

House Bill 40

By: Representatives Griffin of the 149th, Draper of the 90th, Mitchell of the 88th, Myles of the 126th, and Park of the 107th

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 that the Secretary of State shall serve as
3 chairperson of the State Election Board; to provide for related matters; to repeal conflicting
4 laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to elections and
8 primaries generally, is amended by revising Code Section 21-2-30, relating to creation,
9 membership, terms of service, vacancies, quorum, bylaws, meetings, and executive director
10 of the State Election Board, as follows:

11 "21-2-30.

12 (a) There is created a state board to be known as the State Election Board, to be composed
13 of ~~a the Secretary of State who shall serve as the board's~~ chairperson ~~elected by the General~~
14 ~~Assembly~~, an elector to be elected by a majority vote of the Senate of the General
15 Assembly at its regular session held in each odd-numbered year, an elector to be elected
16 by a majority vote of the House of Representatives of the General Assembly at its regular

17 session held in each odd-numbered year, and a member of each political party to be
18 nominated and appointed in the manner provided in this Code section. No person while
19 a member of the General Assembly shall serve as a member of the board.

20 ~~(a.1)(1) The chairperson shall be elected by the General Assembly in the following~~
21 ~~manner: A joint resolution which shall fix a definite time for the nomination and election~~
22 ~~of the chairperson may be introduced in either branch of the General Assembly. Upon~~
23 ~~passage of the resolution by a majority vote of the membership of the Senate and House~~
24 ~~of Representatives, it shall be the duty of the Speaker of the House of Representatives to~~
25 ~~call for the nomination and election of the chairperson at the time specified in the~~
26 ~~resolution, at which time the name of the qualified person receiving a majority vote of the~~
27 ~~membership of the House of Representatives shall be transmitted to the Senate for~~
28 ~~confirmation. Upon the qualified person's receiving a majority vote of the membership~~
29 ~~of the Senate, he or she shall be declared the duly elected chairperson; and the Governor~~
30 ~~shall be notified of his or her election by the Secretary of the Senate. The Governor is~~
31 ~~directed to administer the oath of office to the chairperson and to furnish the chairperson~~
32 ~~with a properly executed commission of office certifying his or her election.~~

33 ~~(2) The chairperson of the board shall be nonpartisan. At no time during his or her~~
34 ~~service as chairperson shall the chairperson actively participate in a political party~~
35 ~~organization or in the campaign of a candidate for public office, nor shall he or she make~~
36 ~~any campaign contributions to a candidate for public office. Furthermore, to qualify for~~
37 ~~appointment as chairperson, in the two years immediately preceding his or her~~
38 ~~appointment, a person shall not have qualified as a partisan candidate for public office,~~
39 ~~participated in a political party organization or the campaign of a partisan candidate for~~
40 ~~public office, or made any campaign contributions to a partisan candidate for public~~
41 ~~office.~~

42 ~~(3) The term of office of the chairperson shall continue until a successor is elected as~~
43 ~~provided in paragraph (1) of this subsection. In the event of a vacancy in the position of~~

~~chairperson at a time when the General Assembly is not in session, it shall be the duty of the Governor and the Governor is empowered and directed to appoint a chairperson possessing the qualifications as provided in this subsection who shall serve as chairperson until the next regular session of the General Assembly, at which time the nomination and election of a chairperson shall be held by the General Assembly as provided in paragraph (1) of this subsection.~~

(b) A member elected by a house of the General Assembly shall take office on the day following the adjournment of the regular session in which elected and shall serve for a term of two years and until his or her successor is elected and qualified, unless sooner removed. An elected member of the board may be removed at any time by a majority vote of the house which elected him or her. In the event a vacancy should occur in the office of such a member of the board at a time when the General Assembly is not in session, then the President of the Senate shall thereupon appoint an elector to fill the vacancy if the prior incumbent of such office was elected by the Senate or appointed by the President of the Senate; and the Speaker of the House of Representatives shall thereupon appoint an elector to fill the vacancy if the prior incumbent of such office was elected by the House of Representatives or appointed by the Speaker of the House of Representatives. A member appointed to fill a vacancy may be removed at any time by a majority vote of the house whose presiding officer appointed him or her.

