

House Bill 975

By: Representatives Scoggins of the 14<sup>th</sup>, Werkheiser of the 157<sup>th</sup>, Cheokas of the 138<sup>th</sup>, Rhodes of the 120<sup>th</sup>, Greene of the 151<sup>st</sup>, and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to  
2 elections and primaries generally, so as to provide for the ability of the judge of the probate  
3 court to cease acting as superintendent of elections; to provide for the creation of a board of  
4 elections and the selection and appointment of members to take the place of the judge of the  
5 probate court; to provide for the qualification, terms, and removal of members; to provide  
6 for oaths and privileges; to provide for meetings, procedures, and vacancies; to relieve the  
7 judge of the probate court of certain powers and duties with regard to elections and to  
8 provide for the transfer of functions to the newly created board; to provide for certain  
9 expenditures of public funds; to provide for compensation of members of the board and  
10 personnel; to provide for offices and equipment; to provide for the board's performance of  
11 certain functions and duties for certain municipalities; to provide for related matters; to  
12 provide an effective date; to repeal conflicting laws; and for other purposes.

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13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to elections and  
16 primaries generally, is amended in Part 3 of Article 2, relating to superintendents, by adding  
17 a new Code section to read as follows:

18 "21-2-78.

19 (a) A judge of the probate court who serves as superintendent and who no longer desires  
20 to serve as superintendent may terminate such service by giving notice in writing to the  
21 county governing authority, the Secretary of State, and the Council of Probate Judges. The  
22 termination date shall be stated in the notice and shall be on January 1 of an  
23 even-numbered year that is at least 12 months after the date of the notice. On and after  
24 January 1 of the even-numbered year specified, the duties of superintendent shall be  
25 transferred from the judge of the probate court to either a county board of elections or  
26 county board of elections and registration established under Code Section 21-2-40, a joint  
27 county-municipal board of elections or joint county-municipal board of elections and  
28 registration established under Code Section 21-2-45, or, if no such board has been created,  
29 the board of elections created by this Code section.

30 (b) In those counties in which the judge of the probate court chooses to cease serving as  
31 superintendent and the county does not create a board under Code Section 21-2-40  
32 or 21-2-45 by local Act to take over such duties, there is created in such county a board of  
33 elections to perform the duties of superintendent.

34 (c) The board created by subsection (b) of this Code section shall have the powers, duties,  
35 and responsibilities of the superintendent for the county under this chapter which were  
36 previously exercised by the judge of the probate court.

37 (d)(1) The board shall be composed of five members, each of whom shall be an elector  
38 and resident of the county at the time of appointment and for at least one year prior  
39 thereto, and who shall be appointed as provided in this subsection.

40 (2) Two members of the board shall be nominated by the political party whose candidate  
41 for the office of Governor at the last election for such office received the highest number  
42 of votes cast for such office within the county. Two members of the board shall be  
43 nominated by the political party whose candidate for the office of Governor at the last  
44 election for such office received the second highest number of votes cast for such office  
45 within the county. The nomination of the two respective members by a political party  
46 shall be submitted by the county executive committee of the respective political party at  
47 least 30 days before the beginning of the term of office or within 30 days after the  
48 creation of a vacancy in the office and shall be immediately considered by the governing  
49 authority of the county for approval at its next regular or called meeting. Should the  
50 commissioners fail to approve a nominee by a majority vote, a new nominee shall be  
51 nominated and submitted for approval by the appropriate political party in the same  
52 manner.

53 (3) The fifth member shall be appointed by the senior judge in time of service of the  
54 superior court of the county.

55 (4) The initial appointments to the board shall be made at least 30 days prior to January 1  
56 of the even-numbered year specified by the judge of the probate court in the notice  
57 provided for in subsection (a) of this Code section. The initial members and their  
58 successors shall be appointed for terms of four years and until their respective successors  
59 are appointed and qualified. The term of each initial member shall commence on  
60 January 1 of such even-numbered year.

61 (e) No person who holds elective public office shall be eligible to serve as a member of  
62 the board during the term of such elective office, and the position of any member of the

63 board shall be deemed vacant upon such member's qualifying as a candidate for elective  
64 public office.

