

A BILL TO BE ENTITLED

AN ACT

1 To comprehensively revise, restate, and modernize the law relating to the board of
 2 commissioners of Fannin County and to make specific changes in such law; to provide for
 3 the chairman and other members of the board and their qualifications, elections, terms of
 4 office, oaths, bonds, and compensation and for the filling of vacancies; to provide for
 5 meetings and operations of the board; to provide for the position of chairman and the
 6 functions of such position; to provide for the powers, duties, and authority of the board and
 7 the chairman; to provide for disposition of county property; to provide for appointment,
 8 duties, compensation, and functions of county officials and employees; to provide for a clerk
 9 and records of commission business; to provide for budgetary matters, expenditures, and
 10 audits; to specify prohibited conflicts of interest; to provide for other related matters; to
 11 provide for severability; to provide for repeal of a specific Act; to provide for an effective
 12 date; to repeal conflicting laws; and for other purposes.

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14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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SECTION 1.

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Creation of board of commissioners.

17 (a) There shall be a board of commissioners of Fannin County to consist of a chairman
 18 and two other members to be elected by the qualified voters of Fannin County as
 19 further provided in this Act.

20 (b) The chairman and other members of said board of commissioners shall be qualified
 21 electors eligible to vote for members of the General Assembly of Georgia and shall
 22 have resided within Fannin County at least one year prior to their election. The
 23 chairman shall be at least 25 years of age prior to his or her election and the other
 24 members shall be at least 21 years of age prior to their election.

SECTION 2.

Elections, terms, and vacancies.

- (a) The chairman and other members of the board of commissioners of Fannin County on the effective date of this Act shall continue to serve out their terms of office. Candidates for the office of chairman shall offer as candidates for that office. For the purpose of electing the other two commissioners, there shall be two commissioner posts, to be designated Commissioner Post 1 and Commissioner Post 2. Candidates for commissioner shall designate the commission post for which they are offering. All candidates for chairman and commissioner may reside anywhere within Fannin County and shall be elected by a majority of the qualified voters of the entire county voting in the elections held for that purpose. All elections shall be held and conducted as provided in Chapter 2 of Title 21 of the O.C.G.A., the 'Georgia Election Code.'
- (b) At the general election in 2016, successors to the chairman and commissioner from Commissioner Post 1 shall be elected and shall take office on January 1 immediately following their election for four-year terms of office and until their successors are elected and qualified. Thereafter, their successors shall be elected at the general election immediately preceding the expiration of their terms of office and shall take office on January 1 immediately following their election for terms of four years and until their successors are elected and qualified.
- (c) At the general election in 2018, a successor to the commissioner from Commissioner Post 2 shall be elected and shall take office on January 1 immediately following such election for a term of four years and until his or her successor is elected and qualified. Thereafter, a successor shall be elected at the general election immediately preceding the expiration of such term of office and shall take office on January 1 immediately following such election for a term of four years and until his or her successor is elected and qualified.
- (d) In the event a vacancy occurs in the chairmanship or office of any other member of said board when more than six months remain before the expiration of the term of office, it shall be the duty of the election superintendent of Fannin County, within 15 days after such vacancy occurs, to issue the call for a special election for the purpose of filling such vacancy for the unexpired term. Any such special election shall be governed by the provisions of Chapter 2 of Title 21 of the O.C.G.A. the 'Georgia Election Code.' In the event a vacancy occurs in the chairmanship or office of any other member of said board when six months or less remain before the expiration of the term of office, such vacancy shall not be filled,

61 and the remaining members of the board of commissioners shall constitute the
62 governing authority of Fannin County until a successor is elected at the next
63 general election. In the event such a vacancy is in the chairmanship of the board,
64 then such remaining members shall be authorized to exercise the powers of the
65 chairman as well as the powers of the board of commissioners. In the event all
66 positions on the board of commissioners become vacant for any reason, the judge
67 of the Probate Court of Fannin County shall serve as the governing authority of
68 Fannin County until such vacancies are filled by special election or until new
69 members are elected at the general election as provided in this Act.

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SECTION 3.

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Restrictions on qualifying for other office.

