

House Bill 744 (AS PASSED HOUSE AND SENATE)

By: Representative Dukes of the 150th

A BILL TO BE ENTITLED
AN ACT

1 To create a board of elections and registration for Baker 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 relieve certain boards and officers
5 of certain powers and duties and provide for the transfer of certain items to the newly created
6 board; to abolish certain boards and officers; to provide for meetings and procedures; to
7 provide for the elections supervisor and the powers and duties of such elections supervisor;
8 to provide for board employees and their compensation; to provide for expenditures of public
9 funds for certain purposes; to provide for compensation of the members of the board and
10 elections supervisor; to provide for offices and equipment; to provide for the board's
11 performance of certain functions and duties for certain municipalities; to provide for the
12 meaning of certain terms; to provide for effective dates; to repeal conflicting laws; and for
13 other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

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

21 **SECTION 2.**

22 (a) The board shall be composed of three members, each of whom shall be an elector and
23 resident of Baker County.
24 (b) One member of the board shall be appointed by the political party which received the
25 highest number of votes within the county for its candidate for Governor in the general

26 election immediately preceding the appointment of the member, and one member of the
27 board shall be appointed by the political party which received the second highest number
28 of votes within the county for its candidate for Governor in the general election
29 immediately preceding the appointment of the member. Each of the two appointments by
30 political parties shall be made as follows: the member shall be nominated by the
31 chairperson and ratified by the county executive committee of each of the above-designated
32 political parties at least 30 days before the beginning of the term of office or within 30 days
33 after the creation of a vacancy in the office. The remaining member of the board shall be
34 selected by the county governing authority. The member selected by the county governing
35 authority shall serve as the chairperson of the board.

36 (c) The first members of the board shall be appointed for initial terms of office beginning
37 July 1, 2009, and ending December 31, 2011. After the initial terms of office, successors
38 to members whose terms are to expire shall be appointed to take office on the first day of
39 January immediately following the expiration of a term of office and shall serve for terms
40 of four years each and until their successors are duly appointed and qualified.

41 (d) No person who holds public office, whether elective or appointive, shall be eligible to
42 serve as a member of the board during the term of such office, and the position of any
43 member of the board shall be deemed vacant upon such member's qualifying as a candidate
44 for elective public office or appointment to public office. Further, no immediate family
45 member of an elected public official shall be eligible to serve as a member during the
46 elected official's term of office. For the purposes of the section, the term "immediate
47 family" consists of spouse, parents, lineal descendants including adopted children and
48 stepchildren, the spouse of any lineal descendant, brothers, and sisters.

49 SECTION 3.

50 (a) The appointment of each member shall be made by the respective appointing
51 authority's filing with the clerk of the Superior Court of Baker County an affidavit which
52 states the name and residential address of the person appointed and certifies that such
53 member has been duly appointed as provided in this Act. The affidavit for the member
54 who has been appointed as chairperson of the board shall also specify that such member
55 is chairperson. The clerk of the superior court shall record each of such certifications on
56 the minutes of the court and shall certify the name of each such member to the Secretary
57 of State and provide for the issuance of appropriate commissions to the members and
58 chairpersons within the same time and in the same manner as provided by law for
59 registrars.

60 (b) If any appointing authority does not, in conformity with this Act, certify an
61 appointment to the board within 30 days after the beginning of a term of office or within

62 30 days after the creation of a vacancy in that office, then the then sitting grand jury of
63 Baker County shall immediately fill the vacancy by making the appointment thereto and
64 shall certify it as provided in this section. Any person appointed to fill a vacancy shall serve
65 out the unexpired term of office.

66 **SECTION 4.**

67 Each member of the board shall be eligible to succeed himself or herself without limitation
68 and shall have the right to resign at any time by giving written notice of resignation to the
69 appointing authority and to the clerk of the Superior Court of Baker County. Each member
70 shall be subject to removal from the board by the governing authority of Baker County at any
71 time, for cause after notice and hearing, in the same manner and by the same authority as
72 provided for removal of registrars.

73 **SECTION 5.**

74 Except as provided in subsection (b) of Section 3 of this Act, in the event a vacancy occurs
75 in the office of any member of the board by removal, death, change of residence, resignation,
76 or otherwise, except by expiration of term, the respective appointing authority which
77 appointed the member whose position is vacant shall appoint a successor for the remainder
78 of the unexpired term. The clerk of the superior court shall be notified of interim
79 appointments and record and certify such appointments in the same manner as the regular
80 appointment of members.

