

House Bill 711 (AS PASSED HOUSE AND SENATE)

By: Representative Morris of the 155th

A BILL TO BE ENTITLED
AN ACT

1 To create a board of elections and registration for Toombs County and provide for its powers
2 and duties; to provide for the composition of the board and the selection, qualification, and
3 terms of its members; to provide for resignation, succession, and removal of members and
4 for filling vacancies; to provide for oaths and privileges; to provide for procedures; to
5 provide for appointment of a chief election official; to provide for meetings; to provide for
6 employment of full-time and part-time employees; to provide for compensation of board
7 members and employees of the board; to provide for expenditure of public funds for certain
8 purposes; to provide for offices, equipment, and supplies; to provide for the board's
9 performance of certain functions and duties for certain municipalities; to provide for the
10 meaning of certain terms; to provide for the relief of certain boards and offices of certain
11 powers and duties and provide for the transfer of certain items to the newly created board;
12 to provide for related matters; to repeal conflicting laws; and for other 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,
16 effective January 1, 2010, the Toombs County Board of Elections and Registration. The
17 board shall have the powers and duties of the election superintendent relating to the conduct
18 of primaries and elections and shall have the powers and duties of the board of registrars
19 relating to the registration of voters and absentee balloting procedures.

20 **SECTION 2.**

21 The terms 'election,' 'elector,' 'political party,' 'primary,' and 'public office' shall have the
22 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
24 'commissioners' means the board of commissioners of Toombs County and 'county' means
25 Toombs County.

26

SECTION 3.

27 (a) The board shall be composed of five members, each of whom shall be an elector and
 28 a resident of Toombs County. All members of the board shall be appointed by the Board
 29 of Commissioners of Toombs County. The Toombs County Board of Elections and
 30 Registration shall select a chairperson from among its members.

31 (b) The initial term of one member shall commence on January 1, 2010, and expire
 32 December 31, 2010, and upon the appointment and qualification of his or her successor.
 33 The initial term of two members shall commence on January 1, 2010, and expire December
 34 31, 2011, and upon the appointment and qualification of their respective successors. The
 35 initial term of office of two members shall commence on January 1, 2010, and expire
 36 December 31, 2013, and upon the appointment and qualification of their respective
 37 successors.

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

42

SECTION 4.

43 Each member of the board shall:

44 (1) Serve for a term of four years and until a successor is appointed and qualified, except
 45 that initial terms of office shall be as provided in subsection (b) of Section 3 of this Act;

46 (2) Be eligible to be reappointed to succeed himself or herself and have the right to
 47 resign at any time by giving written notice of such resignation to the commissioners and
 48 to the clerk of superior court of Toombs County;

49 (3) Be subject to removal from the board at any time for cause, after notice and hearing,
 50 by the judge of the Superior Court of Toombs County; and

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

56

SECTION 5.

57 (a) The appointment of each member of the board shall be evidenced by the
 58 commissioners filing an affidavit with the clerk of superior court of Toombs County no
 59 later than 30 days after the date on which such member is appointed, stating the name and
 60 residence address of the person appointed and certifying that such member has been duly

61 appointed as provided in this Act. The clerk of superior court of Toombs County shall be
62 notified of interim appointments and shall record and certify such appointments in the same
63 manner as the regular appointment of members.

64 (b) The clerk of superior court of Toombs County shall record each such certification on
65 the minutes of that superior court and shall certify the name of each member to the
66 Secretary of State and provide for the issuance of appropriate commissions to the members
67 as provided by law for county registrars.

68 (c) Before entering office, each member of the board shall take substantially the same oath
69 as required by law for registrars. Each member of the board shall have the same privileges
70 upon arrest as registrars.

71 **SECTION 6.**

72 (a) The board shall be authorized to organize itself, elect its officers, determine its
73 procedural rules and regulations, adopt bylaws, specify the functions and duties of its
74 employees, and otherwise take such action as is appropriate for the management of the
75 affairs committed to its supervision; provided, however, that no such action shall conflict
76 with state law.

77 (b) The board shall fix and establish, by appropriate resolution entered on its minutes,
78 directives governing the execution of matters within its jurisdiction.

79 (c) The board shall maintain a written record of policy decisions that shall be amended to
80 include additions or deletions.

81 (d) Action and decision by the board shall be by a majority of the members of the board.

82 **SECTION 7.**

83 The board shall appoint a person to serve as the chief election official of Toombs County.
84 Such position shall be full time and such person shall be paid a salary to be set by the board
85 and payable from county funds. The chief election official shall generally direct and control
86 the administration of elections and voter registration in Toombs County. The chief election
87 official shall be supervised by the board and shall be subject to removal from office by the
88 board, with or without cause. The chief election official shall not be an elected official.

89 **SECTION 8.**

90 The board shall hold regular monthly meetings at a place designated by the board. Any
91 specially called meetings held pursuant to the bylaws adopted by the board shall be held only
92 after notification of the time and place of the holding of such meetings has been
93 communicated to the chief election official to provide public notice of the meeting as

94 required by law. All meetings of whatever kind of the board shall be conducted pursuant to
95 Chapter 14 of Title 50 of the O.C.G.A., relating to open meetings.

96 **SECTION 9.**

97 With the consent of the governing authority of Toombs County, the board shall be authorized
98 to employ such full-time and part-time employees as deemed necessary for the efficient
99 conduct of elections, primaries, and registration of electors for the county, as approved by
100 budget.

101 **SECTION 10.**

102 Compensation for the members of the board, employees of the board, and the chairperson of
103 the board shall be recommended by the board to the governing authority of Toombs County
104 and shall be subject to the approval of the governing authority. Such compensation shall be
105 paid from county funds.

106 **SECTION 11.**

107 The board of elections and registration shall be authorized to expend public funds for the
108 purpose of distributing sample ballots, voter information, voter information booklets, and
109 other material designed to inform and instruct adequately the electors of the county with
110 regard to voter registration and elections. No material distributed by the board shall contain
111 or express, in any manner or form, any commentary or expression of opinion or request for
112 support with respect to any political issue or matter of political concern.

113 **SECTION 12.**

114 The governing authority of Toombs County shall provide the board with proper and suitable
115 offices, equipment, and supplies.

116 **SECTION 13.**

117 (a) The board is authorized to perform for any municipality located within Toombs County
118 any functions and duties which election superintendents and boards of registrars are
119 authorized by general law to perform on behalf of municipalities if such municipal
120 corporation has entered into a contract for that purpose with the commissioners.

121 (b) Municipalities shall be responsible to reimburse the governing authority for all costs
122 related to or associated with any election performed by the board for the municipality.

123 **SECTION 14.**

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

129 **SECTION 15.**

130 On December 31, 2009, the election superintendent and the board of registrars of Toombs
131 County shall be relieved of all powers and duties to which the board succeeds by the
132 provisions of this Act; and they shall deliver thereafter to the chairperson of the board, upon
133 his or her written request, the custody of all equipment, supplies, materials, books, papers,
134 records, and facilities of every kind pertaining to such powers and duties. Also, at such time,
135 the board of registrars and the office of chief registrar of Toombs County shall be abolished.

136 **SECTION 16.**

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