House Bill 1271 (AS PASSED HOUSE AND SENATE)

By: Representative Jenkins of the 8th

A BILL TO BE ENTITLED

AN ACT

To create a board of elections and registration for Rabun County and to provide for its powers and duties; to provide for definitions; to provide for the composition of the board and the selection and appointment of members; to provide for the qualification, terms, and removal of members; to provide for oaths and privileges; to provide for meetings, procedures, 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 certain expenditures of public funds; to provide for compensation of members of the board and personnel; to provide for offices and equipment; to provide for the board´s performance of certain functions and duties for certain municipalities; to provide for related matters; to provide for the submission of this Act for approval pursuant to Section 5 of the federal Voting Rights Act of 1965, as amended; 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 the Board of Elections and Registration of Rabun County, hereinafter referred to as "the board." The board shall have the powers and duties of the former Rabun County election superintendent relating to the conduct of primaries and elections and shall have the powers and duties of the Rabun County Board of Registrars relating to the registration of voters and absentee balloting procedures.

SECTION 2.

The terms "election," "elector," "political party," "primary," 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 Rabun County and "county" means Rabun County.

SECTION 3.

(a) The board shall be composed of three members, each of whom shall be an elector and a resident of Rabun County. All members of the board shall be appointed by the Board of Commissioners of Rabun County. The Rabun County Board of Elections and Registration shall select a chairperson from among its members.

(b) The initial terms of office of two members, as designated in their appointment, shall begin on the first day of the month following the month in which this Act is approved by the Governor or in which it becomes law without such approval and shall expire December 31, 2010, and upon the appointment and qualification of their respective successors. The initial term of office of the remaining member of the board shall begin on the first day of the month following the month in which this Act is approved by the Governor or in which it becomes law without such approval and shall expire December 31, 2008, and upon the appointment and qualification of his or her successor. Successors to members of the board whose terms of office are to expire shall be appointed to take office on the first day of January immediately following the expiration of such terms of office and shall serve for terms of four years each until their successors are duly appointed and qualified. The board shall take no official action until all members have been certified to the clerk of the Superior Court of Rabun County.

SECTION 4.

The board shall appoint a person to serve as the supervisor of elections of Rabun County. Such position shall be full time and such person shall be paid a salary to be set by the board and payable from county funds. The supervisor of elections shall generally direct and control the administration of elections and voter registration in Rabun County. The supervisor of elections shall be supervised by the board and shall be subject to removal from office by the board, with or without cause. The supervisor of elections shall not be a member of the board nor an elected official.

SECTION 5.

Each member of the board shall:

(1) Serve for a term of four years and until a successor is appointed and qualified, except that initial terms of office shall be as provided in subsection (b) of Section 3 of this Act;

(2) Be eligible to be reappointed to succeed such member and shall 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 Rabun County; and

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

SECTION 6.

(a) The appointment of each member, except the initial members, shall be evidenced by the appointing authority filing an affidavit with the clerk of the Superior Court of Rabun 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 appointment of the initial members of the board shall be evidenced by the appointing authority filing an affidavit with the clerk of the Superior Court of Rabun County immediately following that appointment 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 Rabun 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 Rabun County shall record each certification on the minutes of that superior court and 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.

In the event a vacancy occurs in the office of any member before the expiration of a term, by reason of removal, death, resignation, or otherwise, the appointing authority which is required under Section 3 of this Act to make the appointment to the office upon the expiration of the term shall appoint a successor to serve for the remainder of the unexpired term in the manner set forth in Section 3 of this Act.

SECTION 8.

(a) 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.

(b) The board shall take no official action until all members have been certified to the clerk of the Superior Court of Rabun County.

SECTION 9.

(a) The Board of Elections and Registration of Rabun County 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 10.

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 11.

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 12.

(a) Nothing in this Act shall be construed to require or prohibit joint primaries or to require or prohibit 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 Rabun County if such municipal corporation has entered into a contract for that purpose with the Board of Commissioners of Rabun County.

SECTION 13.

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 14.

(a) The board shall be authorized and empowered to organize itself, may elect from among its membership a vice chairperson, 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 majority vote of the members of the board.

SECTION 15.

(a) The board shall fix and establish by appropriate resolution entered in its minutes directives governing the execution of matters within its jurisdiction. The board shall hold meetings in the election offices. 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 supervisor of elections to 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 16.

(a) The chairperson of the board of elections and registration shall chair all meetings of the board and be the spokesperson for the board.

(b) The members of the board shall receive such compensation for their services as members of the board as may be determined by the Board of Commissioners of Rabun County. In addition thereto, they 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 Rabun County.

SECTION 17.

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. The 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 pay, benefits, personal leave, and for other purposes.

SECTION 18.

On the first day of the month following the month in which this Act is approved by the Governor or in which it becomes law without such approval, the election superintendent of Rabun County and the board of registrars of Rabun County shall be relieved of all powers and duties to which the board succeeds by the provisions of this Act; and they shall deliver thereafter to the chairperson of the board, upon his or her 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 Rabun County shall through its legal counsel cause this Act to be submitted 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.