

House Bill 1458 (AS PASSED HOUSE AND SENATE)

By: Representative Jasperse of the 11th

A BILL TO BE ENTITLED
AN ACT

1 To amend an Act creating the Board of Commissioners of Pickens County, approved June 2,
2 2010 (Ga. L. 2010, p. 3704), as amended, so as to update and revise provisions relating to
3 the powers, duties, and obligations of the board of commissioners; to revise and update
4 provisions relating to the powers and duties of the chairperson; to revise provisions related
5 to scheduling of meetings of the board of commissioners; to provide that state law shall
6 governing bidding and procurement; to update provisions related to keeping of the minutes
7 and records of the board of commissioners; to revise budgeting and audit procedures; to
8 provide for related matters; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 An Act creating the Board of Commissioners of Pickens County, approved June 2, 2010
12 (Ga. L. 2010, p. 3704), is amended by revising Section 1-1 as follows:

13 "SECTION 1-1.

14 There is created the Board of Commissioners of Pickens County to be elected and
15 organized as provided for in this Act. The board of commissioners shall be the successor
16 to the office of commissioner of Pickens County. The board of commissioners shall
17 constitute the governing authority of Pickens County and shall exercise the powers, duties,
18 and responsibilities vested in and upon said officers by the provisions of this Act. The term
19 'board,' whenever used in this Act, shall mean the Board of Commissioners of Pickens
20 County, including the chairperson and all members."

21 **SECTION 2.**

22 Said Act is further amended by revising Section 1-7 as follows:

23 "SECTION 1-7.

24 (a) Commissioners, other than the chairperson, shall serve in such capacity on a part-time
25 basis and shall be paid a salary of \$10,200.00 per year. Such compensation shall be paid
26 in equal monthly installments from the funds of Pickens County.

27 (b) The chairperson shall serve in such capacity on a full-time basis and shall be paid an
28 annual salary equal to the annual salary of the highest paid elected county officer of
29 Pickens County, plus an additional \$1,200.00. For the purposes of this subsection, the term
30 'county officer' shall mean only the tax commissioner, the judge of the probate court, the
31 sheriff, or the clerk of superior court. The salary provided in this subsection shall be paid
32 in equal monthly installments from the funds of Pickens County. The county shall furnish
33 the chairperson with an appropriate automobile to be used by such chairperson in carrying
34 out the official duties of the office. The automobile and the replacement cost thereof from
35 time to time as well as the costs necessary to maintain and operate such automobile shall
36 be paid from the funds of Pickens County. The chairperson shall be reimbursed from
37 county funds for actual and necessary expenses incurred in carrying out the official duties

38 of the office. The salary and expenses provided for in this subsection shall constitute the
39 entire compensation to which the chairperson shall be entitled, to be paid from county
40 funds.

41 (c) The chairperson and the commissioners may be reimbursed for reasonable expenses
42 incurred in carrying out their duties. Expenses may be reimbursed only after the
43 submission of receipts or records of said expenses to the county clerk. The chairperson and
44 commissioners shall be entitled to compensation for serving on any other boards or
45 authorities for which their membership is provided by law.

46 (d) At their own expense, the district commissioners may participate in county provided
47 health, dental, and other health related programs and in county sponsored retirement
48 programs. No county funds shall be spent on these programs for the benefit of the district
49 commissioners.

50 (e) Any commissioner who completes the Certified Commissioners Training program shall
51 be entitled to an additional \$100.00 per month. As an additional incentive, any
52 commissioner who completes the Certified Commissioners Advanced Training program
53 shall be entitled to receive \$100.00 per month in addition to the \$100.00 per month for
54 completing the Certified Commissioners Training program."

55 **SECTION 3.**

56 Said Act is further amended by revising Sections 1-9 through 1-18 as follows:

57 "SECTION 1-9.

58 (a)(1) Each month, at the county seat, the board of commissioners shall hold a minimum
59 of one regular meeting. The board may schedule and call such other meetings as deemed
60 necessary.

61 (2) All regular meetings shall be held during evening hours.