(c) Within 30 days after April 3, 1968, the state executive committee of each political party shall nominate a member of its party to serve as a member of the State Election Board and, thereupon, the Governor shall appoint such nominee as a member of the board to serve for a term of two years from the date of the appointment and until his or her successor is elected and qualified, unless sooner removed. Thereafter, such state executive committee shall select a nominee for such office on the board within 30 days after a vacancy occurs in such office and shall also select a nominee at least 30 days prior to the expiration of the term of each incumbent nominated by it; and each such nominee shall be immediately

71 appointed by the Governor as a member of the board to serve for the unexpired term in the
72 case of a vacancy, and for a term of two years in the case of an expired term. Each
73 successor, other than one appointed to serve an unexpired term, shall serve for a term of
74 two years; and the terms shall run consecutively from the date of the initial gubernatorial
75 appointment. No person shall be eligible for nomination by such state executive committee
76 unless he or she is an elector and a member in good standing of the political party of the
77 committee. Such a member shall cease to serve on the board and his or her office shall be
78 abolished if and when his or her political organization shall cease to be a 'political party'
79 as defined in Code Section 21-2-2.

80 (d) Three ~~voting~~ members of the board shall constitute a quorum, and no vacancy on the
81 board shall impair the right of the quorum to exercise all the powers and perform all the
82 duties of the board. The board shall adopt a seal for its use and bylaws for its own
83 government and procedure.

84 (e) Meetings shall be held whenever necessary for the performance of the duties of the
85 board on call of the chairperson or whenever any two of its members so request. Minutes
86 shall be kept of all meetings of the board and a record kept of the vote of each member on
87 all questions coming before the board. The chairperson shall give to each member of the
88 board prior notice of the time and place of each meeting of the board.

89 (f) If any member of the board other than the Secretary of State shall qualify as a candidate
90 for any public office which is to be voted upon in any primary or election regulated by the
91 board, that member's position on the board shall be immediately vacated and such vacancy
92 shall be filled in the manner provided for filling other vacancies on the board.

93 (g) On and after July 1, 2023, the board shall be a separate and distinct budget unit as
94 defined in Part 1 of Article 4 of Chapter 12 of Title 45, the 'Budget Act'; provided,
95 however, that the board shall be attached for administrative purposes only to the office of
96 the Secretary of State as provided for in Code Section 50-4-3. The board shall neither be

97 under the jurisdiction of the Secretary of State nor shall it be considered a division of the
98 office of the Secretary of State.

99 (h) The board shall have the power to appoint an executive director who shall be a
100 full-time employee of the board. The executive director shall serve at the pleasure of the
101 board, and the board shall in its discretion appoint and fix the compensation of the
102 executive director. The executive director shall be charged with such duties and powers
103 as provided in this Code section or as delegated by the board. The executive director shall
104 serve as the secretary of the board ex officio but shall not be a voting member of the board
105 or a member for the purposes of constituting a quorum.

106 (i) The executive director and other employees of the board shall be reimbursed for travel
107 and other expenses incurred in the performance of their duties in the same manner as
108 officers and employees of the office of the Secretary of State.

109 (j) Venue of any action involving members of the board shall be the county in which is
110 found the primary office of the board. Any notice or legal process necessary to be served
111 upon the board may be served upon the executive director, but the executive director shall
112 not be considered a member of the board in determining the venue of any such action, and
113 no court shall have jurisdiction over any such action solely by virtue of the executive
114 director residing or maintaining a residence within its jurisdiction.

115 (k) The executive director shall:

116 (1) Keep all records of the board and its proceedings;

117 (2) With the approval of the board, employ and fix the compensation of personnel as
118 determined necessary to assist the executive director in his or her duties;

119 (3) With the consent of the board, schedule the time and location of all meetings and
120 hearings, as well as maintain a schedule of all meetings and hearings available for public
121 review;

(4) With the approval of the board, enter into such contracts, leases, agreements, or other transactions with any person or agency as are deemed necessary to carry out the provisions of this chapter or to provide the services required by the board; and

(5) On or before the second Tuesday in January of each year, prepare and deliver a written annual report to the Governor and the chairpersons of the House and Senate Appropriations Committees describing the activities of the board for the previous calendar year. Such report shall be made available to any member of the General Assembly upon request. The report shall include a summary of all actions taken by the board and a financial report of all income and disbursements and staff personnel. The Governor may request a preliminary financial report for budgetary purposes prior to the executive director delivering the annual report."

SECTION 2.

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