

House Bill 1418 (AS PASSED HOUSE AND SENATE)

By: Representatives Bridges of the 10th, Collins of the 27th, and Jenkins of the 8th

A BILL TO BE ENTITLED
AN ACT

1 To reconstitute the Board of Commissioners of White County; to provide for continuation
2 of certain obligations and liabilities; to provide for a chairperson and four additional
3 members; to provide for elections and terms of office; to provide for qualifications; to
4 provide for commissioner districts; to provide for staggered terms; to provide for filling of
5 vacancies; to provide for oaths of office and surety bonds; to provide for the powers, duties,
6 and authority of the chairperson and members of the board; to provide for a vice chairperson;
7 to provide for regular meetings; to provide for a county manager; to provide for the
8 preparation, submission, review, adoption, and amendment of budgets; to provide for
9 expenditure of county funds; to provide for audits of county finances and financial records;
10 to provide for other related matters; to provide for submission of this Act for preclearance
11 under the federal Voting Rights Act of 1965, as amended; to provide for the specific repeal
12 of a local Act; to provide for a referendum; to provide for effective dates; to repeal
13 conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

16 There is reconstituted the Board of Commissioners of White County, to be elected and
17 organized as provided for in this Act. The board of commissioners provided by this Act shall
18 be the successor to the Board of Commissioners of White County which existed on
19 December 31, 2010, and shall continue to have the obligations and liabilities of the same.
20 The board of commissioners provided by this Act shall constitute the governing authority of
21 White County and shall exercise the powers, duties, and responsibilities vested in and upon
22 said officers by the provisions of this Act. The term "board," whenever used in this Act,
23 shall mean the Board of Commissioners of White County, including the chairperson and all
24 members.

SECTION 2.

(a) On and after January 1, 2011, the Board of Commissioners of White County shall consist of five members, all of whom shall be elected from commissioner districts described in subsection (b) of this section, except for the chairperson, who shall be elected at large as provided in subsection (d) of Section 3 of this Act.

(b) For purposes of electing members of the board of commissioners other than the chairperson, White County is divided into four commissioner districts. One member of the board shall be elected from each such district. The four commissioner districts shall be and correspond to those four numbered districts described in and attached to and made a part of this Act and further identified as Plan Name: whitep2 Plan Type: Local User: staff Administrator: H010.

(c) When used in such description, the terms "Tract" and "BG" (Block Group) shall mean and describe the same geographical boundaries as provided in the report of the Bureau of the Census for the United States decennial census of 2000 for the State of Georgia. The separate numeric designations in a Tract description which are underneath a "BG" heading shall mean and describe individual Blocks within a Block Group as provided in the report of the Bureau of the Census for the United States decennial census of 2000 for the State of Georgia. Any part of White County which is not included in any such district described in that attachment shall be included within that district contiguous to such part which contains the least population according to the United States decennial census of 2000 for the State of Georgia. Any part of White County which is described in that attachment as being in a particular district shall nevertheless not be included within such district if such part is not contiguous to such district. Such noncontiguous part shall instead be included within that district contiguous to such part which contains the least population according to the United States decennial census of 2000 for the State of Georgia. Except as otherwise provided in the description of any commissioner district, whenever the description of such district refers to a named city, it shall mean the geographical boundaries of that city as shown on the census map for the United States decennial census of 2000 for the State of Georgia.

SECTION 3.

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

(b) Persons eligible for election to the positions of chairperson or commissioners shall be a citizen of the State of Georgia and qualified to vote as of the qualifying date.

(c) Persons eligible for commissioner shall:

- (1) Have attained the age of 18 years as of the date of election or appointment;

(2) Have maintained a bona fide full-time residency within the district for which the candidate is offering for 12 months prior to the qualifying date or appointment;

(3) Have received the requisite number of votes cast for that office by the electors of the district; and

(4) Continue to reside in the district from which elected or appointed during the term of office; if a commissioner ceases to reside in such district, the position shall be declared vacant.

(d) The chairperson shall:

(1) Have attained the age of 21 years as of the date of election or appointment;

(2) Have maintained a bona fide full-time residency within the county for 12 months prior to the qualifying date or appointment;

(3) Have received the requisite number of votes cast for that office by the electors of the county; and

(4) Continue to reside in White County during term of office; if the chairperson ceases to reside in White County, the position shall be declared vacant.

