

House Bill 850 (AS PASSED HOUSE AND SENATE)

By: Representative Skipper of the 116th

A BILL TO BE ENTITLED
AN ACT

1 To create a board of elections and registration for Marion 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 expenditures of public funds; to provide
7 for compensation of members of the board; to provide for offices and equipment; to provide
8 for personnel, including a chief election official, and compensation; to provide for the
9 board's performance of certain functions and duties for certain municipalities; to provide for
10 related matters; to provide for submission of this Act for preclearance under the federal
11 Voting Rights Act of 1965, as amended; to provide for automatic repeal of this Act under
12 certain circumstances; to provide an effective date; to repeal conflicting laws; and for other
13 purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

16 As used in this Act, the term:

- 17 (1) "Board" means the Marion County Board of Elections and Registration.
18 (2) "Commissioners" means the Board of Commissioners of Marion County.
19 (3) "County" means Marion County.
20 (4) "Election," "elector," "political party," "primary," and "public office" shall have the
21 same meaning as set forth in Chapter 20 of Title 21 of the O.C.G.A., the "Georgia
22 Election Code," unless otherwise clearly apparent from the text of this Act.

23 **SECTION 2.**

24 Pursuant to subsection (b) of Code Section 21-2-40 of the O.C.G.A., there is created,
25 effective June 30, 2003, the Marion County Board of Elections and Registration. The board

1 shall have the powers and duties of the former Marion County election superintendent
2 relating to the conduct of primaries and elections and shall have the powers and duties of the
3 Marion County Board of Registrars relating to the registration of voters and absentee
4 balloting procedures.

5 **SECTION 3.**

6 (a) The board shall be composed of three members each of whom shall be an elector and a
7 resident of Marion County. All members of the board shall be appointed by the Board of
8 Commissioners of Marion County. The Marion County Board of Elections and Registration
9 shall select a chairperson from among its members.

10 (b) The initial terms of office of two members shall expire December 31, 2005, and upon
11 the appointment and qualification of their respective successors. The initial term of office
12 of the remaining member of the board shall expire December 31, 2007, and upon the
13 appointment and qualification of his or her respective successor.

14 **SECTION 4.**

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

22 **SECTION 5.**

23 Each member of the board shall:

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

31 **SECTION 6.**

32 (a) The appointment of each member shall be evidenced by the appointing authority filing
33 an affidavit with the clerk of the Superior Court of Marion County no later than 30 days

1 preceding the date on which such member is to take office, stating the name and residence
 2 address of the person appointed and certifying that such member has been duly appointed as
 3 provided in this Act. The clerk of the Superior Court of Marion County shall be notified of
 4 interim appointments and shall record and certify such appointments in the same manner as
 5 the regular appointment of members.

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

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SECTION 7.

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

16

SECTION 8.

17 (a) The first members of the board under this Act shall be appointed as provided in this Act
 18 to take office on June 30, 2003. The board shall take no official action until all members
 19 have been certified to the clerk of the Superior Court of Marion County.

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

22

SECTION 9.

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

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

30 (c) This Act is intended to implement the provisions of subsection (b) of Code Section
 31 21-2-40 of the O.C.G.A. and shall be construed liberally so as to effectuate that purpose.

SECTION 10.

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

SECTION 11.

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

SECTION 12.

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

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

SECTION 13.

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

SECTION 14.

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

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

SECTION 15.

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

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

SECTION 16.

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

(b) The members of the board shall receive no compensation for their service as members of the board but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

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

SECTION 17.

Subject to appropriation of funds by the commissioners, the board shall be authorized to expend public funds to provide for such proper and suitable administrative offices and for such clerical assistance and other employees as the board shall deem appropriate. Compensation for such administrative personnel shall be paid by the board under the county personnel system wholly from county funds. This section shall not be construed so as to require the board to expend any funds simply because they are authorized to do so under this Act. Employees of the board shall be considered county employees of pay, 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

1 United States received at least 10 percent of the vote in Marion County during the most
2 recent general election for that office. It shall be the responsibility of any such political party
3 to provide said list to the board in a timely fashion and to supplement said list upon a
4 reasonable request to do so.

5 **SECTION 19.**

6 Effective on the date the board can first take official action under Section 7 of this Act, the
7 election superintendent of Marion County and the Board of Registrars of Marion County
8 shall be relieved from all powers and duties to which the board of elections and registration
9 succeeds by the provisions of this Act and shall deliver thereafter to the chairperson of the
10 board, upon the chairperson's written request, the custody of all equipment, supplies,
11 materials, books, papers, records, and facilities of every kind pertaining to such powers and
12 duties.

13 **SECTION 20.**

14 The Board of Commissioners of Marion County shall through its legal counsel cause this Act
15 to be submitted for preclearance under Section 5 of the federal Voting Rights Act of 1965,
16 as amended, and such submission shall be made to the United States Department of Justice
17 or filed with the appropriate court no later than 45 days after the date on which this Act is
18 approved by the Governor or otherwise becomes law without such approval. If
19 implementation of this Act is not permissible under the federal Voting Rights Act of 1965,
20 as amended, then as of June 30, 2003, this Act shall be void and stand repealed in its entirety.

21 **SECTION 21.**

22 This Act shall become effective upon its approval by the Governor or upon its becoming law
23 without such approval.

24 **SECTION 22.**

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