

House Bill 553

By: Representative Austin of the 10<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To create a board of elections and registration for Habersham County and to provide for its  
2 powers and duties; to provide for definitions; to provide for the composition of the board and  
3 the selection and appointment of members; to provide for the qualification, terms, and  
4 removal of members; to provide for oaths and privileges; to provide for meetings,  
5 procedures, and vacancies; to relieve certain officers of powers and duties and to provide for  
6 the transfer of functions to the newly created board; to provide for certain expenditures of  
7 public funds; to provide for compensation of members of the board and personnel; to provide  
8 for offices and equipment; to provide for the board's performance of certain functions and  
9 duties for certain municipalities; to provide for related matters; to provide for submission for  
10 preclearance under Section 5 of the federal Voting Rights Act of 1965, as amended; to  
11 provide effective 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 Habersham County, hereinafter referred to as "the  
16 board." The board shall have the powers, duties, and responsibilities of the judge of the  
17 probate court of Habersham County under Chapter 2 of Title 21 of the O.C.G.A., the  
18 "Georgia Election Code," and the powers, duties, and responsibilities of the board of  
19 registrars of Habersham County under Chapter 2 of Title 21 of the O.C.G.A., the "Georgia  
20 Election Code."

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

25 "commissioners" means the Board of Commissioners of Habersham County and "county"  
26 means Habersham County.

27 **SECTION 3.**

28 (a) The board shall be composed of five members who shall be appointed as provided in this  
29 section.

30 (b) Two members of the board shall be appointed by the county executive committee of the  
31 political party which received the highest number of votes within the county for its candidate  
32 for Governor in the general election immediately preceding the appointment of such member.  
33 Two members of the board shall be appointed by the county executive committee of the  
34 political party which received the second highest number of votes within the county for its  
35 candidate for Governor in the general election immediately preceding the appointment of  
36 such member. In the event that there is no county executive committee of a political party  
37 entitled to make an appointment under this subsection, the appointment on behalf of such  
38 political party shall be made by the state executive committee of such party.

39 (c) One member of the board shall be selected by the governing authority of Habersham  
40 County.

41 (d) All appointments to the board shall be promptly certified by the appointing authority of  
42 Habersham County to the clerk of the Superior Court of Habersham County.

43 (e)(1) The initial appointees to the board shall take office on July 1, 2011.

44 (2) One of the initial members appointed by the county executive committee of each  
45 political party shall serve a term of office beginning on July 1, 2011, and ending on  
46 June 30, 2013, and until his or her respective successor is duly appointed and qualified.  
47 Successors to each such member shall thereafter be appointed by the appropriate  
48 appointing authority to serve a term of office of four years beginning July 1, 2013, and  
49 until his or her respective successor is duly appointed and qualified. Thereafter, all  
50 successors to such members shall be appointed to serve four-year terms of office and until  
51 their respective successors are appointed and qualified.

52 (3) The other initial member appointed by the county executive committee of each  
53 political party shall serve a term of office beginning on July 1, 2011, and ending on  
54 June 30, 2015, and until his or her respective successor is duly appointed and qualified.  
55 Successors to each such member shall thereafter be appointed by the appropriate  
56 appointing authority to serve a term of office of four years beginning July 1, 2015, and  
57 until his or her respective successor is duly appointed and qualified. Thereafter, all  
58 successors to such members shall be appointed to serve four-year terms of office and until  
59 their respective successors are appointed and qualified.

60 (4) The initial member appointed by the governing authority of Habersham County shall  
 61 serve a term of office beginning on July 1, 2011, and ending on June 30, 2015, and until  
 62 his or her respective successor is duly appointed and qualified. The successor to such  
 63 member shall thereafter be appointed by the governing authority to serve a term of office  
 64 of four years beginning July 1, 2015, and until his or her respective successor is duly  
 65 appointed and qualified. Thereafter, successors to such member shall be appointed to serve  
 66 four-year terms of office and until their respective successors are appointed and qualified.

67 (f) The member of the board appointed by the county governing authority shall serve as  
 68 chairperson of the board. Such chairperson shall preside over all meetings of the board and  
 69 shall be entitled to vote on all matters coming before the board.

70

**SECTION 4.**

71 There shall be an election supervisor who shall generally direct and control the  
 72 administration of the affairs of the board pursuant to law and duly adopted resolutions of the  
 73 board. The election supervisor shall not be a member of the board. The appointment of the  
 74 supervisor shall be made by the board of commissioners, which will consider the  
 75 recommendation of the board of elections and registration. The supervisor shall be appointed  
 76 and removed by the board of commissioners in the same manner as department heads. The  
 77 compensation of such election supervisor shall be established by the board of commissioners  
 78 in the same manner as department heads. The election supervisor shall provide daily  
 79 employee supervision, serve as staff support for the board, attend all meetings of the board,  
 80 carry out the duties of voter registration and elections as required by law, and be a full-time  
 81 employee of Habersham County.

82

**SECTION 5.**

83 Each member of the board shall:

- 84 (1) Be eligible to be reappointed to succeed such member;
- 85 (2) Have the right to resign at any time by giving written notice of such resignation to  
 86 the governing authority of Habersham County and to the clerk of the superior court; and
- 87 (3) Serve until his or her successor is appointed and qualified.

88

**SECTION 6.**

89 (a) The appointing authority shall certify the appointment of each member of the board by  
 90 filing an affidavit with the clerk of the superior court no later than 30 days preceding the date  
 91 upon which such members are to take office, stating the name and residential address of the  
 92 person appointed and certifying such member has been duly appointed as provided in this  
 93 Act.

