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

21 SECTION 16.

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

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

1 settlement; and especially it is charged with frequently examining and auditing the books  
2 of all officers through whose hands any county funds much pass; it may require from all  
3 such officers, subject to an examination, such reports as may be necessary to keep such  
4 board fully informed at all times of the financial condition of 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 forces,  
19 janitor of the court house, superintendent of the pauper farm should one be established,  
20 county physician and health officer, tax assessors, and county police officers, and other  
21 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, who  
24 shall be paid such salary or compensation as the board may direct, out of the regular  
25 funds of the county, with authority of the board to fix his or her term of office or to  
26 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 of  
30 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, and  
33 such contributions when received shall be used for the improvement of the roads or bridges  
34 designated by the contributor.



**SECTION 18.**

Item 24 of the court order described in Section 1 of this Act which described certain prohibited activities regarding financial interest in the sale or purchase of any article to or from the county by members of the board or the clerk or receiving financial consideration in connection with purchases or contracts which constituted crimes shall be of no force and effect. Such matters shall be regulated as provided by general law, including, but not limited to, Chapter 10 of Title 16 of the O.C.G.A. or Chapter 10 of Title 45 of the O.C.G.A.

**SECTION 19.**

The board shall publish not less than quarterly a report for all receipts and disbursements of county funds.

**SECTION 20.**

No member of the board shall be eligible to succeed himself or herself after having served two successive terms in office, nor shall any such member who is ineligible to succeed himself or herself be eligible to hold any other elective county office within a four-year period following the date of the expiration of his or her second successive term."

**SECTION 2.**

Unless prohibited by the federal Voting Rights Act of 1965, as amended, the election superintendent of Telfair County shall call and conduct an election as provided in this section for the purpose of submitting this Act to the electors of Telfair County for approval or rejection. The election superintendent shall conduct that election on the date of the 2004 general election and shall issue the call and conduct that election as provided by general law. The superintendent shall cause the date and purpose of the election to be published once a week for two weeks immediately preceding the date thereof in the official organ of Telfair County. The ballot shall have written or printed thereon the words:

"( ) YES Shall the Act be approved which provides for a chairperson of the board of  
( ) NO commissioners of Telfair County to be elected from among and by all the  
voters of the entire area of Telfair County?"

All persons desiring to vote for approval shall vote "Yes," and those persons desiring to vote for rejection shall vote "No." If more than one-half of the votes cast on such question are for approval of the Act, it shall become of full force and effect. If the Act is not so approved or if the election is not conducted as provided in this section, the remaining sections of this Act shall not become effective and this Act shall be automatically repealed on the first day of January immediately following that election date. If this Act does become of full force and effect, it shall be effective as necessary or appropriate for the election of the chairperson

1 county wide in 2006 and shall otherwise become fully effective January 1, 2007. The  
2 expense of such election shall be borne by Telfair County. It shall be the election  
3 superintendent's duty to certify the result thereof to the Secretary of State.

4 **SECTION 3.**

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

10 **SECTION 4.**

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