81 **SECTION 6.**

82 Before entering upon his or her duties, each member of the board shall take substantially the
83 same oath as required by law for registrars. Each member of the board shall have the same
84 privileges from arrest as registrars.

85 **SECTION 7.**

86 On July 1, 2009, the board of elections of Baker County and the board of registrars of Baker
87 County shall be relieved from all powers and duties to which the board succeeds by the
88 provisions of this Act; and they shall deliver thereafter to the chairperson of the board, upon
89 written request, the custody of all equipment, supplies, materials, books, papers, records, and
90 facilities of every kind pertaining to such powers and duties. Also, at such time the board
91 of elections of Baker County and the board of registrars and the office of chief registrar of
92 Baker County shall be abolished.

93

SECTION 8.

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

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

100

SECTION 9.

101 (a) The chairperson of the board shall be the chief executive officer of the board and shall
102 generally supervise, direct, and control the administration of the affairs of the board
103 pursuant to the laws of the State of Georgia and duly adopted resolutions of the board.

104 (b) This board shall fix and establish, by appropriate resolution entered on its minutes,
105 directives governing the execution of matters within its jurisdiction. The board shall hold
106 regular quarterly meetings at such place as may be designated by the board. Any special
107 called meetings, held pursuant to the bylaws adopted by the board, shall be held only after
108 notification of the time and place of the holding of such meeting in accordance with
109 Chapter 14 of Title 50 of the O.C.G.A. All meetings of whatever kind of the board shall
110 be open to the public.

111 (c) The board shall maintain a written record of policy decisions that shall be amended to
112 include additions or deletions. Such written record shall be made available for the public
113 to review.

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SECTION 10.

115 (a) The board shall be responsible for the selection and appointment of an administrative
116 director to be known as the elections supervisor to administer and supervise conduct of
117 elections, primaries, and registration of electors for the county. The elections supervisor
118 shall serve at the pleasure of the board. The board shall act within 60 days of its members
119 taking office under this Act to retain or appoint an elections supervisor who shall be hired
120 by the board from a job description drawn by the board.

121 (b) In the event the board fails to appoint or retain an elections supervisor to fill a vacancy
122 within the time specified in subsection (a) of this section, an acting elections supervisor
123 who shall fill temporarily such vacancy shall be appointed by the governing authority to
124 serve until the board fills the vacancy.

125 **SECTION 11.**

126 The board shall be authorized to employ full-time and part-time employees, including a
127 full-time chief clerk, with the consent of the governing authority of Baker County.

128 **SECTION 12.**

129 With the consent of the governing authority of Baker County, the board of elections and
130 registration shall be authorized to expend public funds for the purpose of distributing sample
131 ballots, voter information booklets, and other material designed to inform and instruct
132 adequately the electors of the county with regard to elections. No material distributed by the
133 board shall contain or express, in any manner or form, any commentary or expression of
134 opinion or request for support with respect to any political issue or matter of political
135 concern.

136 **SECTION 13.**

137 Compensation for the members of the board, employees of the board, and the elections
138 supervisor shall be fixed by the board with the approval of the governing authority of Baker
139 County. Such compensation shall be paid from county funds.

140 **SECTION 14.**

141 The governing authority of Baker County shall provide the board and the elections supervisor
142 with proper and suitable offices and equipment.

143 **SECTION 15.**

144 The board is authorized to perform for any municipality located wholly or partially within
145 Baker County any functions and duties which election superintendents and boards of
146 registrars are authorized by general law to perform on behalf of municipalities under such
147 conditions as provided by general law.

148 **SECTION 16.**

149 The words "election," "elector," "political party," "primary," "public office," "special
150 election," and "special primary" shall have the same meaning ascribed to those words by
151 Code Section 21-2-2 of the O.C.G.A., unless otherwise clearly apparent from the context of
152 this Act.

153 **SECTION 17.**

154 This Act shall become effective on July 1, 2009, except that for purposes of making initial
155 appointments to the board, it shall become effective upon May 1, 2009.

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SECTION 18.

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