94 (b) The clerk of the superior court shall record each of such certifications on the minutes of  
95 the superior court and shall certify the name of each such appointed member to the Secretary  
96 of State and provide for the issuance of appropriate commissions to the members within the  
97 same time and in the same manner as provided by law for registrars.

98 **SECTION 7.**

99 In the event a vacancy occurs in the office of any member before the expiration of his or her  
100 term, by removal, death, resignation, or otherwise, the appointing authority which is required  
101 under Section 3 of this Act to make the appointment to the office upon the expiration of the  
102 term shall appoint a successor to serve the remainder of the unexpired term as provided for  
103 in Section 3 of this Act. If the vacancy in office is not filled within 60 days after it occurs,  
104 the vacancy shall be filled for the remainder of the term by the governing authority of  
105 Habersham County. The clerk of the superior court shall be notified of such interim  
106 appointments and record and certify such appointments in the same manner as the regular  
107 appointment of members.

108 **SECTION 8.**

109 (a) The first members of the board under this Act shall be appointed as provided in this Act  
110 to take office on July 1, 2011. The board shall take no official action until all members have  
111 been certified to the clerk of the Superior Court of Habersham County.

112 (b) Before entering upon the member's duties, each member shall take substantially the same  
113 oath as required by law for registrars and shall have the same privileges from arrest.

114 **SECTION 9.**

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

119 (b) Members of the board must be residents of Habersham County and must have been  
120 registered voters in Habersham County for a period of at least one year prior to the date of  
121 appointment to the board.

122 **SECTION 10.**

123 The board shall have the authority to contract with any municipality or governmental  
124 authority located within Habersham County for the holding by the board of any primary or  
125 election to be conducted within such municipality or governmental authority. The full costs  
126 of any such election shall be paid for by the requesting municipality or governmental

127 authority along with a fee established by the board to offset operational costs of the office  
128 of the Habersham County Board of Elections and Registration.

129 **SECTION 11.**

130 (a) The board shall be authorized and empowered to organize itself, elect from among its  
131 members a vice chairperson, determine its procedural rules and regulations, adopt bylaws,  
132 specify the functions and duties of its employees, and otherwise take such action as is  
133 appropriate to the management of its affairs; provided, however, that no such action shall  
134 conflict with state law.

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

136 **SECTION 12.**

137 (a) The board shall fix and establish, by appropriate resolution entered on its minutes,  
138 directives governing the execution of matters within its jurisdiction. The board shall hold  
139 meetings at the office of the Habersham County Board of Elections and Registration or at the  
140 place of meeting of the commissioners. Any specially called meetings held pursuant to the  
141 bylaws adopted by the board shall be held only after notification of the time and place of the  
142 holding of such special meeting has been communicated in writing to the election supervisor  
143 to provide public notice of the meeting as required by law. All meetings of whatever kind  
144 of the board shall be conducted pursuant to Chapter 14 of Title 50 of the O.C.G.A.

145 (b) The board shall maintain a written record of policy decisions amended to include  
146 additions or deletions. Such written records shall be made available for the public to review  
147 pursuant to Article 4 of Chapter 18 of Title 50 of the O.C.G.A.

148 **SECTION 13.**

149 Compensation for the members of the board shall be fixed by the Board of Commissioners  
150 of Habersham County. All amounts payable under this section shall be paid from the funds  
151 of Habersham County.

152 **SECTION 14.**

153 (a) The board may employ, subject to funding by the Habersham County Board of  
154 Commissioners, additional clerical assistants as needed to efficiently carry out the duties and  
155 functions of the board on either an independent contract basis or as county employees  
156 entitled to all benefits as other county employees, to be determined by the board of  
157 commissioners. The compensation of all clerical assistants shall be established by the board  
158 of commissioners in the same manner as for other county employees. Any such assistants  
159 shall be at-will employees of the board of commissioners.

160 (b) The board of commissioners, at their legislative discretion, shall provide suitable offices  
161 and equipment and funding sufficient to employ the staff and other employees as may be  
162 necessary.

163 **SECTION 15.**

164 The board shall be responsible for the selection, appointment, and training of poll workers.

165 **SECTION 16.**

166 The Board of Commissioners of Habersham County shall cause, through its legal counsel,  
167 this Act to be submitted for preclearance under Section 5 of the federal Voting Rights Act  
168 of 1965, as amended, within 45 days after the date on which this Act is approved by the  
169 Governor or otherwise becomes law without such approval.

170 **SECTION 17.**

171 This Act shall become effective upon its approval by the Governor or upon its becoming law  
172 without such approval for purposes of making initial appointments to the board only. This  
173 Act shall become fully effective on July 1, 2011. Upon this Act becoming fully effective or  
174 upon such later date determined by the board of commissioners, the superintendent of  
175 elections of Habersham County and the board of registrars of Habersham County shall be  
176 relieved of all powers and duties to which the board succeeds by the provisions of this Act  
177 and shall deliver to the board all equipment, supplies, materials, books, papers, records, and  
178 facilities pertaining to such powers and duties. Nothing contained herein is intended to  
179 prevent the appointment of members of the board, the hiring of an election supervisor, the  
180 hiring of clerical staff, or any necessary training for the members of the board, the election  
181 supervisor, and clerical assistants.

182 **SECTION 18.**

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