

House Bill 792 (AS PASSED HOUSE AND SENATE)

By: Representative Powell of the 171st

A BILL TO BE ENTITLED
AN ACT

1 To create a board of elections and registration for Mitchell County and to provide for its
2 powers and duties; to define certain terms; to provide for the composition of the board and
3 the selection, qualifications, and terms of its members; to provide for the resignation,
4 succession, and removal of members and for filling vacancies; to provide for oaths and
5 privileges; to provide for meetings, procedures, and vacancies; to relieve a certain board and
6 officers of certain powers and duties and provide for the transfer of certain items to the newly
7 created board; to abolish a certain board and officers; to provide for meetings and
8 procedures; to provide for an elections supervisor and the powers and duties of such elections
9 supervisor; to provide for board employees and their compensation; to provide for
10 expenditures of public funds for certain purposes; to provide for compensation of members
11 of the board and personnel; to provide for offices and equipment; to provide for contracts
12 with certain municipalities; to provide for related matters; to provide for effective dates; to
13 repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 style="text-align:center">**SECTION 1.**

16 As used in this Act, the term:

- 17 (1) "Board" means the Mitchell County Board of Elections and Registration.
18 (2) "Commissioners" means the Mitchell County Board of Commissioners.
19 (3) "County" means Mitchell County.
20 (4) "Election," "elector," "primary," and "public office" shall have the same meanings as
21 ascribed to those terms by Code Section 21-2-2 of the O.C.G.A., unless otherwise clearly
22 apparent from the text of this Act.

23 style="text-align:center">**SECTION 2.**

24 Pursuant to subsection (b) of Code Section 21-2-40 of the O.C.G.A., there is created a board
25 of elections and registration for Mitchell County which shall have jurisdiction over the

26 conduct of primaries and elections and the registration of electors in such county in
27 accordance with the provisions of this Act. Such board shall be known as the Mitchell
28 County Board of Elections and Registration. The board shall have the powers, duties, and
29 responsibilities of the superintendent of elections of Mitchell County under Chapter 2 of
30 Title 21 of the O.C.G.A., the "Georgia Election Code," currently being exercised by the
31 judge of the Probate Court of Mitchell County, and the powers, duties, and responsibilities
32 of the Board of Registrars of Mitchell County under Chapter 2 of Title 21 of the O.C.G.A.,
33 the "Georgia Election Code."

34 **SECTION 3.**

35 (a) The board shall be composed of five members, each of whom shall be an elector of the
36 county and who shall be appointed by the governing authority of the county.

37 (b) The initial members of the board shall be appointed for terms of office beginning
38 January 1, 2015. All members of the board shall be appointed by the Mitchell County Board
39 of Commissioners. The commissioners shall designate two of the initial members to serve
40 for a term ending on December 31, 2018, two of the initial members to serve for a term
41 ending on December 31, 2017, and one of the initial members to serve for a term ending on
42 December 31, 2016, and until their respective successors are appointed and qualified. The
43 subsequent terms shall be for a three-year period.

44 (c) No person who holds or qualifies as a candidate for elective public office shall be eligible
45 to serve as a member of the board during the term of such office, and the position of any
46 member of the board shall be deemed vacant upon such member's qualifying as a candidate
47 for elective public office.

48 **SECTION 4.**

49 (a) The appointment of each member shall be made by the commissioners filing an affidavit
50 with the clerk of the superior court no later than 30 days preceding the date upon which such
51 member is to take office, stating the name and residential address of the person appointed and
52 certifying that such member has been duly appointed as provided in this Act. The clerk of
53 the superior court shall record each of such certifications on the minutes of the superior court
54 and shall certify the name of each such appointed member to the Secretary of State and
55 provide for the issuance of appropriate commissions to the members within the same time
56 and in the same manner as provided by law for registrars.

57 (b) If the commissioners do not certify in conformity with this Act an appointment to the
58 board within 30 days after the beginning of a term of office or within 30 days after the
59 creation of a vacancy in that office, then the judge of the Probate Court of Mitchell County
60 shall immediately fill the vacancy by making the appointment and shall certify it as provided

61 in this section. Any person appointed to fill a vacancy shall serve out the unexpired term of
62 the office.

63 **SECTION 5.**

64 Each member of the board shall be eligible to succeed himself or herself without limitation
65 and shall have the right to resign at any time by giving written notice of his or her resignation
66 to the governing authority of the county and to the clerk of the Superior Court of Mitchell
67 County. Each member shall be subject to removal for good cause from the board by the
68 governing authority at any time after notice and hearing.

