

House Bill 576 (AS PASSED HOUSE AND SENATE)

By: Representatives Rogers of the 10th and Gasaway of the 28th

A BILL TO BE ENTITLED
AN ACT

1 To reconstitute the board of elections and registration for Habersham County; to provide for
2 the composition, powers, duties, and responsibilities of said board; to repeal the Act creating
3 a board of elections and registration for Habersham County, approved April 20, 2011 (Ga.
4 L. 2011, p. 3678); to provide for related matters; to repeal conflicting laws; and for other
5 purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **PART I**
8 **SECTION 1-1.**

9 There is hereby reconstituted the board of elections and registration for Habersham County.
10 The board of elections and registration for Habersham County shall be a successor in interest
11 to the former board of elections and registration for Habersham County created by an Act
12 approved April 20, 2011 (Ga. L. 2011, p. 3678). The composition, powers, duties, and
13 responsibilities of the board of elections and registration for Habersham County shall be as
14 described in this part.

15 **SECTION 1-2.**

16 Pursuant to subsection (b) of Code Section 21-2-40 of the O.C.G.A., the reconstituted
17 Habersham County Board of Elections and Registration, hereinafter referred to as "the
18 board," shall have the powers, duties, and responsibilities of the superintendent of elections
19 of Habersham County under Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election
20 Code," and the powers, duties, and responsibilities of the board of registrars of Habersham
21 County under Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code."

22 **SECTION 1-3.**

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

28 **SECTION 1-4.**

29 (a) The board shall be composed of six members, five of whom shall be appointed as
30 provided in this section and shall be electors and residents of the county at the time of
31 appointment for at least one year prior thereto. The sixth member shall be the superintendent
32 as provided for in Section 1-5 of this Act.

33 (b) Two members of the board shall be nominated by the political party whose candidate for
34 the office of Governor at the most recent election for such office received the highest number
35 of votes cast for such office within the county. Two members of the board shall be
36 nominated by the political party whose candidate for the office of Governor at the most
37 recent election for such office received the second highest number of votes cast for such
38 office within the county.

39 (c) Each of the four members nominated by political parties shall be ratified by the county
40 executive committee of the respective political party at least 30 days before the beginning
41 of the term of office or within 30 days after the creation of a vacancy in the office and, upon
42 such approval, the nomination shall be immediately certified by the respective appointing
43 authorities to the clerk of the superior court of Habersham County as set forth in Section 1-7
44 of this Act.

45 (d) The fifth member shall be appointed by the commissioners.

46 (e) The initial terms of office of one appointed member from each party as set forth in
47 subsection (b) of this section shall begin on the first day of the month following the month
48 in which this Act is approved by the Governor or in which it becomes law without such
49 approval and shall expire on December 31, 2020, and upon the appointment and qualification
50 of his or her respective successors. The initial terms of office of the remaining member from
51 each party as set forth in subsection (b) of this section shall begin on the first day of the
52 month following the month in which this Act is approved by the Governor or in which it
53 becomes law without such approval and shall expire on December 31, 2018, and upon the
54 appointment and qualification of his or her respective successors. Successors to the initial
55 members of the board shall be appointed to take office on the first day of January
56 immediately following the expiration of such terms of office and shall serve for terms of four
57 years each and until their successors are duly appointed and qualified. The board shall take

58 no official action until all members have been certified to the clerk of the superior court of
59 Habersham County.

60 **SECTION 1-5.**

61 The superintendent and chief registrar of Habersham County, referred to in this Act as the
62 "superintendent," shall be appointed and removed by the county manager in the same manner
63 as county department heads. Such position shall be full-time or part-time at the discretion
64 of the commissioners, and such person shall be paid a salary to be set by the commissioners
65 and payable from county funds. The superintendent shall generally direct and control the
66 administration of elections and voter registration in Habersham County. The superintendent
67 shall serve as secretary and as an ex officio sixth member of the board without the right to
68 vote. The superintendent shall not be an elected official.

69

70 **SECTION 1-6.**

71 Each appointed member of the board shall:

- 72 (1) Serve for a term of four years and until a successor is appointed and qualified, except
73 that initial terms of office shall be as provided in subsection (e) of Section 1-4 of this Act;
74 (2) Be eligible to be reappointed to succeed himself or herself and shall have the right
75 to resign at any time by giving written notice of such resignation to the commissioners
76 and to the clerk of the superior court of Habersham County; and
77 (3) Be subject to removal from the board at any time for cause, after prior notice and a
78 hearing, by the judge of the superior court of Habersham County.

79 **SECTION 1-7.**

80 (a) The appointment of each member, except the initial members, shall be certified by the
81 appointing authority filing an affidavit with the clerk of the superior court of Habersham
82 County no later than 30 days preceding the date upon which such member is to take office.
83 Such affidavit shall state the name and residence address of the person appointed and attest
84 that such member has been duly appointed as provided in this Act. The appointment of the
85 initial members of the board shall be certified by the appointing authority filing an affidavit
86 with the clerk of the superior court of Habersham County immediately following that
87 appointment, which affidavit shall state the name and residence address of the person
88 appointed and attest that such member has been duly appointed as provided in this Act. The
89 clerk of the superior court of Habersham County shall be notified of interim appointments
90 and shall record and certify such appointments in the same manner as the regular
91 appointment of members.

92 (b) The clerk of the superior court of Habersham County shall record each certification on
93 the minutes of the superior court of Habersham County and shall certify the name of each
94 member to the Georgia Secretary of State and provide for the issuance of appropriate
95 commissions to the members as provided by law for county registrars.

