

Senate Bill 32

By: Senators Brown of the 26th, Walker of the 22nd, Thomas of the 10th, Polak of the 42nd and Fort of the 39th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 21-2-40 of the Official Code of Georgia Annotated, relating to the
2 creation of county boards of elections and boards of elections and registration by the General
3 Assembly, so as to provide for the creation of boards of elections and registration in each
4 county in which the General Assembly has not heretofore created such a board by local Act;
5 to provide for the membership of such board; to provide for its powers and duties; to provide
6 for an elections supervisor, clerical assistants, and other employees; to provide for the
7 transfer of duties, powers, and functions of the county election superintendent and registrars
8 to the board; to provide for other matters relative thereto; to provide for an effective date; to
9 repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 style="text-align:center">**SECTION 1.**

12 Code Section 21-2-40 of the Official Code of Georgia Annotated, relating to the creation of
13 county boards of elections and boards of elections and registration by the General Assembly,
14 is amended by striking said Code section in its entirety and inserting in lieu thereof the
15 following:

16 "21-2-40.

17 ~~(a) The General Assembly may by local Act create a board of elections in any county of~~
18 ~~this state and empower the board with the powers and duties of the election superintendent~~
19 ~~relating to the conduct of primaries and elections.~~

20 ~~(b) The General Assembly may by local Act create a board of elections and registration~~
21 ~~in any county of this state and empower the board with the powers and duties of the~~
22 ~~election superintendent relating to the conduct of primaries and elections and with the~~
23 ~~powers and duties of the board of registrars relating to the registration of voters and~~
24 ~~absentee balloting procedures.~~

25 (a)(1) For each county for which the General Assembly has not, as of January 1, 2001,
26 created a board of elections, board of elections and registration, joint county-municipal

1 board of elections, or joint county-municipal board of elections and registration, there is
2 created a board of elections and registration which shall be empowered with the powers
3 and duties of the election superintendent relating to the conduct of primaries and elections
4 and the board of registrars relating to the registration of voters and absentee balloting
5 procedures.

6 (2) On or by January 1, 2002, and continuously thereafter, each county shall have
7 established a county board of elections, county board of elections and registration, joint
8 county-municipal board of elections, or joint county-municipal board of elections and
9 registration pursuant to the provisions of a local Act of the General Assembly or a board
10 of elections and registration pursuant to the provisions of this Code section.

11 (b) The county board of elections and registration created under subsection (a) of this Code
12 section shall be composed of five members, each of whom shall be an elector and a resident
13 of the county and who shall be appointed in the following manner:

14 (1) Two members shall be chosen by the county executive committee of the political
15 party which, at the last preceding regular general election held for the election of all
16 members of the General Assembly, elected the largest number of members of the General
17 Assembly. Such members so chosen shall be certified by the chairperson of the county
18 executive committee of such political party to the governing authority of the county, and
19 such appointment shall be entered upon the minutes of the governing authority;

20 (2) Two members shall be appointed in like fashion by the county executive committee
21 of the political party which, at such election, elected the next largest number of members
22 of the General Assembly. Such appointees shall be certified by the chairperson of the
23 county executive committee of that political party to the governing authority of said
24 county and such certification shall be entered upon the minutes of the governing
25 authority; and

26 (3) The fifth member of the board of elections and registration shall be appointed jointly
27 by the governing authority of the county from a list of one or more nominees submitted
28 by a majority of the other four members of such board. The fifth member so selected
29 shall be deemed to be a member at large. In the event a majority of the four members of
30 such board is unable to nominate one or more persons to the governing authority of the
31 county within the time specified in subsection (d) of this Code section for appointments,
32 the governing authority of said county shall be authorized to make the appointment. Any
33 appointment made under the provisions of this paragraph shall also be entered upon the
34 minutes of the governing authority.

35 (c) No person who holds elective public office shall be eligible to serve as a member of
36 any such board of elections during the term of such elective office, and the position of any

1 member of such board shall be deemed vacant upon such member qualifying as a candidate
2 for elective public office.

