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[missing title] 1989

LOCAL AND SPECIAL ACTS AND RESOLUTIONS OF THE GENERAL ASSEMBLY OF THE STATE OF GEORGIA 1989

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Sequential Number: 169

Short Title: CHEROKEE COUNTY -- BOARD OF COMMISSIONERS; CREATION; REFERENDUM.

Law Number: No. 195

Origin: (House Bill No. 649).

Type: AN ACT

Full Title: To amend an Act creating the office of commissioner of **Cherokee County**, approved August 9, 1915 (Ga. L. 1915, p. 177), as amended, so as to create a new board of commissioners of **Cherokee County**; to provide for four members and a chairman; to provide for elections and terms of office; to provide for qualifications, terms, and elections procedures; to provide for commissioner districts; to provide for the appointment of a clerk; to provide for filling of vacancies; to provide for oaths of office and surety bonds; to provide for the compensation of the chairman and members of the board; to provide for a vice chairman; to provide for powers, duties, and vacancies; to provide for regular meetings, work sessions, and other meetings; to provide for the powers, duties, and authority of the chairman and members of the board of commissioners; to provide for formal bids for certain purchases; to provide for the appointment, removal, and compensation of employees and department heads; to authorize the

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creation of the office of county manager; to provide for the preparation, submission, review, adoption, and amendment of budgets; to provide for expenditure of county funds; to provide for audits of county finances and financial records; to provide for other related matters; to provide for a referendum; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

Section 1. An Act creating the office of commissioner of **Cherokee County**, approved August 9, 1915 (Ga. L. 1915, p. 177), as amended, is amended by striking Sections 1 through 18 and inserting in lieu thereof new Sections 1 through 18 to read as follows:

"Section 1. There is created in and for the County of Cherokee a chairman and board of commissioners to be elected and organized as provided for in this Act. The chairman and board of commissioners shall constitute the governing authority of **Cherokee County** and shall exercise the powers, duties, and responsibilities vested in and upon said officers by the provisions of this Act. The term 'board' or the term 'commission,' whenever used in this Act, shall mean the board of commissioners of **Cherokee County**, including the chairman and all members.

Section 2. (a) The board of commissioners of **Cherokee County** shall consist of five members. One of the members shall be the chairman and shall be elected by a majority of the registered voters of the county voting in the election. Each candidate for the other four positions must be a resident of the commissioner district created by this section which such person offers to represent and shall be elected by the registered voters of the Eastern District or the Western District of **Cherokee County**, whichever includes the commissioner district to which such candidate seeks election. For the purpose of electing members of the board of commissioners, **Cherokee County** is divided into an Eastern District and a Western District. The county is further divided into four commissioner districts, such that the Eastern District contains Commissioner Districts Nos. 1 and 2 and the Western District contains Commissioner Districts Nos. 3 and 4. Persons offering for commissioner districts shall be elected by majority vote.

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(b) The Eastern District shall encompass the following territory:

Eastern District

Cherokee

- Tract 901
- Tract 902
 - Blocks 101 through 103 and 122
 - Block 201
- Tract 903
 - Blocks 101 through 115, 122 through 124, and 134 through 140
- Tracts 904 through 906
- Tract 908
 - Block Group 1
 - Blocks 201 through 210 and 215 through 230

- Blocks 301 through 314
- Tract 909
 - Blocks 101 through 106, 115 through 127, and 129 through 138

Within the Eastern District, Commissioner Districts Nos. 1 and 2 shall encompass the following territory:

Commissioner District No. 1

Cherokee

- Tract 901
- Tract 902
 - Blocks 101 through 103 and 122
 - Block 201
- Tract 903
 - Blocks 101 through 115, 122 through 124, and 134 through 140
- Tract 904
- Tract 905
 - Blocks 101 through 121 and 141 through 151
- Tract 906
 - Block Group 1
 - Blocks 216 through 225
 - Block Group 3
 - Blocks 401 through 407

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Commissioner District No. 2

Cherokee

- Tract 905
 - Blocks 122 through 140
 - Block Groups 2 and 3
- Tract 906
 - Blocks 201 through 215
 - Blocks 408 through 413
 - Block Group 5
- Tract 908
 - Block Group 1
 - Blocks 201 through 210 and 215 through 230
 - Blocks 301 through 314
- Tract 909
 - Blocks 101 through 106, 115 through 127, and 129 through 138

