

House Bill 841 (AS PASSED HOUSE AND SENATE)

By: Representatives Crawford of the 91st and Ray of the 108th

A BILL TO BE ENTITLED
AN ACT

1 To create a board of elections and registration for Upson County and provide for its powers
2 and duties; to provide for definitions; to provide for the composition of the board and the
3 selection and appointment of members; to provide for the qualification, terms, and removal
4 of members; to provide for oaths and privileges; to provide for meetings, procedures, and
5 vacancies; to relieve certain officers of powers and duties and to provide for the transfer of
6 functions to the newly created board; to provide for conflicting rules and regulations; to
7 provide for expenditures of public funds; to provide for compensation of members of the
8 board; to provide for offices and equipment; to provide for personnel, including a chief
9 election official, and compensation; to provide for the board's performance of certain
10 functions and duties for certain municipalities; to provide for submission; to provide for
11 related matters; to provide an effective date; to repeal conflicting laws; and for other
12 purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 Pursuant to subsection (b) of Code Section 21-2-40 of the O.C.G.A., there is created the
16 Upson County Board of Elections and Registration, hereinafter referred to as "the board."
17 The board shall have the powers and duties of the former Upson County election
18 superintendent relating to the conduct of primaries and elections and shall have the powers
19 and duties of the Upson County Board of Registrars relating to the registration of voters and
20 absentee balloting procedures.

21 **SECTION 2.**

22 The terms "election," "elector," "political party," "primary," and "public office" shall have
23 the same meaning as set forth in Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election
24 Code," unless otherwise clearly apparent from the text of this Act, and the term

1 "commissioners" means the Board of Commissioners of Upson County and "county" means
2 Upson County.

3 **SECTION 3.**

4 (a) The board shall be composed of five members, each of whom shall be an elector and a
5 resident of Upson County. All members of the board shall be appointed by the Board of
6 Commissioners of Upson County. The Upson County Board of Elections and Registration
7 shall select a chairperson from among its members.

8 (b) The initial terms of office of three members, as designated in their appointment, shall
9 expire December 31, 2005, and upon the appointment and qualification of their respective
10 successors. The initial terms of office of the remaining members of the board shall expire
11 December 31, 2007, and upon the appointment and qualification of their respective
12 successors.

13 **SECTION 4.**

14 The board shall appoint a person to serve as the chief election official of Upson County.
15 Such position shall be full time and such person shall be paid a salary to be set by the board
16 and payable from county funds. The chief election official shall generally direct and control
17 the administration of elections and voter registration in Upson County. The chief election
18 official shall be supervised by the board and shall be subject to removal from office by the
19 board, with or without cause. The chief election official shall not be a member of the board
20 nor an elected official.

21 **SECTION 5.**

22 Each member of the board shall:

- 23 (1) Serve for a term of four years and until a successor is appointed and qualified, except
24 that initial terms of office shall be as provided in subsection (b) of Section 3 of this Act;
25 (2) Be eligible to be reappointed to succeed such member and shall have the right to
26 resign at any time by giving written notice of such resignation to the commissioners and
27 to the clerk of the Superior Court of Upson County; and
28 (3) Be subject to removal from the board at any time for cause, after notice and hearing,
29 by the judge of the Superior Court of Upson County.

30 **SECTION 6.**

31 (a) The appointment of each member shall be evidenced by the appointing authority filing
32 an affidavit with the clerk of the Superior Court of Upson County no later than 30 days
33 preceding the date on which such member is to take office, stating the name and residence

1 address of the person appointed and certifying that such member has been duly appointed
2 as provided in this Act. The clerk of the Superior Court of Upson County shall be notified
3 of interim appointments and shall record and certify such appointments in the same manner
4 as the regular appointment of members.

5 (b) The clerk of the Superior Court of Upson County shall record each such certification on
6 the minutes of that superior court and shall certify the name of each member to the Secretary
7 of State and provide for the issuance of appropriate commissions to the members as provided
8 by law for county registrars.

9 **SECTION 7.**

10 (a) In the event a vacancy occurs in the office of any member before the expiration of a term
11 by reason of removal, death, resignation, or otherwise, the appointing authority which is
12 required under Section 3 of this Act to make the appointment to the office upon expiration
13 of the term shall appoint a successor to serve for the remainder of the unexpired term in the
14 manner set forth in Section 3 of this Act.

15 (b) If the appointing authority does not, in conformity with this Act, certify an appointment
16 to the board within 30 days after the beginning of a term of office or within 30 days after the
17 creation of a vacancy in that office, the judge of the Superior Court of Upson County shall
18 immediately appoint a person to fill the vacancy and shall certify such appointment as
19 provided in Section 6 of this Act. Any person appointed to fill a vacancy shall serve out the
20 unexpired term of office.

21 **SECTION 8.**

22 (a) The first members of the board under this Act shall be appointed as provided in this Act
23 to take office on July 1, 2003. The board shall take no official action until all members have
24 been certified to the clerk of the Superior Court of Upson County.

25 (b) Before entering upon the duties of office, each member shall take substantially the same
26 oath as required by law for county registrars and shall have the same privileges from arrest.

27 **SECTION 9.**

28 (a) The Upson County Board of Elections and Registration shall be empowered with all the
29 powers and duties relating to the conduct of primaries and elections as election
30 superintendents pursuant to the provisions of Chapter 2 of Title 21 of the O.C.G.A., the
31 "Georgia Election Code."