73 Neither the chairman nor any commissioner shall be qualified to offer for election to any
74 position on the board other than the one in which he or she is serving without first resigning
75 from the position in which he or she at that time is serving.

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SECTION 4.

Recall.

77 The chairman or any commissioner shall be subject to recall as provided in Chapter 4 of Title
78 21 of the O.C.G.A. as now or hereafter amended.

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SECTION 5.

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Oath and bond.

81 Before entering upon the discharge of their duties, the chairman and other commissioners
82 shall subscribe an oath before the judge of the Probate Court of Fannin County for the true
83 and faithful performance of their duties and that they are not the holders of any public funds
84 unaccounted for. In addition, the chairman shall further give a satisfactory surety bond to be
85 judged by said judge of the probate court of the county and payable to the judge of the
86 probate court or his or her successor in office and filed in the office of the judge of the
87 probate court, in the sum of \$50,000.00 conditioned upon the faithful performance of the
88 duties of the office. Each commissioner shall give like bond in the sum of \$10,000.00. The
89 costs of said bonds shall be paid from the funds of Fannin County.

SECTION 6.

Compensation.

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(a) (1) The Chairman of the Board of Commissioners shall receive an annual salary which at all times shall be the same as the annual salary of the sheriff of Fannin County plus \$500.00 per annum.

(2) Each member of the board, other than the Chairman shall receive an annual salary of \$6,000.00; provided, however, that any such commissioner who completes the Association County Commissioners of Georgia training program and obtains certification shall receive an annual salary of \$7,200.00.

(3) The compensation of the Chairman and members of the board shall be paid in equal monthly installments from the funds of Fannin County. Except as otherwise provided by subsection (b) of this Section, the salaries provided for by this subsection shall constitute the entire compensation form the funds of Fannin County to which the Chairman and other members of the Board of Commissioners shall be entitled. The Chairman and other commissioners shall not be entitled to any additional compensation for serving on any other public boards or public authorities by virtue of their office.”

(b) hereof, the salary so fixed shall constitute the entire compensation from the funds of Fannin County to which said Chairman or any other Commissioner shall be entitled. The chairman and other commissioners shall not be entitled to any further compensation for serving on any other public boards or public authorities by virtue of their office.

(c) The Board of Commissioners shall be authorized to provide the chairman with a County-owned automobile which the Chairman may use in carrying out his official duties, and County funds may be expended for the operation and maintenance of said automobile. The Board of Commissioners may provide by ordinance or resolution for the reimbursement from County funds of actual and necessary expenses incurred by the Chairman and other Commissioners in carrying out their official duties.

SECTION 7.

Meetings.

124 The commission shall hold regular meetings on the second and fourth Tuesday of each
 125 month at the county seat which meeting shall be open to the public and may hold such
 126 additional meetings as shall be necessary when called by the chairman or any two
 127 commissioners, provided all members of the commission shall have been notified at least one
 128 day (24 hours) in advance of such special meeting. Meetings shall be open to the public. No
 129 official action shall be taken by the commission except in a meeting which is open to the
 130 public. Any two commissioners or the chairman and any one commissioner shall constitute a
 131 quorum for the transaction of business, but no official action shall be taken except upon the
 132 affirmative vote of at least two commissioners or at least one commissioner and the
 133 chairman, unless unfilled vacancies exist, in which event the remaining commissioners shall
 134 be authorized to establish a quorum and take official action. The chairman shall be entitled to
 135 the same voting rights as other commissioners on questions considered by the commission.

136 SECTION 8.

137 The Chairman.

138 The chairman shall be the chief executive officer of the county government, and shall
 139 generally supervise, direct, and control the administration or the affairs of the county
 140 pursuant to the powers herein conferred upon him and pursuant to the adopted resolutions of
 141 the commission in regards to matters reserved to the exclusive jurisdiction of the
 142 commission. The chairman shall preside over meetings of the commission. Consistent with
 143 the provisions of section 9 of this Act, the Chairman shall establish rules and regulate
 144 purchasing services for all county departments, offices and agencies. He shall be further
 145 authorized to make purchases for the county in the amounts not to exceed \$4,500.00. The
 146 limitation of 4,500.00 provided for herein section shall apply to the sales price of the goods
 147 or services purchased, and the chairman shall not use any purchasing device, technique, or
 148 method which would result in an aggregate cost exceeding the said 4,500.00 limitation.

