House Bill 553 (AS PASSED HOUSE AND SENATE)

By: Representative Austin of the 10th

A BILL TO BE ENTITLED

AN ACT

To create a board of elections and registration for Habersham 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 submission for preclearance under Section 5 of the federal Voting Rights Act of 1965, as amended; to provide effective dates; 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 Habersham County, hereinafter referred to as "the board." The board shall have the powers, duties, and responsibilities of the judge of the probate court of Habersham County under Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code," and the powers, duties, and responsibilities of the board of registrars of Habersham County under Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code."

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 Habersham County and "county" means Habersham County.

SECTION 3.

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

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

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

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

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

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

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

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

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

SECTION 4.

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

SECTION 5.

Each member of the board shall:

(1) Be eligible to be reappointed to succeed such member;

(2) Have the right to resign at any time by giving written notice of such resignation to the governing authority of Habersham County and to the clerk of the superior court; and

(3) Serve until his or her successor is appointed and qualified.

SECTION 6.

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

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

SECTION 7.

In the event a vacancy occurs in the office of any member before the expiration of his or her term, by 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 the remainder of the unexpired term as provided for in Section 3 of this Act. If the vacancy in office is not filled within 60 days after it occurs, the vacancy shall be filled for the remainder of the term by the governing authority of Habersham County. The clerk of the superior court shall be notified of such interim appointments and record and certify such appointments in the same manner as the regular appointment of members.

SECTION 8.

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

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

SECTION 9.

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

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

SECTION 10.

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

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

SECTION 11.

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

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

SECTION 12.

(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 office of the Habersham County Board of Elections and Registration or at the place of meeting of the commissioners. 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 special meeting has been communicated in writing to the election supervisor 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.

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

SECTION 13.

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

SECTION 14.

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

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

SECTION 15.

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

SECTION 16.

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

SECTION 17.

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

SECTION 18.

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