- 62 (3) The time, date, and place of the meetings shall be determined by the board of
63 commissioners in the first meeting of the year and shall be published in the official
64 county organ for two weeks following the passage of the meeting schedule. The meeting
65 schedule may thereafter be subject to amendment with reasonable notice to the public.
- 66 (b) The board of commissioners may hold such additional meetings as shall be necessary
67 when called by the chairperson or any two commissioners, provided that all members of
68 the board of commissioners shall have been notified in advance.
- 69 (c) All meetings, whether regular meetings, special meetings, or work sessions, shall be
70 open to the public.
- 71 (d) Two district commissioners or the chairperson and any one commissioner shall
72 constitute a quorum.
- 73 (e) No official action shall be taken except upon at least two affirmative votes and in
74 compliance with Chapter 14 of Title 50 of the O.C.G.A., relating to open meetings.
- 75 (f) The chairperson shall not be entitled to vote unless the board of commissioners is
76 equally divided or a district commissioner is absent from the meeting at which the vote
77 occurs, in which event the chairperson shall vote and his or her vote shall be counted the
78 same as a vote of the district commissioners.
- 79 (g) The vice chairperson while serving as chairperson shall be entitled to vote on all
80 matters before the board of commissioners.
- 81 (h) All meetings shall be conducted according to Robert's Rules of Order.

82 SECTION 1-10.

- 83 (a)(1) The board of commissioners shall have the exclusive power and authority to fix
84 and establish, by appropriate and duly adopted motions, ordinances, or resolutions
85 entered in its minutes, policies, rules, and regulations governing all matters reserved to
86 its exclusive jurisdiction. Such policies, rules, and regulations, when so adopted with
87 proper entry thereof made on the minutes of the board of commissioners, shall be

88 conclusive and binding. The board of commissioners shall exercise only those powers
89 which are necessarily and properly incident to its functions as the governing authority or
90 which are necessary to compel enforcement of its adopted motions, ordinances, or
91 resolutions.

92 (2) The board of commissioners may adopt all motions, ordinances, or resolutions as it
93 may deem advisable for the purpose of protecting and preserving the health, safety,
94 welfare, and morals of the citizens of the county and for the implementation and
95 enforcement of its powers and duties.

96 (3) The board of commissioners may prescribe penalties and punishment for the
97 violation of adopted motions, ordinances, or resolutions that are not prohibited by the
98 constitutions or general laws of Georgia and of the United States.

99 (b) The following additional powers are vested in the board of commissioners and reserved
100 to its exclusive jurisdiction:

101 (1) To levy taxes;

102 (2) To make appropriations;

103 (3) To fix the rates for services and other charges provided by the county;

104 (4) To authorize the incurring of indebtedness;

105 (5) To authorize work to be done where the cost is to be assessed against benefited
106 property and to fix the basis for such assessment;

107 (6) To authorize contracts and provide for the execution of contracts through the
108 authorization of the chairperson to sign said contracts;

109 (7) To establish, alter, open, close, build, repair, or abolish public roads, bridges, and
110 ferries, according to law; provided, however, that the chairperson shall have the authority
111 to accept subdivision plats when the requirements established by the board of
112 commissioners for subdivisions have been met;

113 (8) To establish, abolish, or change election precincts and militia districts according to
114 law;

- 115 (9) To accept, for the county, the provisions of any optional statute where the statute
116 permits its acceptance by the governing authority of the county;
- 117 (10) To create and change the boundaries of special taxing districts authorized by law;
- 118 (11) To fix the bonds of county officers where said bonds are not fixed by statute;
- 119 (12) To enact any ordinances or other legislation which the county may be given
120 authority to enact;
- 121 (13) To determine the priority of capital improvements;
- 122 (14) To call elections for the voting of bonds;
- 123 (15) To appoint retained legal counsel and an independent county auditor and provide
124 for their compensation;
- 125 (16) To regulate land use in the county by the adoption of land use and land development
126 ordinances which relate reasonably to the public health, safety, morality, and general
127 welfare of the county and its residents;
- 128 (17) To fix, levy, and assess license fees, charges, or taxes on all persons, firms, and
129 corporations engaging in or offering to engage in any trade, business, or profession in the
130 unincorporated area of the county, except for businesses regulated by the Georgia Public
131 Service Commission, and to classify all such persons, firms, and corporations according
132 to the nature, manner, and size of business conducted by such persons, firms, and
133 corporations and to fix, levy, and assess different license fees, charges, or taxes against
134 different classes of trades, businesses, callings, avocations, or professions;
- 135 (18) To adopt ordinances and resolutions to govern and regulate all persons, firms, and
136 corporations engaging in or offering to engage in any trade, business, or profession in the
137 unincorporated area of the county, except for businesses regulated by the Georgia Public
138 Service Commission, not contrary to constraints prescribed by the Constitutions and
139 general laws of Georgia and of the United States, for the purpose of protecting and
140 preserving the health, safety, welfare, and morals of the citizens of the county and to
141 prescribe penalties for the violation of any such ordinances and resolutions, including the