(c) The Western District shall encompass the following territory:

Western District

Cherokee

- Tract 902
 - Blocks 104 through 121, 139, 140, 143, and 144
 - Blocks 202 through 233
 - Block Group 3
- Tract 903
 - Blocks 116 through 121 and 125 through 133
- Tract 907
- Tract 908

- Blocks 211 through 214
- Blocks 315 through 318
- Tract 909
 - Blocks 107 through 114 and 139 through 144
- Tracts 910 and 911

Within the Western District, Commissioner Districts Nos. 3 and 4 shall encompass the following territory:

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Commissioner District No. 3

Cherokee

- Tract 902
 - Blocks 104 through 121, 139, 140, 143, and 144
 - Blocks 202 through 233
 - Block Group 3
- Tract 903
 - Blocks 116 through 121 and 125 through 133
- Tract 907
- Tract 908
 - Blocks 211 through 214
 - Blocks 315 through 318
- Tract 910
 - Blocks 106 through 110
- Tract 911
 - Block Groups 1 and 2

- Blocks 303 through 315

Commissioner District No. 4

Cherokee

- Tract 909
 - Blocks 107 through 114 and 139 through 144
- Tract 910
 - Blocks 101 through 105 and 111 through 127
- Tract 911
 - Blocks 301 and 302

(d) The terms 'Tract,' 'Block,' and 'Block Group' shall mean and shall describe the same geographical boundaries as provided in the report of the Bureau of the Census for the United States decennial census of 1980 for the State of Georgia.

(e) Any part of **Cherokee County** which is not included in any commissioner district described in subsection (b) or (c) of this section shall be included within that commissioner district contiguous to such part which contains the least population according to the United States decennial census of 1980 for the State of Georgia and **Cherokee County**.

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(f) The chairman shall be a citizen of this state who has attained the age of 30 years and who has been a resident of **Cherokee County** for not less than two years next preceding his election and shall hold no other elective public office.

(g) Members of the commission, other than the chairman, shall be citizens of this state who have attained the age of 21 years and who have been residents of their respective commissioner districts for not less than one year preceding their election and shall hold no other elective public office.

Section 3. The first members of the commission created by this Act to represent commissioner districts shall be elected for staggered terms at the general election held in 1990, and their terms shall commence on January 1, 1991. The commission members so elected to represent Commissioner Districts No. 1 and No. 4 shall serve for terms of four years each and until their respective successors are elected and qualified. The commission members so elected to represent Commissioner Districts No. 2 and No. 3 shall serve for terms of two years each and until their respective successors are elected and qualified. All commission members elected in subsequent elections after the general election of 1990, other than special elections to fill vacancies for unexpired terms, shall serve for terms of four years each and until their respective successors are elected and qualified, so that two of the commission members, other than the chairman, shall be elected at the general election held every two

years.

Section 4. (a) The first chairman of the commission created by this Act shall be elected at the general election held in 1990 to serve for a term of four years. His successor and all subsequent chairmen shall be elected at the election preceding the expiration of a term of office for terms of four years each and until their respective successors are elected and qualified.

(b) Neither the chairman nor any commissioner shall be qualified to offer for election to any position other than the one in which he is serving without first resigning from the position in which he at that time is serving.

Section 5. In the event of a vacancy in the office of chairman or a commissioner whose unexpired term exceeds 180 days, it shall be the duty of the election superintendent of Cherokee

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County to call a special election for the filling of such vacancy, which election shall be governed by Chapter 2 of Title 21 of the O.C.G.A. In the event such unexpired term does not exceed 180 days, it shall be the duty of the remaining members of the commission to fill the vacancy by appointment. All persons elected or appointed to fill vacancies pursuant to the provisions of this section shall serve for the remainder of the unexpired term of any such office and shall possess the residency and other qualifications required for such office.

Section 6. Before entering upon the discharge of their duties, the chairman and commissioners shall subscribe an oath before the probate judge of said county for the true and faithful performance of their duties and that they are not the holders of any public funds unaccounted for. In addition, the chairman shall further give a satisfactory surety bond to the probate judge of the county and payable to the probate judge or his successor in office and filed in the office of the probate judge, in the sum of \$50,000.00, conditioned upon the faithful performance of the duties of the office. Each commissioner shall give like bond in the sum of \$10,000.00. The costs of said bonds shall be paid out of the county treasury.