32 (b) The board is empowered with all the powers and duties relating to the registration of
33 voters and absentee balloting procedures as boards of registrars pursuant to the provisions
34 of Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code."

1 (c) This Act is intended to implement the provisions of subsection (b) of Code Section
2 21-2-40 of the O.C.G.A. and shall be construed liberally so as to effectuate that purpose.

3 **SECTION 10.**

4 No person who holds elective public office shall be eligible to serve as a member of the
5 board during the term of such elective public office, and the position of membership of any
6 member shall be deemed vacant upon such member's qualifying as a candidate for an
7 elective public office.

8 **SECTION 11.**

9 Any rule or regulation promulgated by a county executive committee of a political party
10 under the provisions of subsection (c) of Code Section 21-2-111 of the O.C.G.A., with regard
11 to the conduct of primaries, shall be null and void if in conflict with a valid rule or regulation
12 of the board.

13 **SECTION 12.**

14 (a) Nothing in this Act shall be construed to require or prohibit joint primaries or to require
15 or prohibit the commissioners or any other public agency to bear any expense of conducting
16 primaries not otherwise required by law.

17 (b) The board shall have the authority to serve as municipal registrar and to conduct
18 municipal elections and primaries for any municipal corporation located within Upson
19 County if such municipal corporation has entered into a contract for that purpose with the
20 Upson County Board of Commissioners.

21 **SECTION 13.**

22 With the approval of the commissioners, the board shall be authorized to expend public funds
23 for the purpose of preparing and distributing material solely to inform and instruct electors
24 of the county adequately with regard to elections. No material distributed by the board shall
25 contain or express, in any manner or form, any commentary or expression of opinion or
26 request for support with respect to any political issue or matter of political concern.

27 **SECTION 14.**

28 (a) The board shall be authorized and empowered to organize itself, may elect from among
29 its membership a vice chairperson, shall determine its procedural rules and regulations, adopt
30 bylaws, specify the functions and duties of its employees, and otherwise take such actions
31 as are appropriate to the management of its affairs; provided, however, that no such action
32 shall conflict with general law.

1 (b) Action and decision by the board shall be by a majority vote of the members of the
2 board.

3 **SECTION 15.**

4 (a) The board shall fix and establish by appropriate resolution entered on its minutes
5 directives governing the execution of matters within its jurisdiction. The board shall hold
6 meetings at the county courthouse or at the place of meeting of the commissioners. These
7 meetings shall be held quarterly in years in which there is no county-wide election and
8 monthly in years in which there is a county-wide election. Any specially called meetings
9 held pursuant to the bylaws adopted by the board shall be held only after notification of the
10 time and place of the holding of such meeting has been communicated in writing to the chief
11 election official to provide public notice of the meeting as required by law. All meetings of
12 whatever kind of the board shall be conducted pursuant to Chapter 14 of Title 50 of the
13 O.C.G.A., relating to open meetings.

14 (b) The board shall maintain a written record of policy decisions that shall be amended to
15 include additions or deletions. Such written record shall be subject to Article 4 of Chapter
16 18 of Title 50 of the O.C.G.A., relating to inspection of public records.

17 **SECTION 16.**

18 (a) The chairperson of the board of elections and registration shall chair all meetings of the
19 board and be the spokesperson for the board.

20 (b) The members of the board shall receive such compensation for their services as members
21 of the board as may be determined by the Board of Commissioners of Upson County. In
22 addition thereto, they shall be reimbursed for their actual and necessary expenses incurred
23 in the performance of their duties.

24 (c) All amounts payable under this section shall be paid from the funds of Upson County.

25 **SECTION 17.**

26 Subject to appropriation of funds by the commissioners, the board shall be authorized to
27 expend public funds to provide for such proper and suitable administrative offices and for
28 such clerical assistants and other employees as the board shall deem appropriate.
29 Compensation for such administrative personnel shall be paid by the board under the county
30 personnel system wholly from county funds. This section shall not be construed so as to
31 require the board to expend any funds simply because they are authorized to do so under this
32 Act. Employees of the board shall be considered county employees for purposes of pay,
33 benefits, sick leave, vacation, and for other purposes.

SECTION 18.

The board shall be responsible for the selection, appointment, and training of poll workers in elections. Such workers shall be appointed, insofar as practicable, from lists provided by the county executive committees of any political party whose nominee for President of the United States received at least 10 percent of the vote in Upson County during the most recent general election for that office. It shall be the responsibility of any such political party to provide said list to the board in a timely fashion and to supplement said list upon a reasonable request to do so.

SECTION 19.

Effective on the date the board can first take official action under Section 8 of this Act, the election superintendent of Upson County and the Board of Registrars of Upson County shall be relieved from all powers and duties to which the board of elections and registration succeeds by the provisions of this Act and shall deliver thereafter to the chairperson of the board, upon the chairperson's written request, the custody of all equipment, supplies, materials, books, papers, records, and facilities of every kind pertaining to such powers and duties.

SECTION 20.

It shall be the duty of the governing authority of Upson County to require the attorney therefor to submit this Act for approval pursuant to Section 5 of the federal Voting Rights Act of 1965, as amended. If implementation of this Act is not permissible under the federal Voting Rights Act of 1965, as amended, then as of January 1, 2004, this Act shall be void and stand repealed in its entirety.

SECTION 21.

This Act shall become effective on July 1, 2003, except that for the purpose of making initial appointments to the board, this Act shall become effective May 1, 2003.

SECTION 22.

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