142 operation of such businesses without the obtaining of a license or when such license is
143 revoked or suspended;

144 (19) To require, within its discretion, any person, firm, or corporation licensed pursuant
145 to its authority to give a bond payable to the county and conditioned to pay the county for
146 injuries or damages received on account of dishonest, fraudulent, immoral, or improper
147 conduct in the administration of the business so licensed, such bond to be fixed and
148 approved by the board of commissioners at a regular meeting or a duly called special
149 meeting at which a quorum is present and thereafter entered into the minutes of the board
150 of commissioners;

151 (20) To adopt rules regulating the functioning of the board of commissioners; and

152 (21) To make appointments from recommendations of the chairperson to independent
153 authorities, boards, councils, commissions, committees, and similar bodies or agencies,
154 that are authorized or created by general law and in activated status.

155 SECTION 1-11.

156 (a) The chairperson shall devote his or her full time to the duties of the office of
157 chairpersonship and shall have no other source of employment.

158 (b) The chairperson shall serve as budget officer of the county as defined by Code
159 Section 36-81-2 of the O.C.G.A. regarding the budget process mandated by Section 1-15
160 of this Act.

161 (c)(1) The chairperson shall administer and preside over the meetings of the board of
162 commissioners.

163 (2) The chairperson shall call meetings of the board as provided in Section 1-9 of this
164 Act and may convene special meetings of the board of commissioners when he or she
165 deems necessary, but all members of the board of commissioners shall be notified in
166 advance of any such special meeting as required by law.

- 167 (3) The chairperson shall preside over any meeting of the board of commissioners unless
168 he or she is unavailable for said meeting.
- 169 (4) The chairperson shall prepare and have published pursuant to general law the
170 proposed agendas for all meetings of the board of commissioners.
- 171 (5) The chairperson is empowered to submit motions that are made and seconded by
172 district commissioners.
- 173 (6) The chairperson shall not vote unless the board of commissioners is equally divided
174 or a district commissioner is absent from the meeting at which the vote occurs, in which
175 event the chairperson shall vote and his or her vote shall be counted the same as a vote
176 of the district commissioners.
- 177 (d)(1) The chairperson shall supervise, direct, control, and provide for the administration
178 of the affairs and day-to-day business of the county.
- 179 (2) The chairperson shall execute and enforce all effective motions, ordinances, policies,
180 rules, and regulations of the board of commissioners and shall see that all such motions,
181 ordinances, policies, rules, and regulations are enforced.
- 182 (3) The chairperson shall have the power to propose changes in, consolidation of, or
183 creation or abolishment of any departments, agencies, or offices over which the
184 chairperson exercises supervision and control for subsequent formal approval by the
185 board of commissioners at a regular meeting or a duly called special meeting at which a
186 quorum is present and thereafter entered into the minutes of the board of commissioners.
- 187 (4) The chairperson shall keep the board of commissioners fully advised as to the
188 financial condition and needs of the county.
- 189 (5) The chairperson or his or her designee shall have the power to supervise, direct, and
190 control the administration of all agencies and departments within the span of control of
191 the board of commissioners.

192 (6) Within budget constraints, the chairperson or his or her designee shall have the
193 authority to employ, discipline, and remove all employees of the county within the span
194 of control of the board of commissioners.

195 (7) Within budget constraints and consistent with any applicable compensation plan
196 adopted by the board of commissioners, the chairperson shall have exclusive authority
197 to fix the compensation of all employees of the county within the span of control of the
198 board of commissioners.

199 (8) The chairperson and his or her designee shall have exclusive authority to direct all
200 employees of the county within the span of control of the board of commissioners.
201 District commissioners shall deal solely through the chairperson in all matters concerning
202 the operation, supervision, and administration of the various departments, offices, and
203 agencies of the county government and no member of the board of commissioners shall
204 directly or indirectly order, instruct, or otherwise attempt to control the actions of county
205 employees subject to the administrative and supervisory control of the chairperson.

206 (9) The chairperson shall have power to investigate the affairs, records, and expenditures
207 of the various authorities, boards, councils, commissions, committees, and similar bodies
208 or agencies, whether created by ordinance of the board of commissioners or by general
209 law, relating to the affairs of the county and to report thereon to the board of
210 commissioners.

211 (10) The chairperson shall recommend to the board of commissioners for its formal
212 consideration any proposals that he or she deems necessary or desirable to improve the
213 administration of the affairs of the county.