149 SECTION 9.

150 The Commission.

151 (a) The commission shall have the power and authority to fix and establish, by
 152 appropriate resolution entered on its minutes, policies, rules, and regulations
 153 governing all matters reserved to its exclusive jurisdiction, which policies, rules, and
 154 regulations, when so adopted, with proper entry thereof made on the commission
 155 minutes, shall be conclusive and binding on the Chairman. The policies, rules, and
 156 regulations so adopted by the commission shall be carried out, executed, and enforced
 157 by the chairman as chief executive officer of the county, and the commission shall

158 exercise only those administrative powers which are necessarily and properly incident
 159 to its functions as a policy-making or rule-making body or which are necessary to
 160 compel enforcement of its adopted resolutions. Any action taken by said Chairman
 161 which is in conflict with such adopted resolutions and which deals with matters
 162 exclusively reserved to the jurisdiction of the commission shall be null, void, and of
 163 no effect.

164 (b) The following powers are hereby vested in the commission and reserved to its
 165 exclusive jurisdiction:

- 166 (1) To levy taxes;
- 167 (2) To make appropriations;
- 168 (3) To fix the rates of all other charges;
- 169 (4) To authorize the incurring of indebtedness;
- 170 (5) To order work done where the cost is to be assessed against benefitted
 171 property, and to fix the basis for such assessment;
- 172 (6) To authorize contracts, except purchases otherwise provided for herein,
 173 involving the expenditure of county funds;
- 174 (7) To establish, alter, or abolish public roads, private ways, bridges, and
 175 ferries, according to law; provided, however, that the chairman shall have the
 176 authority to accept subdivision plats when the requirements established by the
 177 commission for subdivisions have been met;
- 178 (8) To establish, abolish, or change election precincts according to law;
- 179 (9) To allow the insolvent lists for the county;
- 180 (10) To accept, for the county, the provisions of any optional statute where
 181 the statute permits its acceptance by the governing authority of the county, or
 182 by the commissioner or board of commissioners of the county;
- 183 (11) To exercise all powers, duty, and authority heretofore imposed upon or
 184 vested in the board of commissioners of Fannin County in respect to zoning
 185 and planning;
- 186 (12) To create and change the boundaries of special taxing districts
 187 authorized by law;
- 188 (13) To fix the bonds of county officers where same are not fixed by statute;
- 189 (14) To enact any ordinances or other legislation the county may be given
 190 authority to enact;
- 191 (15) To determine the priority of capital improvements;
- 192 (16) To call elections for the voting of bonds;
- 193 (17) To exercise all of the power and authority heretofore vested by law in
 194 the Board of Commissioners of Fannin County, together with the power and
 195 authority which may hereafter be delegated by law to the governing authority
 196 of the county, by whatever name designated, except such authority or power
 197 given to the chairman by the provisions of this Act;

198 (18) To make purchases of not less than \$4,500.00 nor more than
199 \$35,000.00 which, in the discretion of its members, are deemed necessary for
200 the operation of the county; and

201 (19) To make purchases in amounts over \$35,000.00; provided, however,
202 that for any purchases in such amounts, advertisements for bids shall be first
203 published for two consecutive weeks in the official organ of Fannin County.
204 Formal, sealed bids, after said advertising has been published, must be
205 obtained on all purchases of \$35,000.00 or more. Advertisement and the
206 obtaining of formal sealed bids may be dispensed with when, in the discretion
207 of the commission, an emergency exists which will not permit a delay.

208 SECTION 10.

209 Disposition of county property.

210 It shall be unlawful for the Chairman or Board of Commissioners of Fannin County to sell
211 any county property, real or personal, which may lawfully be sold, except by competitive
212 sealed bids, after advertisement for such bids in the official organ of Fannin County once a
213 week for two consecutive weeks immediately preceding the date on which such bids must be
214 submitted. Such advertisements shall give a complete description of the property being
215 offered for sale. Such advertisements shall be given to the official organ by the Chairman of
216 the Board of Commissioners, and the cost thereof shall be paid for from the funds of Fannin
217 County. The highest of such bids submitted must be accepted, unless all bids are rejected
218 and the property is removed from sale or re-advertised for competitive bidding in the manner
219 provided for herein. A file of all bids received shall be retained for a period of two years by
220 the Clerk of the Board of Commissioners and shall be open to the public for inspection at any
221 time within such two-year period.