96 **SECTION 1-8.**

97 In the event a vacancy occurs in the office of any member before the expiration of his or her
98 term by reason of removal, death, resignation, or otherwise, the appointing authority which
99 is required under Section 1-4 of this Act to make the appointment to the office upon the
100 expiration of the term shall appoint a successor to serve the remainder of the unexpired term
101 as provided for in Section 1-4 of this Act.

102 **SECTION 1-9.**

103 Before entering upon the duties of their office, each member shall take substantially the same
104 oath as required by law for county registrars and shall have the same privileges from arrest.

105 **SECTION 1-10.**

106 (a) The board shall be empowered to exercise the following powers, duties, and
107 responsibilities in conjunction with the superintendent:

108 (1) To receive and act upon all petitions presented by electors, the superintendent, or the
109 county executive committee of a political party for the division, re-division, alteration,
110 change, or consolidation of precincts;

111 (2) To develop and adopt policies and procedures under the leadership of the
112 superintendent for the conduct of temporary workers such as poll workers. Such policies
113 and procedures shall include, but not be limited to, standard operating procedures and
114 training requirements and procedures;

115 (3) To meet as mandated on all election days, to inspect systematically and thoroughly
116 the conduct of primaries and elections in the several precincts of Habersham County, and
117 to make recommendations to the chairperson based on such inspections to ensure that
118 primaries and elections are conducted honestly, efficiently, and uniformly; and

119 (4) To attend, observe, and monitor the processing and tabulation of absentee ballot
120 results on election day by the absentee ballot clerks so as to ensure the execution of the
121 process in compliance with applicable law.

122 (b) The superintendent shall be empowered with the remaining powers, duties, and
123 responsibilities set forth in Code Section 21-2-70 of the O.C.G.A. Specifically, the
124 superintendent shall:

- 125 (1) Have sole authority, subject to policies established by the board, over the retention,
 126 termination, and discipline of employees, as well as the training of poll workers in
 127 primaries and elections; such poll workers shall be appointed by the superintendent;
 128 (2) Be authorized to employ such full-time and part-time employees, including poll
 129 workers, as may be deemed necessary by the chairperson and as approved in the annual
 130 budget adopted by the commissioners;
 131 (3) Have sole authority over the day-to-day process and activities of the office of
 132 elections and registration as stated in the job description maintained by the
 133 commissioners and the county human resources office;
 134 (4) Lead the board in making changes to precincts, polling locations, boundary lines, and
 135 intergovernmental agreements as deemed necessary, with any action or decision being
 136 determined by majority vote of a quorum of the members of the board; and
 137 (5) Be authorized to generally supervise, direct, and control the administration of the
 138 affairs of the board pursuant to law and duly adopted policies of the board.

139 **SECTION 1-11.**

140 No person who holds elective public office shall be eligible to serve as a member of the
 141 board during the term of such elective public office, and any member's office shall be
 142 deemed vacant upon such member qualifying as a candidate for an elective public office.

143 **SECTION 1-12.**

144 Nothing in this Act shall be construed to require or prohibit joint primaries or to require or
 145 prohibit the commissioners or any other public agency from bearing any expense of
 146 conducting primaries not otherwise required by law.

147 **SECTION 1-13.**

148 With the approval of the commissioners, the board shall be authorized to expend public funds
 149 for the purpose of preparing and distributing material solely to inform and instruct electors
 150 of the county adequately with regard to elections. No material distributed by the board shall
 151 contain or express, in any manner or form, any commentary or expression of opinion or
 152 request for support with respect to any political issue or matter of political concern.

153 **SECTION 1-14.**

154 (a) The board shall elect from among its membership a chairperson and a vice chairperson
 155 and shall be authorized to organize itself, determine its procedural rules and regulations,
 156 adopt bylaws, and otherwise take such action as is appropriate to the management of the
 157 affairs committed to its supervision; provided, however, that no such action shall conflict

158 with general law. The board shall reelect its chairperson and vice chairperson annually at its
159 regular January meeting.

160 (b) Actions and decisions by the board shall be by majority vote of the members of the
161 board.

162 **SECTION 1-15.**

163 (a) The board shall fix and establish, by appropriate resolution entered in its minutes,
164 directives governing the execution of matters within its jurisdiction. The board shall hold
165 meetings in the offices of the superintendent. Any specially called meetings held pursuant
166 to bylaws adopted by the board shall be held only after notification of the time and place of
167 the holding of such meeting has been communicated in writing to the superintendent to
168 provide public notice of the meeting as required by law. All meetings of whatever kind of
169 the board shall be conducted pursuant to Chapter 14 of Title 50 of the O.C.G.A., relating to
170 open meetings.

171 (b) The board shall maintain a written record of policy decisions that shall be amended to
172 include additions or deletions. Such written records shall be subject to Article 4 of Chapter
173 18 of Title 50 of the O.C.G.A., relating to inspection of public records.

174 **SECTION 1-16.**

175 (a) The chairperson of the board shall preside over all meetings of the board and shall be the
176 spokesperson for the board.

177 (b) The members of the board shall receive such compensation for their services as members
178 of the board as may be determined by the commissioners. In addition, they shall be
179 reimbursed for their actual and necessary expenses incurred in the performance of their
180 duties as members of the board.

181 (c) All amounts payable under this section shall be paid from the funds of Habersham
182 County.

183 **SECTION 1-17.**

184 Subject to appropriation of funds by the commissioners, the board shall be authorized to
185 expend public funds to provide for proper and suitable administrative functions. This section
186 shall not be construed so as to require the board to expend any funds simply because they are
187 authorized to do so under this Act.

188

PART II

189

SECTION 2-1.

190 An Act to create a board of elections and registration for Habersham County and to provide
191 for its powers and duties, approved April 20, 2011 (Ga. L. 2011, p. 3678), is hereby repealed
192 in its entirety.

193

SECTION 2-2.

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