214 (11) The chairperson shall represent the county in intergovernmental matters.

215 (12) The chairperson shall represent the county government at ceremonial functions.

216 (e) The chairperson shall make recommendations to the board of commissioners for its
217 approval of appointments of members to independent authorities, boards, councils,

218 commissions, committees, and similar bodies or agencies that are authorized or created by
219 general law and in activated status.

220 (f) The chairperson shall have the authority to accept subdivision plats when the
221 requirements established by the board of commissioners for subdivisions have been met.

222

223 SECTION 1-12.

224 Purchasing and procurement shall be accomplished in accordance with applicable state law.

225 The board is authorized to adopt additional purchasing and procurement regulations by
226 ordinance for the administration of sealed bids and other procurements.

227 SECTION 1-13.

228 (a) The internal organization of the county government shall be established and altered by
229 the board of commissioners.

230 (b) Existing departments may be abolished and their functions transferred to other
231 departments, additional departments may be created, and any two or more departments may
232 be consolidated.

233 (c) The chairperson shall propose changes in, consolidation of, or creation or abolishment
234 of any departments, agencies, or offices over which the chairperson exercises supervision
235 and control for subsequent formal approval by the board of commissioners.

236 SECTION 1-14.

237 The board of commissioners shall appoint a clerk who shall keep a proper and accurate
238 record of minutes. The record of minutes of the board of commissioners shall contain all
239 the acts, orders, and proceedings of the board of commissioners in chronological order.

240 The minutes of the board of commissioners shall be open to the public for inspection at all
241 times during regular office hours; and certified copies of any entries in the minutes book
242 shall be furnished by the clerk to any person requesting same upon payment of a reasonable

243 fee, to be paid into the county treasury as are other funds, to be assessed by the board of
244 commissioners in an amount sufficient to defray the cost of preparing same.

245 SECTION 1-15.

246 (a) The chairperson, as budget officer, shall submit annually to the board of commissioners
247 a proposed budget governing expenditures of all county funds.

248 (b) The procedures for budget preparation, submission to the governing authority, review
249 by the governing authority, public review, notice, and hearings shall be as provided for in
250 Chapter 81 of Title 36 of the O.C.G.A.

251 (c) Upon adoption of the budget, and any amendment thereto, the budget shall constitute
252 the appropriation of all funds for such year.

253 (d) The budget so adopted may be revised upward during the year only by formal action
254 of the board of commissioners in a regular meeting, and no increase shall be made therein
255 without provision also being made for financing same.

256 SECTION 1-16.

257 No expenditures of county funds shall be made except in accordance with the adopted or
258 amended county budget, duly adopted or amended pursuant to Section 1-15 of this Act.
259 The chairperson shall enforce compliance with this provision by all departments of county
260 government within the limitations of the constitutions and general laws of Georgia and of
261 the United States and to this end shall institute a system of allotments of all moneys
262 appropriated and budgeted.

263 SECTION 1-17.

264 (a) The board of commissioners shall on or before the final day of the month following the
265 end of each fiscal year employ a certified public accountant as the county's performing

266 auditor for the purpose of conducting an annual continuous audit of county finances and
267 financial records.

268 (b) The performing auditor shall be paid out of county funds and shall perform a complete
269 audit of the financial records of the county for the preceding year, pointing out any
270 irregularities found to exist, and reporting the results of such audit to the board of
271 commissioners.

272 (c) During the third year of the audit services relationship with a performing auditor, the
273 county shall issue a request for proposal to choose its performing auditor for the following
274 three years, with the current performing auditor to be allowed to submit a proposal for the
275 following new three-year audit.

276 (d) Each annual report submitted to the board of commissioners shall be made available
277 for public inspection, as are other records in such office, and the performing auditor shall
278 transmit to the state auditor as required by subsection (d) of Code Section 36-81-7 of the
279 O.C.G.A.

280 **SECTION 1-18.**

281 (a) All laws, ordinances, and clauses thereof relating to or affecting the county in force
282 when this Act shall take effect are hereby repealed and superseded to the extent that the
283 said laws and clauses are inconsistent with the provisions of this Act.

284 (b) Insofar as the provisions of this Act are the same in terms or in substance and effect
285 as provisions of laws in force when this Act shall take effect, relating to or affecting the
286 county, the provisions of this Act are intended to be not a new enactment but a continuation
287 of such provisions of law, and this Act shall be so construed and applied."

288 **SECTION 4.**

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