Senate Bill 360

By: Senators Starr of the 44th and Seay of the 34th

AS PASSED

A BILL TO BE ENTITLED

AN ACT

To create a board of elections and registration for Clayton County and provide for its powers and duties; to provide for definitions; to provide for the composition of the board and the selection, appointment, and certification of members; to provide for the qualification, terms, and removal of members; to provide for oaths and privileges; to provide for organization, meetings, procedures, records, and vacancies; to relieve certain officers of powers and duties and to provide for the transfer of functions to the newly created board; to provide for expenditures of public funds; to provide for compensation of members of the board; to provide for offices and equipment; to provide for personnel, including an elections director, and compensation and benefits; to provide for the board´s performance of certain functions and duties for certain municipalities; to provide for related matters; to provide for submission; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Pursuant to subsection (b) of Code Section 21-2-40 of the O.C.G.A., there is created, on the thirtieth day following the date this Act becomes effective in 2003, the Clayton County Board of Elections and Registration, hereinafter referred to as "the board." The board shall have the powers and duties of the former Clayton County election superintendent relating to the conduct of primaries and elections, exclusive of those powers and duties incidental to a judicial officer. Further, the board shall have the powers and duties of the Clayton County Board of Registrars relating to the registration of voters and absentee balloting procedures.

SECTION 2.

The terms "election," "elector," "political party," "primary," "superintendent," and "public office" shall have the same meaning as set forth in Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code," unless otherwise clearly apparent from the text of this Act, and the

term "commissioners" means the Board of Commissioners of Clayton County and "county" means Clayton County.

SECTION 3.

The board shall be composed of five members, each of whom shall be an elector and resident of Clayton County. Each member of the Clayton County board of commissioners shall appoint one member of the Clayton County Board of Elections and Registration to serve for a term of office concurrent with that of the appointing member of the board of commissioners. Any vacancy shall be filled in the same manner for the remainder of the unexpired term of office.

SECTION 4.

(a) The board shall be responsible for the selection and appointment of an administrative director, subject to the approval of the commissioners, to be known as the elections director. The elections director shall administer and supervise the conduct of elections, primaries, and registration of electors for the county and direct and control all election and voter registration staff personnel. The position of elections director shall be full time and such person shall be paid a salary to be set by the commissioners and payable from county funds. The elections director shall be supervised by the board and serve at the pleasure of the board. The elections director shall be subject to removal from office by the board, with or without cause. The elections director shall not be a member of the board nor an elected official.

(b) The board shall act, within 60 days of its members being able to take official action under this Act, to retain or appoint an elections director who shall be hired by the board from a job description drawn by the board in concert with the county personnel office. In the event the board fails to appoint or retain an elections director to fill a vacancy within the time specified in this subsection, an acting elections director who shall fill temporarily such vacancy shall be appointed by the commissioners to serve until the board fills the vacancy.

SECTION 5.

Each member of the board shall:

(1) Be eligible to be reappointed to succeed such member and have the right to resign at any time by giving written notice of such resignation to the commissioners and to the clerk of the Superior Court of Clayton County; and

(2) Be subject to removal from the board at any time for cause, after notice and hearing, by the chief judge of the Superior Court of Clayton County.

SECTION 6.

(a) The appointment of each member shall be entered upon the minutes of the Superior Court of Clayton County no later than 30 days preceding the date on which such member is to take office, stating the name and residence address of the person appointed and certifying that such member has been duly appointed as provided in this Act. The clerk of the Superior Court of Clayton County shall be notified of interim appointments and shall record and certify such appointments in the same manner as the regular appointment of members.

(b) The clerk of the Superior Court of Clayton County shall certify the name of each member to the Secretary of State and provide for the issuance of appropriate commissions to the members as provided by law for county registrars.

SECTION 7.

(a) The first members of the board under this Act shall be appointed no later than July 1, 2003, to take office on their appointment. The board shall take no official action until all members have been certified by the clerk of the Superior Court of Clayton County.

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

SECTION 8.

(a) The Clayton County Board of Elections and Registration shall be empowered with all the powers and duties relating to the conduct of primaries and elections as election superintendents pursuant to the provisions of Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code."