(e) The following are grounds for declaring persons ineligible to seek the office of chairperson or commissioner and the existence of facts relating to such grounds shall be sufficient reason for vacating any office held:

(1) Refusal or failure to account for and pay over public money to the proper officer;

(2) Conviction of a felony involving moral turpitude under the laws of this state or any other state when such offense is a felony in this state, unless all rights of citizenship have been restored by a pardon from the State Board of Pardons and Paroles;

(3) Be found to be of unsound mind;

(4) Be found to be unfit to discharge the duties of the office due to advanced age or bodily infirmity; or

(5) Is disqualified for any constitutional or statutory grounds.

(f) In order to be elected as a member of the board from a commissioner district, a person must receive the number of votes cast as required by general law for that office in that district only. Only electors who are residents of that commissioner district may vote for a member of the board for that district. At the time of qualifying for election as a member of the board from a commissioner district, each candidate for such office shall specify the commissioner district for which that person is a candidate. A person elected or appointed as a member of the board from a commissioner district must continue to reside in that district during that person's term of office or that office shall become vacant.

SECTION 4.

(a) The members of the reconstituted Board of Commissioners of White County shall be elected as provided in this subsection.

(1) The chairperson serving on December 31, 2010, shall continue to serve for the remainder of his or her term of office. The successor to the chairperson shall be elected at the general election on the Tuesday next following the first Monday in November, 2012, and shall take office on January 1, 2013, and shall serve a term of four years and until his or her successor is duly elected and qualified. All future successors shall be elected at the time of the state-wide general election immediately preceding the expiration of such terms, shall take office the first day of January immediately following that election, and shall serve for terms of office of four years each.

(2) The members from Commissioner Districts 2 and 3 shall be elected at the general election on the Tuesday next following the first Monday in November, 2010, shall take office on January 1, 2011, and shall serve terms of four years and until their successors are duly elected and qualified. All future successors shall be elected at the time of the state-wide general election immediately preceding the expiration of such terms, shall take office the first day of January immediately following that election, and shall serve for terms of office of four years each.

(3) Those members from Commissioner Districts 1 and 4 shall be elected at the general election on the Tuesday next following the first Monday in November, 2010, shall take office on January 1, 2011, and shall serve terms of two years and until their successors are duly elected and qualified. All future successors shall be elected at the time of the state-wide general election immediately preceding the expiration of such terms, shall take office the first day of January immediately following that election, and shall serve for terms of office of four years each.

(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) Any vacancy in office upon the board which occurs for any reason other than expiration of term shall be filled as follows:

(1) If the vacancy occurs during the final six months of a term of office, the position shall remain vacant until the next regularly scheduled election; or

(2) If the vacancy occurs at any time prior to the time specified in paragraph (1) of this subsection, a successor shall be elected at the next available date for a special election pursuant to O.C.G.A. Section 21-2-540. Any person so elected to fill a vacancy shall serve out the remainder of the unexpired term and until a successor is elected and qualified.

SECTION 5.

Before commencing the discharge of their duties, the chairperson and commissioners shall subscribe an oath before the judge of the probate court for the true and faithful performance of their duties and that they are not the holders of any unaccounted public funds. In addition, the chairperson and each commissioner shall give a satisfactory surety bond to the judge of the probate court in the sum of \$10,000.00 conditioned upon the faithful performance of the duties of the office. The county treasury shall pay the costs of said bonds.

SECTION 6.

The powers and duties of the chairperson shall include, but shall not be limited to, the following:

- (1) Presiding over the meetings of the board;
- (2) Vote on any question or issue before the board;
- (3) Submitting and seconding motions to the board;
- (4) Representing the county government at ceremonial functions;
- (5) Appointing members and chairpersons to all committees of the board with the approval of the board; and
- (6) Performing such other duties as shall be delegated to the chairperson by the board of commissioners or as otherwise provided by law or resolution.

SECTION 7.

(a) The board shall have the power and authority to adopt, implement, and enforce ordinances, policies, regulations, resolutions, and rules governing all matters reserved to the board's exclusive jurisdiction and entered on the minutes.

