

1 **A RESOLUTION OF THE FULTON COUNTY BOARD OF COMMISSIONERS URGING**  
2 **THE GENERAL ASSEMBLY TO AMEND STATE LAW TO PROHIBIT THE PERSONAL**  
3 **RETENTION OF PASSPORT EXECUTION FEES AS PERSONAL COMPENSATION**  
4 **BY SUPERIOR COURT CLERKS AND TO PROVIDE THAT SUCH FEES SHALL**  
5 **INSTEAD BE REMITTED TO A COUNTY'S GENERAL FUND; AND FOR OTHER**  
6 **PURPOSES.**

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8 **WHEREAS**, a responsibility of the members of the Board of Commissioners is to  
9 serve as good stewards of the public funds entrusted to them for public use; and

10 **WHEREAS**, the Board of Commissioners finds the practice of superior court clerks  
11 retaining the passport execution fees as personal income to be contrary to the  
12 commitment of public elected officials to act as good stewards of public funds and to  
13 ensure transparency in governmental operations; and

14 **WHEREAS**, Paragraph III, of Section I, of Article IX, of the Constitution of the State  
15 of Georgia provides that the compensation for clerks of superior court may be fixed  
16 through the enactment of general law and may be supplemented by local law, or by action  
17 of the local governing authority; and

18 **WHEREAS**, Paragraph III, of Section I, of Article IX of the Constitution of the State  
19 of Georgia further provides that such general law may establish compensation for clerks  
20 of superior court on a "fee basis, salary basis, or fee basis supplemented by salary"; and

21 **WHEREAS**, the General Assembly, pursuant to O.C.G.A. § 15-6-88, established  
22 the minimum salary to be paid out of county treasuries to clerks of superior court on the  
23 basis of population served and authorizes a county governing authority to supplement  
24 said salary; and

25 **WHEREAS**, in addition, O.C.G.A. § 15-6-77(c) provides in relevant part that  
26 "...[f]ees, sums, or other remuneration for the performance of duties provided for under  
27 the laws of the United States or regulations promulgated pursuant to such laws shall be

28 as provided in such laws or regulations as personal compensation to the clerk of the  
29 superior court for the performance of such duties" (emphasis supplied); and

30 **WHEREAS**, many superior court clerks in Georgia perform passport execution  
31 services on behalf of the United States Government as authorized by 22 C.F.R. §  
32 51.22(b)(2) and (e); and

33 **WHEREAS**, federal law provides that there shall be a passport filing fee paid to  
34 the United States Treasury and, in addition, a passport execution fee paid to the United  
35 States Treasury unless the Secretary of State, by regulation, authorizes State officials or  
36 the United States Postal Service "to collect and retain the execution fee for each  
37 application for a passport..." 22 U.S.C. § 214(a); and

38 **WHEREAS**, the corresponding regulations of the U.S. Department of State related  
39 to the processing of passport application fees provide that "when execution services are  
40 provided by an official of a State or local government...the State or local government  
41 ...may retain the fee if authorized to do so by the [United States Department of State]."  
42 22 C.F.R. 51.51(b); and

43 **WHEREAS**, pursuant to federal laws and O.C.G.A. § 15-6-77(c), several, but not  
44 all superior court clerks have been retaining passport execution fees as personal  
45 compensation despite the fact that passport execution services are performed by staff  
46 who are paid by counties to perform these and other duties; and

47 **WHEREAS**, neither federal law nor state law appears to mandate disclosure of  
48 such earnings to the local governing authority that would allow a proper calibration of the  
49 salaries established for clerks of superior court across the state; and

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51           **WHEREAS**, the Georgia General Assembly is presently meeting for the first  
52 session of the 2023-2024 biennial session and has the authority to amend O.C.G.A. § 15-  
53 6-77 in order to eliminate the ability for a clerk of superior court to collect passport  
54 execution fees as personal remuneration; to instead remit these fees to the general fund  
55 of a county's Treasury; and to require tracking and reporting of such fees collected and  
56 disbursed.

57           ~~**NOW, THEREFORE, BE IT RESOLVED**~~, that the Fulton County Board of  
58 Commissioners hereby disapproves of the practice of superior court clerks retaining  
59 passport execution fees as personal income and not disclosing to the public the personal  
60 compensation earned from such fees.

61           **BE IT FURTHER RESOLVED**, that the Fulton County Board of Commissioners  
62 hereby urges the General Assembly to amend O.C.G.A. § 15-6-77(c) to remove the  
63 language that allows clerks of superior court to receive fees, sums, or other remuneration  
64 for the performance of duties directed by federal laws or regulations as personal  
65 compensation, and instead to direct such sums—including passport execution fees—to  
66 be paid to the general fund of a county's treasury where such funds can be used to  
67 provide services to county citizens.

68           **BE IT FINALLY RESOLVED**, that the Clerk to the County Commission is  
69 authorized and directed to send copies of this Resolution to the Clerk of the Georgia  
70 House of Representatives and the Secretary of the Georgia Senate.

71           **PASSED AND ADOPTED** by the Board of Commissioners of Fulton County,  
72 Georgia this 15<sup>th</sup> day of February, 2023.

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FULTON COUNTY BOARD OF COMMISSIONERS

SPONSORED BY:

*Bob Ellis*

Vice-Chair Bob Ellis, District 2

CO- SPONSORED BY:

*Bridget Thorne*

Commissioner Bridget Thorne, District 1

ATTEST:

*Tonya R. Grier*

Tonya R. Grier, Clerk to the Commission

APPROVED AS TO FORM:

*Y. Soo Jo*

Y. Soo Jo, County Attorney