(b) The board is empowered with all the powers and duties relating to the registration of voters and absentee balloting procedures as boards of registrars pursuant to the provisions of Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code."

(c) This Act is intended to implement the provisions of subsection (b) of Code Section 21-2-40 of the O.C.G.A. and shall be construed liberally so as to effectuate that purpose.

SECTION 9.

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

SECTION 10.

Any rule or regulation promulgated by a county executive committee of a political party under the provisions of subsection (c) of Code Section 21-2-111 of the O.C.G.A., with regard to the conduct of primaries, shall be null and void if in conflict with a valid rule or regulation of the board.

SECTION 11.

(a) Nothing in this Act shall be construed to require or prohibit joint primaries or to require the commissioners or any other public agency to bear any expense of conducting primaries not otherwise required by law.

(b) The board shall have the authority to serve as municipal registrar and to conduct municipal elections and primaries for any municipal corporation located within Clayton County if such municipal corporation has entered into a contract for that purpose with the Clayton County Board of Commissioners.

SECTION 12.

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

SECTION 13.

(a) The board shall be authorized and empowered to organize itself and shall elect annually a chair from among its members at its first meeting of each calendar year. The board may elect from among its membership a vice chair and such other officers as deemed necessary for terms consistent with that of the chair. The board shall determine its procedural rules and regulations, adopt bylaws, specify the functions and duties of its employees, and otherwise take such actions as are appropriate to the management of its affairs; provided, however, that no such action shall conflict with general law.

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

SECTION 14.

(a) The board shall fix and establish by appropriate resolution entered on its minutes directives governing the execution of matters within its jurisdiction. The board shall hold meetings at the county courthouse, at the place of meeting of the commissioners, or such

other place as the commissioners shall prescribe. These meetings shall be at such times and frequency as is deemed necessary to carry out the duties and responsibilities of the board. Any specially called meetings held pursuant to the bylaws adopted by the board shall be held only after notification of the time and place of the holding of such meeting has been communicated in writing to the elections director who shall provide public notice of the meeting as required by law. All meetings of whatever kind of the board shall be conducted pursuant to Chapter 14 of Title 50 of the O.C.G.A., relating to open meetings.

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

SECTION 15.

(a) The chair of the board of elections and registration shall conduct all meetings of the board and be the spokesperson for the board. The vice chair shall act in the absence of the chair.

(b) The members of the board shall receive compensation for their service as established by the commissioners and shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

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

SECTION 16.

Subject to appropriation of funds by the commissioners, the board shall be authorized to expend public funds to provide for such proper and suitable administrative offices and for such clerical assistants and other employees as the board shall deem appropriate. Compensation for such administrative personnel shall be paid by the board under the county personnel system wholly from county funds. This section shall not be construed so as to require the board to expend any funds simply because they are authorized to do so under this Act. Employees of the board shall be considered county employees for purposes of pay, benefits, sick leave, vacation, and for other purposes.

SECTION 17.

The board shall be responsible for the selection, appointment, and training of poll workers in elections. Such workers shall be appointed, insofar as practicable, from lists provided by the county executive committee of any political party whose nominee for President of the United States received at least 10 percent of the vote in Clayton County during the most recent general election for that office. It shall be the responsibility of any such political party

to provide said list to the board in a timely fashion and to supplement said list upon a reasonable request to do so.

SECTION 18.

Effective on the date the board can first take official action under Section 7 of this Act, the election superintendent of Clayton County and the Board of Registrars of Clayton County shall be relieved from all powers and duties to which the board of elections and registration succeeds by the provisions of this Act and shall deliver thereafter to the chair of the board, upon the chair´s written request, the custody of all equipment, supplies, materials, books, papers, records, and facilities of every kind pertaining to such powers and duties.

SECTION 19.

The governing authority of Clayton County shall through its legal counsel cause this Act to be submited for preclearance under the federal Voting Rights Act of 1965, as amended; and such submission shall be made to the United States Department of Justice or filed with the appropriate court no later than 45 days after the date on which this Act is approved by the Governor or otherwise becomes law without such approval.

SECTION 20.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 21.

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