Section 7. (a) Commissioners, other than the chairman, shall be paid an annual salary of \$8,000.00. Such compensation shall be paid on a monthly basis out of the county treasury upon warrants drawn upon the county treasury.

(b) The chairman of the board of commissioners shall receive an annual salary in the amount of \$15,000.00, to be paid out of the county treasury upon warrants drawn upon the county treasury.

(c) The chairman and the commissioners may be reimbursed for reasonable expenses incurred in carrying out their duties. Such expenses shall include the following:

- (1) Mileage reimbursement for the use of a personal automobile while conducting county business;
- (2) Secretarial services, if required, over and above services normally provided by the county; and

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(3) Travel and lodging expenses and fees incurred in conjunction with training seminars, conventions, or county business conducted outside of **Cherokee County**.

(d) Expenses may be reimbursed only after the submission of receipts for said expenses to the county clerk and the approval by majority vote of the commission at a regularly scheduled meeting. The chairman and commissioners shall be entitled to compensation for serving on any other boards or authorities for which their membership is provided by law.

(e) The board of commissioners may choose to attend any seminar or training session that it feels will improve the manner in which it discharges and conducts its lawful duties. The expenses incurred from attending such seminar or training session shall be reimbursed by the county out of the county funds subject to the above requirements of submission of receipts and commission approval.

Section 8. At the first regular meeting of each year, the board of commissioners shall elect from its members a vice chairman. In the event of death, disqualification, or resignation of the chairman, the vice chairman shall perform the duties and authority of the chairman until a new chairman is chosen as provided in this Act. The vice chairman shall preside at meetings of the board of commissioners in the absence of the chairman and shall serve for the calendar year in which elected. In the event of a vacancy in the office of vice chairman, the board of commissioners shall elect a new vice chairman to serve for the remainder of calendar year.

Section 9. The board of commissioners shall hold two regular meetings each month at the county seat, which meetings shall be open to the public. The time, date, and place of the meetings shall be determined by the board in the first meeting of the year. Any resolution passed by the board regarding the date, time, and place of its monthly meetings shall be published in the official county organ once a week for two weeks during a period of 30 days immediately following the passage of the resolution. The board of commissioners may hold such additional meetings as shall be necessary when called by the chairman or any three commissioners, provided all members of the commission shall have been notified at least three days in advance of such special

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meeting which is open to the public. Any three commissioners or the chairman and any two commissioners shall constitute a quorum. No official action shall be taken except upon the affirmative vote of at least three members of the commission and except upon compliance with Chapter 14 of Title 50 of the O.C.G.A., relating to open meetings. The chairman shall be entitled to the same voting rights as other members of the board of commissioners on questions considered by the commission. All regular and called meetings shall be conducted according to **Robert's Rules of Order**.

Section 10. The chairman shall be the chief elective officer of the county government and shall preside over the meetings of the board of commissioners. The duties of the chairman shall include, but shall not be limited to, the following:

- (1) Maintaining an office in the administrative center;
- (2) Presiding at all public meetings;
- (3) Representing the county government at ceremonial functions;
- (4) Being available to the constituency on a regular basis;

- (5) Coordinating intergovernment activity among municipalities, other counties, the state, and the United States and any agencies thereof;
- (6) Being empowered to submit motions to the board of commissioners for action;
- (7) Sharing equal responsibility with other commissioners for budget approval and amendments and the approval of the board of commissioners staff additions or separations;
- (8) Taking the lead role in initiating needs assessments, evaluations of county services, and policy development; and

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- (9) Appointing subcommittee chairmen with the approval of the commission.

Section 11. The board of commissioners shall have the power and authority to fix and establish, by appropriate resolution entered on its minutes, policies, rules, and regulations governing all matters reserved to its exclusive jurisdiction. Such policies, rules, and regulations, when so adopted with proper entry thereof made on the minutes of the board of commissioners, shall be conclusive and binding. The board of commissioners shall exercise only those administrative powers which are necessarily and properly incident to its functions as a policy-making or rule-making body or which are necessary to compel enforcement of its adopted resolutions. The following powers are vested in the board of commissioners and reserved to its exclusive jurisdiction:

- (1) To levy taxes;
- (2) To make appropriations;
- (3) To fix rates and charges for services provided by the county;
- (4) To authorize the incurring of indebtedness;
- (5) To order work done where the cost is to be assessed against benefited property and to fix the basis for such assessment;
- (6) To authorize and provide for the execution of contracts;
- (7) To establish, alter, open, close, build, repair, or abolish public roads, bridges, and ferries, according to law; provided, however, that the chairman shall have the authority to accept subdivision plats when the requirements established by the board of commissioners for subdivisions have been met;
- (8) To establish, abolish, or change election precincts and militia districts according to law;

