

Senate Bill 354

By: Senator Mullis of the 53rd

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To create a board of elections and registration for Dade County and to 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 certain expenditures of public funds; to
 7 provide for compensation of members of the board and personnel; to provide for offices and
 8 equipment; to provide for the board's performance of certain functions and duties for certain
 9 municipalities; to provide for related matters; to provide for submission for preclearance
 10 under Section 5 of the federal Voting Rights Act of 1965, as amended; to provide effective
 11 dates; to repeal conflicting laws; and for other purposes.

12 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

13 **SECTION 1.**

14 Pursuant to subsection (b) of Code Section 21-2-40 of the O.C.G.A., there is created the
 15 Board of Elections and Registration of Dade County, hereinafter referred to as "the board."
 16 The board shall have the powers, duties, and responsibilities of the judge of the probate court
 17 of Dade County under Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code,"
 18 and the powers, duties, and responsibilities of the board of registrars of Dade County under
 19 Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code."

20 **SECTION 2.**

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

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SECTION 3.

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2 (a) The board shall be composed of five members, each of whom shall be an elector of Dade
3 County, shall have been a resident of Dade County for a period of two years, shall be at least
4 25 years of age at the time of assuming office, and shall be qualified and selected in the
5 following manner:

6 (1) Two members shall be appointed by the county executive committee of the political
7 party whose candidate at the last preceding general election received the largest number
8 of votes in this state for the office of Governor;

9 (2) Two members shall be appointed by the county executive committee of the political
10 party whose candidate at the last preceding general election received the next largest
11 number of votes in this state for the office of Governor;

12 (3) Each of the appointments made by the respective executive committees shall have
13 been ratified by a majority of the members of each of such respective executive
14 committees voting at a meeting duly called and held for such purposes. In the event such
15 appointments are not ratified by a majority of the members of such executive committees,
16 then such members shall be appointed by the judge of the probate court of Dade County;

17 (4) The fifth member of the Dade County Board of Elections and Registration shall be
18 appointed by the county executive committee of the political party or body whose
19 candidate at the last preceding general election received the third highest number of votes
20 in this state for the office of Governor, provided that such number is at least 1 percent of
21 the total number of votes cast for such office. Otherwise, the fifth member of the Dade
22 County Board of Elections and Registration shall be appointed by the judge of the probate
23 court of Dade County;

24 (5) At the first meeting of each calendar year, the members of the Dade County Board
25 of Elections and Registration shall select one of the members of the board to serve as
26 chairperson;

27 (6) No person who holds or is a candidate for an elective public office or who serves as
28 an officer, employee, committee member, or other representative of either a political
29 campaign of a candidate for elective public office or a political party or who is engaged
30 on behalf of any candidate for an elective public office in the solicitation of votes for such
31 candidate shall be eligible to serve as a member of the board during the term of such
32 elective office or within two years after such active political participation as described
33 in this paragraph, and the position of any member of the board shall be deemed vacant
34 upon such member's qualifying as a candidate for elective public office or upon such
35 member's engaging in such political activity described in this paragraph. This paragraph

1 shall not prohibit a nonelective employee of the county governing authority from serving
2 as a member of the board of elections and registration;

3 (7)(A) The initial appointments to the board shall be made not later than July 1, 2005;

4 (B) Of the two initial members appointed by the executive committee of the political
5 party whose candidate at the last preceding general election received the largest number
6 of votes in this state for the office of Governor, one of the persons so appointed, who
7 shall be designated by the executive committee, shall serve a term of office beginning
8 on July 1, 2005, and expiring on December 31, 2006, and one of the persons so
9 appointed, who shall be designated by the executive committee, shall serve a term of
10 office beginning on July 1, 2005, and expiring on December 31, 2008;

11 (C) Of the two initial members appointed by the executive committee of the political
12 party whose candidate at the last preceding general election received the next largest
13 number of votes in this state for the office of Governor, one of the persons so
14 appointed, who shall be designated by the executive committee, shall serve a term of
15 office beginning on July 1, 2005, and expiring on December 31, 2006, and one of the
16 persons so appointed, who shall be designated by the executive committee, shall serve
17 a term of office beginning on July 1, 2005, and expiring on December 31, 2008;

18 (D) The initial member appointed as provided in paragraph (4) of this subsection shall
19 serve a term of office beginning July 1, 2005, and expiring December 31, 2008; and

20 (E) All such persons so appointed shall serve for the initial terms specified and until
21 their successors are duly appointed and qualified;

22 (9) After the initial terms of office, successors to members whose terms are about to
23 expire shall be appointed to take office on the first day of January immediately following
24 the expiration of a term of office and shall serve for terms of four years each and until
25 their successors are duly appointed and qualified; and

26 (10) Appointments on behalf of political parties and bodies that do not have county
27 executive committees in Dade County shall be made by the state executive committee of
28 such party or body.