222 SECTION 11.

223 Reports of officers.

224 The commission shall be empowered to require all county officers to make reports on the
225 general or specific conduct of the financial affairs of their respective offices.

226 SECTION 12.

227 Appointment of county officials and employees.

228 Subject to the qualifications and limitations provided for in this Act, the Chairman shall have
229 the exclusive power and authority to appoint, remove, and fix the compensation of, within
230 budgetary provisions and in accordance with the requirements of any civil service system or
231 merit system which may hereafter be established by the Board of Commissioners of Fannin
232 County, all employees and officials of the county, except as to:

- 233 (1) Boards or positions created by state statute; and
- 234 (2) Elected officials and employees under their supervision and control.

235 SECTION 13.

236 Appointment to statutory positions.

237 The appointment and removal of and the compensation to be paid to persons filling offices
238 and positions created by state statute, where not otherwise prescribed by such statute, shall be
239 made and fixed by the Chairman, subject to the approval of the compensation therefore by
240 the commission within budgetary provisions.

241 SECTION 14.

242 Internal organization.

243 The Board of Commissioners shall be authorized by ordinance or resolution to provide for
244 the internal organization of the county government and, in connection therewith, may create
245 such departments and agencies as the Board may determine to be necessary or desirable to
246 efficiently and effectively manage the affairs of the county government.

247 SECTION 15.

248 Clerk records; minutes.

249 The Board of Commissioners shall elect a clerk of the Board of Commissioners. Said Clerk
250 shall keep a proper and accurate book of minutes wherein shall appear all the acts, orders,
251 and proceedings of the commission, in chronological order, and a similar book of minutes
252 wherein shall appear, the chronological order, all acts, orders, and proceedings of the

253 Chairman. The minute books of the Chairman and commission shall be open to public
 254 inspection at all times during regular office hours, and certified copies of any entries therein
 255 shall be furnished by said Clerk to any person requesting same upon payment of a reasonable
 256 fee, to be paid into the county treasury as other funds, to be assessed by the commission in an
 257 amount sufficient to defray the cost of preparing the same.

258 SECTION 16.

259 Budget and appropriations.

260 (a) The fiscal year of Fannin County shall be the same as the calendar year. The Chairman
 261 shall submit annually to the commission, not later than September 1 of each year, beginning
 262 with calendar year 1975, a proposed budget governing expenditures of all county funds,
 263 including capital outlay and public works projects, for the following year. The commission
 264 shall thereafter hold a public hearing on the budget, giving notice thereof at least ten days in
 265 advance by publication of such notices and the proposed budget in the official organ of
 266 Fannin County and by posting same at the courthouse. The budget shall then be reviewed and
 267 adopted or amended by the commission at the first regular meeting in December following
 268 the submission of such budget to the commission, which budget when so adopted or
 269 amended by the commission, shall constitute the commission's appropriation of all funds for
 270 the following year. The budget so adopted may be revised during the year to which it applies
 271 only by formal action of the commission in a regular meeting and no increase shall be made
 272 therein without provision also being made for financing same. The proposed budget
 273 submitted by the chairman shall be accompanied by a report containing information and the
 274 data relating to the financial affairs of the county pertinent to arriving at and establishing the
 275 annual budget. A copy of the budget and of each revision or amendment to same shall be
 276 transmitted by the Chairman to the grand jury of the Superior Court of Fannin County within
 277 ten days from the time such budget or amendment thereof is adopted by the commission.

278 (b) The Board of Commissioners, by appropriate resolution adopted by the Board,
 279 may
 280 change the fiscal year established by subsection (a) hereof and, in connection
 281 therewith, may change the dates for the submission, consideration and adoption of the
 282 County budget, but except for such fiscal year and dates, the Board of Commissioners
 283 shall be bound by the procedures provided by this Act controlling the expenditure of
 284 County funds.