3 (d) Initial appointments to the board of elections and registration under this Code section
4 shall be made by the respective appointing authorities no later than January 1, 2002. In the
5 event of a vacancy on such board with respect to a member appointed by one of the
6 political parties as provided in subsection (b) of this Code section, such political party shall
7 appoint a successor within 60 days after the date such vacancy is created, such successor
8 to be appointed in like manner as the person whose position is vacant for his or her
9 unexpired term. In the event such political party fails to make an initial appointment by
10 January 1, 2002, or within 60 days after a vacancy occurs, the position shall be filled by the
11 governing body of the county. In the event of a vacancy on such board with respect to the
12 member at large, the remaining members of such board shall submit the names of one or
13 more nominees to fill the unexpired term, such nomination to be made within 60 days after
14 the vacancy occurs. The governing authority of the county shall select and appoint the
15 successor member at large from the nominee or nominees whose names are submitted by
16 a majority of the remaining members of such board. In the event of the failure of such
17 board to submit the names of such nominee or nominees within 60 days after the vacancy
18 occurs, the governing authority of the county may fill the vacancy on its own motion.

19 (e) Initial appointees under this Code section shall take office upon appointment and shall
20 serve until March 31, 2003, and until a successor is appointed and qualified. The
21 successors of the initial appointees shall serve for two-year terms beginning on April 1 in
22 odd-numbered years and shall continue in office for such terms and until their successors
23 are chosen and qualified. Each member shall be eligible to succeed himself or herself and
24 shall have the right to resign at any time by giving notice to the body which appointed him
25 or her and to the governing authority of the county, if the county was not the appointing
26 authority. Each member shall be subject to removal from the board at any time in the same
27 manner and by the same authority provided for removal of registrars under the provisions
28 of Code Section 21-2-211 as now or hereafter amended. Upon removal of a member as
29 provided by law, a vacancy shall be deemed to exist and shall be filled for the unexpired
30 term as provided in this Code section.

31 (f) The board of elections and registration shall have the following powers and duties:

32 (1) It shall succeed to and exercise all of the duties granted to and incumbent upon the
33 county election superintendent under the provisions of this title and any other provision
34 of law with respect thereto;

35 (2) It shall succeed to and exercise all of the duties and powers granted to and incumbent
36 on the chief registrar and the county registrars of the county under the provisions of this
37 title and any other provision of law with respect to their duties and powers; and

1 (3) It shall succeed to and have all of the powers and duties granted to and incumbent
2 upon the election superintendent under the provisions of law with respect to primaries.

3 (g) The board of elections and registration shall be authorized and empowered to organize
4 itself, elect its officers, determine its procedural rules and regulations, adopt bylaws,
5 specify the functions and duties of its employees, and otherwise take such action as is
6 appropriate to the management of the affairs committed to its supervision; provided,
7 however, that no such action shall conflict with state law.

8 (h) The board of elections and registration shall formulate, adopt, and promulgate rules
9 and regulations consistent with law and the rules and regulations of the state executive
10 committee of each political party governing the conduct of primaries to the end that, insofar
11 as practicable, all primaries shall be uniformly conducted by the county executive
12 committee for each political party and poll workers shall be properly trained and voters
13 adequately informed and instructed. Nothing in this Code section shall be construed to
14 require joint primaries or to require the governing authority of a county or any other public
15 agency to bear any expense conducting primaries not otherwise required or permitted by
16 law.

17 (i) On January 1, 2002, the board of elections and registration shall organize and the
18 county election superintendent and the chief registrar and county registrars shall be relieved
19 of all powers and duties to which such board succeeds by virtue of the provisions of this
20 Code section, and they shall deliver to such board upon request of its chairperson custody
21 of all equipment, supplies, materials, books, papers, records, and facilities of every kind
22 pertaining to such powers and duties.

23 (j) The governing authority of the county, upon the recommendation of the board of
24 elections and registration, shall appoint a person whose title shall be 'elections supervisor'
25 who shall be the chief administrative officer of the board of elections and registration and
26 who shall have such duties and functions as may be prescribed by such board.

27 (k) Compensation for members of the board of elections and registration, elections
28 supervisor, clerical assistants, and other employees of such board shall be such as may be
29 fixed from time to time by the governing authority of the county.

30 (l) The governing authority of the county shall provide the board of elections and
31 registration with such proper and suitable offices and with such clerical assistants and other
32 employees as the governing authority shall deem appropriate. The elections supervisor and
33 other employees functioning under his or her supervision shall be deemed to be employees
34 of the county.

35 (m) Annually, or at other convenient intervals as may be determined by the board of
36 elections and registration, the board of elections and registration shall determine the actual
37 cost of its operations, including the payment of employees, the purchase of supplies, the

1 holding of primaries and elections, and the reasonable value of goods, services, or office
2 space furnished in kind, and shall certify the total cost as so determined to the governing
3 authority of the county. Such certification shall include such reasonable itemizations as
4 will enable the respective governing authorities to review and examine the certification of
5 costs."

6 **SECTION 2.**

7 This Act shall become effective on July 1, 2001.

8 **SECTION 3.**

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