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- (9) To accept, for the county, the provisions of any optional statute where the statute permits its acceptance by the governing authority of the county;
- (10) To exercise all powers, duty, and authority formerly imposed upon or vested in the commissioner of roads and revenues of **Cherokee County** in respect to zoning and planning;
- (11) To create and change the boundaries of special taxing districts authorized by law;
- (12) To fix the bonds of county officers where same are not fixed by statute;
- (13) To enact any ordinances or other legislation which the county may be given authority to enact;
- (14) To determine the priority of capital improvements;
- (15) To call elections for the voting of bonds;
- (16) To exercise all of the power and authority formerly vested by law in the commissioner of **Cherokee County** together with the power and authority which may be delegated by law to the governing authority of the county, by whatever name designated;
- (17) To appoint retained legal counsel and an independent county auditor and provide for their compensation; and
- (18) To require all county officers to report on the general or specific conduct of the financial affairs of their respective offices.

Section 12. (a) There is created the office of county manager of **Cherokee County**. The qualifications, method of selection, appointment, term of office, compensation, procedure for removal or suspension, method of filling vacancies, and other related matters pertaining to the office of county manager shall be provided for by resolution of the board of commissioners of **Cherokee County**.

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(b) In its discretion, the board of commissioners of **Cherokee County** may select a person for the office of county manager solely upon the person's executive and administrative qualifications with specific reference to actual experience in or knowledge of accepted practices in respect of the duties of the office. In its discretion, the board of commissioners may require any person appointed to the office of county manager to hold a bachelor's degree in public administration, business administration, accounting, finance, or related fields and possess at least three years' experience as a county or city manager or as an assistant county or city manager; or the board of commissioners may require any person appointed to the office of county manager to hold a master's degree in any of the aforementioned fields and possess at least two years' experience as a county or city manager or as an assistant county or city manager.

(c) The county manager shall be the chief executive officer of **Cherokee County** and he shall be responsible to the board of commissioners for the proper and efficient administration of all affairs of the county, except as otherwise provided by law. It shall be the duty of the county manager to:

- (1) See that all laws and ordinances of the county are enforced;
- (2) Exercise control over all departments or divisions of the county which the board or chairman of the board has heretofore exercised or that may hereafter be created, except as otherwise provided in this Act;
- (3) Keep the board of commissioners fully advised as to the financial conditions and needs of the county;
- (4) Supervise and direct the official conduct of all appointive county officers and department heads, except as may be otherwise provided in this Act;
- (5) Attend all meetings of the board with the right to take part in the discussions, provided that the county manager shall have no vote on any matter or issue before the board;

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- (6) Supervise the performance of all contracts made by any person for work done for **Cherokee County** and to supervise and regulate all purchases of materials and supplies for **Cherokee County** within such limitations and under such rules and regulations as may be imposed by the board of commissioners, provided that the county manager is authorized to make purchases and contracts for the county in amounts not exceeding \$2,500.00;
- (7) Devote his entire time to the duties and affairs of his office and hold no other office or employment for remuneration while so engaged; and
- (8) Perform such other duties as may be required of him by the board of commissioners.

Section 13. Formal sealed bids shall be received for all purchases in amounts over \$5,000.00. Advertisements for such bids shall be published for two consecutive weeks in the official organ of **Cherokee County**. The need for such bids may be dispensed with by the board of commissioners if it decides that an emergency exists which will not permit a delay.

Section 14. The internal organization of the county government shall be established and altered by the board of commissioners. Existing departments may be abolished and their functions transferred to other departments, additional departments may be created, and any two or more departments may be consolidated.

Section 15. The board of commissioners shall appoint a clerk, who shall keep a proper and accurate book of minutes. The book of minutes of the commission shall contain all the acts, orders, and proceedings of the commission in chronological order. A similar book of minutes shall be kept which shall contain, in chronological order, all acts, orders, and proceedings of the county manager. The minutes books of the county manager and commission shall be open to the public for inspection at all times during regular office hours; and certified copies of any entries in the minutes books shall be furnished by the clerk to any person requesting same upon payment of a reasonable fee, to be paid into the county treasury as are other funds, to be assessed by the commission in an amount sufficient to defray the cost of preparing same.