29 (b) The appointment of each member shall be made by the appointing authority's filing with
30 the clerk of the Superior Court of Dade County an affidavit stating the name and residence
31 address of the person appointed and certifying that such member has been duly appointed as
32 provided in this Act. The clerk of the superior court shall record each of such certifications
33 on the minutes of the court and shall certify the name of each such member to the Secretary
34 of State and provide for the issuance of appropriate commissions to the members and
35 chairperson within the same time and in the same manner as provided by law for registrars.
36 If any appointing authority does not, in conformity with this Act, certify an appointment to
37 the board within 30 days after the beginning of a term of office or within 30 days after the

1 creation of a vacancy in that office, a vacancy shall be deemed to have been thereby created
2 and the judge of the probate court of Dade County shall fill that vacancy by making the
3 appointment thereto and shall certify it as provided in this section. Any person appointed to
4 fill a vacancy shall serve out the unexpired term of office.

5 **SECTION 4.**

6 Each member of the board shall be eligible to succeed himself or herself without limitation
7 and shall have the right to resign at any time by giving written notice of such resignation to
8 the appointing authority and to the clerk of the Superior Court of Dade County. Each
9 member shall be subject to removal from the board at any time, for cause, after notice and
10 hearing, by the chief judge of the Superior Court of Dade County in the same manner and by
11 the same authority as provided for the removal of registrars.

12 **SECTION 5.**

13 In the event a vacancy occurs in the office of any member before the expiration of his or her
14 term by removal, death, resignation, or otherwise, the vacancy shall be filled for the
15 remainder of the unexpired term by the appointing authority for that position on the board.
16 The clerk of the superior court shall be notified of such interim appointments and record and
17 certify such appointments in the same manner as the regular appointment of members.

18 **SECTION 6.**

19 Before entering upon the member's duties, each member shall take substantially the same
20 oath as required by law for registrars and shall have the same privileges from arrest.

21 **SECTION 7.**

22 The chairperson of the board shall be the chief executive officer of the board and shall
23 generally supervise, direct, and control the administration of the affairs of the board pursuant
24 to law and duly adopted resolutions of the board. The board shall fix and establish, by
25 appropriate resolution entered on its minutes, directives governing the execution of matters
26 within its jurisdiction.

27 **SECTION 8.**

28 The board shall be authorized to employ such full-time and part-time employees, including
29 a full-time chief clerk, as the board shall deem necessary. The governing authority of Dade
30 County shall have the right to approve the hiring of any such employee.

SECTION 9.

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2 The board shall be responsible for the selection, appointment, and training of poll workers
3 in elections; and such workers shall be appointed, insofar as practicable, from lists provided
4 the board by the county executive committee of each political party. The board shall also
5 formulate, adopt, and promulgate rules and regulations, consistent with law and the rules and
6 regulations of the state executive committee of each political party, governing the conduct
7 of primaries to the end that, insofar as practicable, all primaries shall be uniformly conducted
8 by the board, poll workers shall be properly trained, and voters shall be adequately informed
9 and instructed.

SECTION 10.

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11 The board shall propose an annual budget to the county governing authority for approval or
12 negotiation detailing the expenditures necessary for the execution of its duties. With the
13 consent of the governing authority of Dade County, the board shall be authorized to expend
14 public funds for the purpose of distributing sample ballots, voter information booklets, and
15 other material designed to inform and instruct adequately the electors of the county with
16 regard to elections.

SECTION 11.

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18 Compensation for the chairperson and other members of the board and for employees of the
19 board shall be fixed by the board with the approval of the governing authority of Dade
20 County. Such compensation shall be paid from county funds.

SECTION 12.

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22 The governing authority of Dade County shall provide the board with proper and suitable
23 offices and equipment.

SECTION 13.

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25 The board shall have the authority to contract with any municipal corporation located within
26 the county for the holding by the board of any primary or election to be conducted within the
27 municipal corporation.

SECTION 14.

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29 The governing authority of Dade County shall cause, through its legal counsel, this Act to
30 be submitted for preclearance under Section 5 of the federal Voting Rights Act of 1965, as
31 amended, within 45 days after the date on which this Act is approved by the Governor or
32 otherwise becomes law without such approval.

SECTION 15.

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2 This Act shall become effective upon its approval by the Governor or upon its becoming law
3 without such approval for purposes of making initial appointments to the board only. This
4 Act shall become fully effective on July 1, 2005. Upon this Act becoming fully effective,
5 the superintendent of elections of Dade County and the board of registrars of Dade County
6 shall be relieved of all powers and duties to which the board succeeds by the provisions of
7 this Act and shall deliver to the board all equipment, supplies, materials, books, papers,
8 records, and facilities pertaining to such powers and duties. On such date, the board of
9 registrars of Dade County shall be abolished.

SECTION 16.

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