69 **SECTION 6.**

70 Except as provided in subsection (b) of Section 4 of this Act, in the event a vacancy occurs
71 in the office of any member of the board by removal, death, resignation, or otherwise, the
72 governing authority of the county shall appoint a successor for the remainder of the
73 unexpired term. The clerk of superior court shall be notified of interim appointments and
74 shall record and certify such appointments in the same manner as the regular appointments
75 of members.

76 **SECTION 7.**

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

80 **SECTION 8.**

81 On January 1, 2015, the elections superintendent of Mitchell County and the board of
82 registrars of Mitchell County shall be relieved of all powers and duties to which the board
83 succeeds by the provisions of this Act. They shall deliver thereafter to the chairperson of the
84 board, upon his or her written request, custody of all equipment, supplies, materials, books,
85 papers, records, and facilities of every kind pertaining to such powers and duties. At such
86 time, the board of registrars of Mitchell County shall stand abolished.

87 **SECTION 9.**

88 The board shall be authorized and empowered to organize itself, elect its officers, determine
89 its procedural rules and regulations, adopt bylaws, specify the functions and duties of the
90 elections supervisor, and otherwise take such action as is appropriate to the management of
91 the affairs committed to its supervision; provided, however, that no such action shall conflict
92 with state law. Action and decision by the board shall be by a majority of the members of

93 the board. Every year, the board shall elect one of its members to serve as chairperson for
94 a one-year term.

95 **SECTION 10.**

96 The board may hold regular meetings at the county courthouse or such other locations as the
97 board may prescribe. Any specially called meetings held pursuant to the bylaws adopted by
98 the board shall be held only after notification of the time and place of the holding of such
99 meeting has been communicated in writing to the elections supervisor who shall provide
100 public notice of the meeting as required by law. All meetings of the board of whatever kind
101 shall be conducted pursuant to Chapter 14 of Title 50 of the O.C.G.A., relating to open
102 meetings.

103 **SECTION 11.**

104 There shall be a full-time elections supervisor to administer and supervise the conduct of
105 elections and primaries and the registration of electors of the county. The board shall act
106 within 60 days of its members taking office under this Act, or of the date of any vacancy in
107 such position, to submit and recommend for the position one to three names of qualified
108 individuals to the county administrator, who shall hire an elections supervisor based on a job
109 description drawn by the board. The county administrator may either hire one of the
110 candidates submitted recommended by the board, or the county administrator may reject all
111 the candidates submitted and recommended by the board and hire another qualified
112 candidate. The elections supervisor shall not be eligible to serve as a member of the board.
113 The elections supervisor shall be considered a county employee for purposes of pay, benefits,
114 sick leave, vacation, termination of employment, and other purposes. The elections
115 supervisor shall be subject to direction, evaluation, and corrective action by the county
116 administrator.

117 **SECTION 12.**

118 The elections supervisor may recommend to the county administrator for employment such
119 full-time and part-time employees, including poll workers, as may be deemed necessary by
120 the elections supervisor and as are approved in the annual budget adopted by the governing
121 authority of the county. All such employees shall be considered county employees for
122 purposes of pay, benefits, sick leave, vacation, and other purposes in accordance with
123 policies adopted by the governing authority.

124 **SECTION 13.**

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

131 **SECTION 14.**

132 The compensation of the chairperson and other members of the board, the elections
133 supervisor, clerical assistants, and other employees shall be as fixed by the governing
134 authority of the county. Such compensation shall be paid from county funds.

135 **SECTION 15.**

136 The commissioners shall provide the board and the elections supervisor with proper and
137 suitable offices and equipment.

138 **SECTION 16.**

139 The board shall have the authority to contract with any municipality located within the
140 county for the holding by the board of any primary or election to be conducted within the
141 municipality; provided, however, that any such contract shall be approved and ratified by the
142 governing authority of the county.

143 **SECTION 17.**

144 (a) For the purposes of making initial appointments to the board, this Act shall become
145 effective on the first day of the month following the month in which it is approved by the
146 Governor or becomes law without such approval.

147 (b) For all other purposes, this Act shall become effective on the first day of the second
148 month following the month in which it is approved by the Governor or becomes law without
149 such approval.

150 **SECTION 18.**

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