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 286 (c) The Board of Commissioners of Fannin County shall be authorized to provide for
 287 the financing of the government of Fannin County, until the first County budget is
 288 adopted pursuant to the provisions of this Act, in such manner and pursuant to such

289 requirements, consistent with the laws and Constitution of this State, as said Board of
290 Commissioners shall determine.
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292 SECTION 17.

293 Expenditures by allotments.

294 All expenditures of county funds shall be made in accordance with the county budget,
295 or amendments thereto, adopted by the commission, except as otherwise provided by
296 subsection (c) of section 16 of this Act. The chairman shall enforce compliance with
297 this provision by all departments or agencies of County government, including elected
298 County officers, and to this end shall institute a system of quarterly allotments of all
299 monies appropriated and budgeted. It is specifically provided, however, that to the
300 extent that the expenditure of County funds is controlled by a local Act relative to any
301 elective County officer or elective County officers, other than the Chairman and
302 members of the Board of Commissioners of Fannin County, the County budgets
303 adopted and the expenditure of County funds pursuant to this Act shall be in
304 conformity with the provisions of such local Acts.
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306 SECTION 18.

307 Audits

308 (a) The Commission shall employ a certified public accountant for the making of an annual
309 continuous audit of County finances and financial records. The accountant so employed
310 shall be paid out of County funds, and shall perform a complete audit of the financial records
311 of the County for each fiscal year, pointing out any irregularities found to exist, and reporting
312 the results of such audit to the Commission. Each annual report submitted to the Commission
313 shall be made available for public inspection as other records of the Commission. Said
314 accountant shall transmit to the grand jury of the Superior Court of Fannin County a copy of
315 each semiannual and annual report furnished by him to the Commission.
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317 (b) The Board of Commissioners shall have published in the official organ of Fannin
318 County once during each calendar year a copy of the annual audit prepared
319 pursuant to subsection (a) of this Section.
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321 SECTION 19.

322 Agreement of candidates.

323 It shall be unlawful for any candidate for the office of the chairman or commission, or for
324 nomination to either of such offices, to enter into any agreement or understanding with any
325 person as to the disposal of any work or appointment which is or shall be under the control of
326 the chairman or commission, and any person so offending shall be guilty of a misdemeanor,
327 and on conviction shall be punished as prescribed by law.

328 SECTION 20.

329 Officials not to be intersected in contracts.

330 Neither the Chairman not any member of the Commission not other County officer
331 empowered to use public or County funds for the purchase of goods, property, or services of
332 any kind for public or County purposes shall be financially interested, directly or indirectly,
333 in any contract to which the County is a party, either as principal, surety or otherwise; nor
334 shall such officer, his partner, agent, servant, or employee of a firm of which he is a member
335 or by whom he is employed purchase from or sell to the County any real or personal
336 property, goods, or services. Any contracts made in violation of any of the foregoing
337 provisions shall be void, and the officer so offending shall be removed from office upon
338 proper proceedings instituted by any taxpayer in said County in accordance with the
339 provisions of section 23-1714 of the Code of Georgia of 1933, as now or hereafter
340 amended.”

341 SECTION 21.

342 Severability.

343 In the event any section, subsection, sentence, clause, or phrase of this Act shall be declared
344 or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other
345 sections, subsections, sentences, clauses, or phrases of this Act, which shall remain in full
346 force and effect, as if the section, subsection, sentence, clause, or phrase so declared or
347 adjudged invalid or unconstitutional were not originally a part hereof. The General Assembly
348 hereby declares that it would have passed the remaining parts of this Act if it had known that
349 such part or parts hereof would be declared or adjudged invalid or unconstitutional.

350 SECTION 22.

351 Specific repealer.

352 An Act creating the office of commissioner of roads and revenues of Fannin County
353 (subsequently amended to provide for a board of commissioners) approved August 10, 1920
354 (Ga. L. 1920, p. 519), as amended, particularly by an Act approved April 15, 1969 (Ga. L.
355 1969, p. 2641) is repealed in its entirety and the several Acts amendatory thereof are likewise
356 repealed in their entirety.

357 SECTION 23.

358 Effective date.

359 This Act shall become effective on the first day of the month following the month in which it
360 is approved by the Governor or in which it becomes law without his approval.

361 SECTION 24.

362 General repealer.

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