65 (f) The governing authority shall certify the appointment of the members of the board  
66 representing the political parties, and the senior judge of the superior court in time of  
67 service shall certify his or her appointee by filing an affidavit with the clerk of the superior  
68 court no later than 15 days preceding the date upon which such members are to take office,  
69 stating the name and residential address of the person appointed and certifying that such  
70 member has been duly appointed as provided in this Code section. The clerk of the  
71 superior court shall record each of such certifications on the minutes of the superior court,  
72 certify the name of each such appointed member to the Secretary of State, and provide for  
73 the issuance of appropriate commissions to the members within the same time and in the  
74 same manner as provided by law for registrars.

75 (g) Each member of the board shall be eligible to serve successive terms, shall have the  
76 right to resign at any time by giving written notice of such resignation to the appointing  
77 body and to the clerk of the superior court, and shall be subject to removal from the board  
78 by the appointing body at any time, for cause, after notice and hearing, in the same manner  
79 and by the same authority as provided for the removal of registrars. For the purposes of  
80 this subsection, the senior judge of the superior court in time of service shall be considered  
81 the 'appointing body' for his or her appointee and the governing authority shall be  
82 considered the 'appointing body' of the other members of the board.

83 (h) In the event a vacancy occurs in the office of any member before the expiration of his  
84 or her term by removal, death, resignation, or otherwise, a successor shall be appointed to  
85 serve the remainder of the unexpired term. Such appointment shall be made in the same  
86 manner of appointment as provided for such position in subsection (c) of this Code section.  
87 The clerk of the superior court shall be notified of such interim appointments and record  
88 and certify such appointments in the same manner as the regular appointment of members.

- 89 (i) Before entering upon the member's duties, each member shall take substantially the  
90 same oath as required by law for registrars and shall have the same privileges from arrest.
- 91 (j)(1) The board shall be authorized to organize itself, determine its procedural rules and  
92 regulations, adopt bylaws, specify policies for the functions and duties of its employees  
93 and poll workers, and otherwise take such action as is appropriate to the management of  
94 the affairs committed to its supervision; provided, however, that no such action shall  
95 conflict with law. Action and decision by the board shall be by a majority of the  
96 members of the board.
- 97 (2) The board shall elect from among its members a chairperson and a vice chairperson.  
98 The chairperson of the board shall preside over meetings of the board and, with the input  
99 of the other members, establish the agenda for meetings. The vice chairperson shall act  
100 in the absence or disability of the chairperson.
- 101 (3) The board shall be authorized to employ such full-time and part-time employees,  
102 including poll workers, as may be deemed necessary by the board and as approved in the  
103 annual budget adopted by the governing authority of the county.
- 104 (4) The board shall fix and establish, by appropriate resolution entered on its minutes,  
105 directives governing the execution of matters within its jurisdiction. The board shall have  
106 regularly scheduled meetings and shall meet not fewer than four times per year. Any  
107 specially called meeting shall be called by the chairperson or any two members of the  
108 board. The board shall maintain a written record of policy decisions amended to include  
109 additions or deletions. Such written records shall be made available for the public to  
110 review.
- 111 (5) The board shall annually develop and adopt a proposed budget for its operations to  
112 be submitted to the county governing authority.
- 113 (6) The board shall have the authority to contract with any municipality located within  
114 the county for the holding by the board of any primary or election to be conducted within  
115 such municipality.

116 (7) Compensation for the members of the board, election supervisor, clerical assistants,  
117 and other employees shall be fixed by the county governing authority. Such  
118 compensation shall be paid wholly from county funds.

119 (k) The board shall be authorized to employ an election supervisor who shall generally  
120 supervise, direct, and control the administration of the affairs of the board pursuant to law  
121 and duly adopted resolutions of the board.

122 (l) The county governing authority shall provide the board with such proper and suitable  
123 offices, equipment, materials, and supplies and with such clerical assistance and other  
124 employees as the county governing authority shall deem appropriate.

125 (m) On January 1 of the even-numbered year named in the notice provided pursuant to  
126 subsection (a) of this Code section, the judge of the probate court shall be relieved of all  
127 powers and duties to which the board succeeds by the provisions of this Code section and  
128 shall deliver to the board all equipment, supplies, materials, books, papers, records, and  
129 facilities pertaining to such powers and duties.

130 (n) The board created under this Code section may be replaced with a board created under  
131 Code Section 21-2-40 or 21-2-45 by the passage of an appropriate local Act."

132 **SECTION 2.**

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

135 **SECTION 3.**

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