(b) The board shall exercise only those administrative powers necessary and proper to function as a policy-making body and to compel enforcement of adopted resolutions. The following powers are vested in the board and reserved for the board's exclusive jurisdiction:

- (1) Levy taxes;
- (2) Fix fees;
- (3) Make appropriations;
- (4) Fix rates and charges for services provided by the county;
- (5) Authorize indebtedness;
- (6) Authorize and provide for the execution of contracts;
- (7) Establish, alter, open, close, build, repair, or abolish public roads and bridges according to law;
- (8) Accept the provisions of optional state statutes where the statute permits acceptance;
- (9) Exercise all powers, duties, and authority regarding planning and land use;

- 1 (10) Create and amend the boundaries of special taxing districts authorized by law;
- 2 (11) Fix the bonds of county officers when not fixed by statute;
- 3 (12) Enact any resolutions, ordinances, or other legislation which the county has
- 4 authority to enact;
- 5 (13) Determine the priority of capital improvements;
- 6 (14) Call elections for the approval of bonds;
- 7 (15) Exercise or delegate all of the power and authority granted to the board by law; and
- 8 (16) Appoint a county manager, legal counsel, and independent county auditor.

9 **SECTION 8.**

- 10 (a) At the first regular meeting of each year, the board shall elect from its members a vice
- 11 chairperson who shall serve for the calendar year in which elected.
- 12 (b) In the event of death, disqualification, or resignation of the chairperson, the vice
- 13 chairperson shall perform the duties and exercise the authority of the chairperson until a new
- 14 chairperson is chosen as provided in this Act. The vice chairperson shall preside at meetings
- 15 of the board of commissioners in the absence of the chairperson.
- 16 (c) In the event of a vacancy in the office of vice chairperson, the board of commissioners
- 17 shall elect a new vice chairperson to serve for the remainder of the calendar year.

18 **SECTION 9.**

- 19 (a) The board shall convene a minimum of one regular meeting each month.
- 20 (b) The board shall determine the date, place, and time of the meeting.
- 21 (c) The chairperson or any three members of the board may convene additional meetings
- 22 subject to verifying the notification of all members of the board.
- 23 (d) Any three commissioners or the chairperson and any two commissioners shall constitute
- 24 a quorum.
- 25 (e) The board shall take no official action except upon the affirmative vote of at least three
- 26 members and compliance with Chapter 14 of Title 50 of the O.C.G.A., relating to open
- 27 meetings.
- 28 (f) The board shall conduct all regular and called meetings according to Robert's Rules of
- 29 Order.

30 **SECTION 10.**

- 31 (a) The chairperson shall receive a salary of \$350.00 per month and each commissioner shall
- 32 receive a salary of \$250.00 per month, paid from the funds of White County; provided,
- 33 however, that if that Act providing for the salary of the chairperson and commissioners and

submitted to the electors for approval or rejection in November, 2008, is approved, then the provisions of such Act, as hereafter amended, shall control.

(b) The chairperson and the commissioners shall have the option to participate in the White County insurance, retirement, and expense reimbursement programs.

SECTION 11.

(a) Pursuant to Code Section 36-5-22 of the O.C.G.A., there is created the office of county manager for White County. The county manager shall be the chief administrative officer and head of the administrative branch of the county government. The board shall fulfill the primary policy-making role of the county but the day-today executive role is assigned to the county manager.

(b) The county manager shall have at least a bachelor's degree in public administration or a related field and at least five years' experience as a city or county administrator or manager.

(c) The county manager shall serve at the pleasure of the board and shall receive such compensation and benefits as determined by the board. The board shall retain ultimate control over county operations, but the county manager is vested with executive authority subject to the board's oversight and authority.

(d) The county manager's duties and responsibilities shall include, without limitation:

- (1) Supervision of the department managers and employees;
- (2) An advisory role in policy formulation and direct responsibility in policy implementation;
- (3) Enforcement of county ordinances, policies, regulations, resolutions, and rules;
- (4) Authority to appoint and remove department managers and employees; and
- (5) Performance of other duties assigned or delegated by the board.

SECTION 12.

The board shall employ a county attorney, whose duties shall include, without limitation:

- (1) Providing the board legal advice regarding the board's powers and duties as well as pending or potential litigation;
- (2) Representing the county in court;
- (3) Attending meetings upon request;
- (4) Serving as parliamentarian to the board; and
- (5) Preparing or reviewing county contracts, ordinances, policies, regulations, resolutions, rules, and other legal documents.

SECTION 13.

(a) The county shall comply with Chapter 81 of Title 36 of the O.C.G.A., relating to local government budgets and audits, as well as the provisions of this section.

(b) The fiscal year shall be from July 1 to June 30.

(c) The board shall operate under an annual balanced budget for the general fund, special revenue funds, and debt service funds.

(d) The board shall adopt a balanced budget by resolution.

