

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

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

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

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

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

22 **WHEREAS**, in addition, O.C.G.A. § 15-6-77(c) provides in relevant part that
23 “...[f]ees, sums, or other remuneration for the performance of duties provided for under
24 the laws of the United States or regulations promulgated pursuant to such laws shall be
25 as provided in such laws or regulations as personal compensation to the clerk of the
26 superior court for the performance of such duties” (emphasis supplied); and

27 **WHEREAS**, the Fulton County Superior Court Clerk performs passport execution
28 services on behalf of the United States Government as authorized by 22 C.F.R. §
29 51.22(b)(2) and (e); and

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

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

40 **WHEREAS**, pursuant to federal laws and O.C.G.A. § 15-6-77(c), the Fulton County
41 Superior Court Clerk has been retaining passport execution fees as personal
42 compensation despite the fact that passport execution services are performed by staff
43 who are paid by Fulton County to perform these and other duties; and

44 **WHEREAS**, neither federal law nor state law mandates disclosure of such
45 earnings to the local governing authority that would allow a proper calibration of the
46 salaries established for clerks of superior court across the state; and

47 **WHEREAS**, on April 13, 2022, the Board of Commissioners adopted Resolution
48 No. 22-0236, providing an annual salary supplement of \$25,956.00 to the Fulton Superior

49 Court Clerk which is in addition to the to the minimum base salary of \$130,496.72 set
50 forth in O.C.G.A. § 15-6-88(a); and

51 **WHEREAS**, the Fulton County Superior Court Clerk has not voluntarily shared with
52 the Board of Commissioners the amount she annually retains in passport execution fees;
53 and

54 **WHEREAS**, the Board of Commissioners has become aware, through recent news
55 reports published after the Board of Commissioners provided a salary supplement, that
56 the Fulton County Superior Court Clerk has retained more than \$360,000.00 in passport
57 execution fees as personal compensation in 2022; and

58 **WHEREAS** the Board of Commissioners, by law, cannot reduce the supplement it
59 authorized in Resolution No. 22-0236 during the current term of the Superior Court Clerk;
60 and

61 **WHEREAS**, the Board of Commissioners finds the practice of the Superior Court
62 Clerk of retaining the passport execution fees as personal income to be contrary to the
63 commitment of public elected officials to act as good stewards of public funds and to
64 ensure transparency in governmental operations; and

65 **WHEREAS**, the Georgia General Assembly is presently meeting for the first
66 session of the 2023-2024 biennial session and has the authority to amend O.C.G.A. § 15-
67 6-77 in order to eliminate the ability for a clerk of superior court to collect passport
68 execution fees as personal remuneration; to instead remit these fees to the general fund
69 of a county's Treasury; and to require tracking and reporting of such fees collected and
70 disbursed.

71 **NOW, THEREFORE, BE IT RESOLVED**, that the Fulton County Board of
72 Commissioners hereby denounces the practice of the Fulton County Superior Court Clerk
73 of retaining passport execution fees as personal income and for not disclosing to the
74 Board of Commissioners and the public the personal compensation earned from such
75 fees.

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

83 **BE IT FURTHER RESOLVED**, that the Clerk to the County Commission is
84 authorized and directed to send copies of this Resolution to the Clerk of the Georgia
85 House of Representatives and the Secretary of the Georgia Senate.

86 **BE IT FINALLY RESOLVED**, that the Clerk to the County Commission is
87 authorized and directed to send a copy of this Resolution to the Clerk of Superior Court,
88 Cathelene Robinson.

89 **PASSED AND ADOPTED** by the Board of Commissioners of Fulton County,
90 Georgia this 1st day of February, 2023.

91
92
93
94
95
96

97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117

**FULTON COUNTY BOARD OF
COMMISSIONERS**

SPONSORED BY:

Vice-Chair Bob Ellis, District 2

ATTEST:

Tonya R. Grier, Clerk to the Commission

APPROVED AS TO FORM:

Y. Soo Jo, County Attorney