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Section 16. The chairman shall submit annually to the commission a proposed budget governing expenditures of all county funds, including capital outlay and public works projects for the following fiscal year. The commission shall thereafter hold a public hearing on the budget, giving notice thereof at least ten days in advance by publication of such notice and of the proposed budget in the official organ of **Cherokee County** and by posting same at the courthouse door. The budget shall then be reviewed and adopted or amended by the commission prior to the beginning of the new fiscal year to which it applies, which budget, when so adopted or amended by the commission, shall constitute the commission's appropriation of all funds for such year. The budget so adopted may be revised during the year only by formal action of the commission in a regular meeting, and no increase shall be made therein without provision also being made for financing same. The proposed budget submitted by the chairman shall be accompanied by a report containing information and data relating to the financial affairs of the county pertinent to arriving at and establishing the annual budget. A copy of the budget and of each revision or amendment to same shall be transmitted by the chairman to the grand jury of the Superior Court of **Cherokee County** within ten days from the time such budget or amendment thereof is adopted by the commission. The board of commissioners may from time to time, upon a majority vote thereof, change the ending and beginning date of the fiscal year for the county or may operate on a calendar basis; provided, however, that in the event of such change, the budget shall be submitted at least two months prior to the beginning date of the next fiscal year or January first, whichever shall apply, and shall be adopted at least one month prior to said beginning date. The procedures for budget preparation, submission to the governing authority, review by the governing authority, public review, notice, and hearings shall be as provided for in Chapter 81 of Title 36 of the O.C.G.A.

Section 17. No expenditures of county funds shall be made except in accordance with the county budget, or amendments thereto, adopted by the commission. The county manager shall enforce compliance with this provision by all departments of county government and to this end shall institute a system of allotments of all moneys appropriated and budgeted.

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Section 18. The commission shall on or before the final day of the month following the end of each fiscal year employ a certified public accountant for the making of an annual continuous audit of county finances and financial records. The accountant so employed shall be paid out of county funds and shall perform a complete audit of the financial records of the county for the preceding year, pointing out any irregularities found to exist, and reporting the results of such audit to the commission. Each annual report submitted to the commission shall be made available to public inspection as are other records in such office. The commission shall cause to be published in the official organ of **Cherokee County** and posted at the courthouse door a statement of the financial condition of the county as of December 31 and June 30 of each year. Said accountant shall transmit to the grand jury of the Superior Court of **Cherokee County** a copy of each annual report furnished by him to the commission."

Section 2. Unless prohibited by the federal Voting Rights Act of 1965, as amended, the election superintendent of **Cherokee County** shall call and conduct an election as provided in this section for

the purpose of submitting this Act to the electors of **Cherokee County** for approval or rejection. The election superintendent shall conduct that election on November 7, 1989, and shall issue the call therefor not less than 30 nor more than 60 days prior to that date. 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 **Cherokee County**. The ballot shall have written or printed thereon the words:

☐ YES

☐ NO

Shall the Act be approved which creates a board of commissioners of **Cherokee County**?"

All persons desiring to vote for approval of the Act shall vote "Yes," and those 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 approval of the Act, it shall become of full force and effect immediately. 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

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repealed on the first day of January immediately following that election date.

The expense of such election shall be borne by **Cherokee County**. It shall be the superintendent's duty to certify the result thereof to the Secretary of State.

Section 3. All laws and parts of laws in conflict with this Act are repealed.

NOTICE IS HEREBY GIVEN

that there will be introduced a bill in the 1989 session of the Georgia General Assembly to change the **Cherokee County** Commission from a one man commission to a multi-commission.

GEORGIA, FULTON COUNTY

Personally appeared before me, the undersigned authority, duly authorized to administer oaths, William G. Hasty, Sr., who, on oath, deposes and says that he is Representative from the 8th District, and that the attached copy of Notice of Intention to Introduce Local Legislation was published in the Cherokee Tribune which is the official organ of **Cherokee County**, on the following date: January 11, 1989.

/s/ William G. Hasty, Sr. Representative, 8th District

Sworn to and subscribed before me,

this 2nd day of February, 1989.

/s/ Connie F. Smith
Notary Public, Clayton County, Georgia
My Commission Expires Nov. 21, 1989
(SEAL)

Approval Date: Approved March 30, 1989.