(e) Nothing contained in this section shall preclude the board from amending its budget to adapt to changing needs during the budget period. Amendments shall be made as follows:

(1) Any increase in appropriations, whether accomplished through a change in revenues or a transfer of appropriations among departments, shall require the approval by resolution of the board; and

(2) Transfers of appropriations within a department or fund with the exception of salary and benefit accounts shall require the approval of the county manager.

(f) The board shall adopt uniform charts of accounts prepared by the Department of Community Affairs.

SECTION 14.

(a) The board shall appoint a budget officer who shall prepare a proposed budget for the ensuing budget period. The proposed budget document shall include an estimate of the anticipated revenues and expenditures for each department and fund and in such form and detail with such supporting information and justifications as may be prescribed by the board.

(b) The budget officer shall submit the proposed budget to the board on the date established by the board.

(c)(1) On the day that the budget officer submits the proposed budget to the board, the county clerk shall place a copy in a public location convenient to the residents of the county.

(2) During the week in which the budget officer submits the proposed budget to the board, the county clerk shall publish a statement advising the residents of the availability of the proposed budget.

(3) At least one week before the budget hearing, the county clerk shall give notice of the time and place of the budget hearing.

(4) The county clerk shall publish the notices required by this section in a newspaper of general circulation located within the county. Such statements shall be a prominently displayed advertisements or news articles and not published in the section of the newspaper where legal notices appear.

(d) At least one week prior to the meeting at which adoption of the budget resolution will be considered, the board shall conduct a public hearing at which time any persons wishing to be heard on the budget may appear. Nothing in this Act shall preclude the conducting of further budget hearings if the board deems such hearings necessary and complies with the requirements of paragraph (3) of subsection (b) of this section.

(e) After the conclusion of all hearings, the board shall adopt a budget resolution making appropriations in such sums the board deems sufficient whether greater or less than the sums presented in the proposed budget. At least one week before the meeting to adopt the budget, the county clerk shall give notice of the time and place of such meeting.

SECTION 15.

The board's financial management policy shall provide guidance for the procurement of goods and services in compliance with procurement policies of the county and the state. The goal of this policy shall be to establish, foster, and maintain the following principles:

(1) Consider the best interests of the county in all transactions;

(2) Purchase without prejudice, seeking to obtain the maximum value for expenditures; and

(3) Subscribe to and work for honesty and truth in purchasing.

SECTION 16.

All expenditures of county funds shall be in accordance with the county budget, amendments thereto, or policies adopted by the board. The budget officer shall enforce compliance with these provisions and shall institute a system of allotments of all moneys appropriated and budgeted.

SECTION 17.

(a) The board shall employ a certified public accountant to conduct an annual audit of county finances and financial records. The certified public accountant shall perform a complete audit of the financial records of the county for the preceding fiscal year, noting any irregularities and reporting the results to the board.

(b) The annual audit report shall be available for public inspection.

SECTION 18.

An Act to create a board of commissioners of White County to consist of a chairman and two other members, approved March 21, 1970 (Ga. L. 1970, p. 2993), and all amendatory laws thereto, is repealed.

SECTION 19.

It shall be the duty of the attorney of the Board of Commissioners of White County to submit this Act for approval pursuant to Section 5 of the federal Voting Rights Act of 1965, as amended.

SECTION 20.

Unless otherwise prohibited by the federal Voting Rights Act of 1965, as amended, the election superintendent of White County shall call and conduct a special election for the purpose of submitting this Act to the electors of White County for approval or rejection. The election superintendent shall conduct that election at the time of the state-wide general election on the Tuesday after the first Monday in November, 2008. The election superintendent 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 White County. The ballot shall have written or printed thereon the words:

"() YES Shall the Act be approved which changes the governing authority of White County to a five member board with a chairperson elected at large and four () NO commissioners elected by the voters in each of four new commissioner districts?"

All persons desiring to vote for approval of the Act shall vote "Yes," and all persons desiring to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on such question are for the approval of the Act, those provisions of this Act necessary for the election of members of the Board of Commissioners of White County in 2010 shall become effective on January 1, 2010, and the remaining provisions of this Act shall become effective January 1, 2011. If the Act is not approved or if the election is not conducted as provided in this section, this Act shall not become effective and this Act shall be automatically repealed on the first day immediately following that election date. The expense of such election shall be borne by White County. It shall be the duty of the election superintendent of White County to certify the results thereof to the Secretary of State.

SECTION 21.

Except as otherwise provided in Section 20 of this Act, this Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 22.

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