

House Bill 223 (AS PASSED HOUSE AND SENATE)

By: Representative Gasaway of the 28th

A BILL TO BE ENTITLED
AN ACT

1 To create a board of elections and registration for Banks County and to provide for its powers
2 and duties; to provide for definitions; to provide for the composition of the board and the
3 selection and appointment of members; to provide for the qualification, terms, and removal
4 of members; to provide for oaths and privileges; to provide for meetings, procedures, and
5 vacancies; to relieve certain officers of powers and duties and to provide for the transfer of
6 functions to the newly created board; to provide for certain expenditures of public funds; to
7 provide for compensation of members of the board and personnel; to provide for offices and
8 equipment; to provide for the board's performance of certain functions and duties for certain
9 municipalities; to provide for related matters; to provide for submission under Section 5 of
10 the federal Voting Rights Act of 1965, as amended; to provide an effective date; to repeal
11 conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

14 Pursuant to subsection (b) of Code Section 21-2-40 of the O.C.G.A., there is created the
15 Board of Elections and Registration of Banks County, hereinafter referred to as "the board."
16 The board shall have the powers, duties, and responsibilities of the superintendent of
17 elections of Banks County under Chapter 2 of Title 21 of the O.C.G.A., the "Georgia
18 Election Code," as the same now exists or may hereafter be amended, which are currently
19 being exercised by the judge of the Probate Court of Banks County, and the powers, duties,
20 and responsibilities of the Board of Registrars of Banks County under Chapter 2 of Title 21
21 of the O.C.G.A., the "Georgia Election Code," as the same now exists or may hereafter be
22 amended.

23 **SECTION 2.**

24 The terms "election," "elector," "primary," and "public office" shall have the same meanings
25 as set forth in Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code," unless

26 otherwise clearly apparent from the text of this Act; the term "commissioners" means the
27 Board of Commissioners of Banks County; and the term "county" means Banks County.

28 **SECTION 3.**

29 (a) The board shall be composed of a chairperson and four members who shall be appointed
30 as provided in this section.

31 (b) The initial members of the board shall be the current members of the Board of Registrars
32 of Banks County. Transition to the board shall be facilitated by the current chief registrar
33 serving as initial chairperson of the board and the current clerk of the registrars serving as
34 the interim supervisor of elections.

35 (c) The initial chairperson of the board shall serve a term of four years and until his or her
36 successor is appointed and qualified.

37 (d) The current clerk of the registrars shall serve a term of two years on the board and until
38 his or her successor is appointed and qualified.

39 (e) The third current member of the board of registrars shall serve a term of three years on
40 the board and until his or her successor is appointed and qualified.

41 (f) Terms of office for the two new appointments to the initial board shall be designated with
42 three-year and two-year terms thereby creating staggered terms for the board.

43 (g) Every two years the board shall appoint or re-appoint one of its members to serve as
44 chairperson for a two-year term.

45 (h) After the terms of the initial members as set forth in this section, all terms of the board
46 shall be four years.

47 **SECTION 4.**

48 (a) No person who holds elective public office or any member of his or her immediate
49 family shall be eligible to serve as a member of the board during the term of such elective
50 office. The position of any member of the board shall be deemed vacant upon such
51 member's, or a member of such member's immediate family, qualifying as a candidate for
52 elective public office. Further, there shall be no members of the same immediate family
53 serving on the board or on the staff of the board at the same time.

54 (b) For the purpose of this section, immediate family members shall be defined as a spouse,
55 mother, father, stepmother, stepfather, grandmother, grandfather, child, stepchild, brother,
56 sister, stepbrother, stepsister, half brother, half sister, mother-in-law, father-in-law,
57 brother-in-law, and sister-in-law.

58 (c) Board members must be residents of Banks County and must have been registered to
59 vote in Banks County for a period of at least two years prior to the date of appointment.

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SECTION 5.

61 (a) Except as otherwise provided in Section 4 of this Act regarding the initial board,
62 appointments to the board shall be made by the chief judge of the Superior Court of Banks
63 County. The board shall submit to the commissioners the names of a number of qualified
64 electors, equal to twice the number of persons to be considered for appointment, no later than
65 30 days prior to the expiration of such members' term of office. The commissioners may add
66 to or delete names from the list submitted by the board. If the commissioners add to the list
67 of names for the appointment, the new names shall be certified as qualified electors by the
68 board. If an individual is not a qualified elector, his or her name shall be removed from the
69 list. Appointments from the names on the list by the chief judge are for four-year terms and
70 until their successors are appointed and qualified.

71 (b) The chief judge of the Superior Court of Banks County shall certify each appointment
72 to the clerk of the superior court no later than 15 days preceding the date upon which each
73 member is to take office, stating the name and residential address of the person appointed and
74 certifying such member has been duly appointed as provided in this Act.

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

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SECTION 6.

80 Each member of the board shall have the right to serve successive terms and to resign at any
81 time by giving written notice of such resignation to the board and to the clerk of the superior
82 court and shall be subject to removal from the board by the chief judge of the Superior Court
83 of Banks County at any time for cause, after notice and hearing.

84

SECTION 7.

85 In the event a vacancy occurs in the office of any appointed member before the expiration
86 of his or her term, by removal, death, resignation, or otherwise, the chief judge of the
87 Superior Court of Banks County shall appoint a successor from the prior list of names
88 submitted under Section 5 of this Act to serve the remainder of the unexpired term as
89 provided for in Section 5 of this Act. The clerk of the superior court shall be notified of such
90 interim appointments and record and certify such appointments in the same manner as the
91 regular appointment of members. If there are not at least two qualified electors on the list
92 last submitted to the chief judge, the process of furnishing the names of qualified electors to
93 the chief judge as set forth in Section 5 of this Act shall be followed, and a new set of names
94 shall be furnished to the chief judge to fill the vacancy on the board.

95 **SECTION 8.**

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

98 **SECTION 9.**

99 (a) The board shall be authorized to organize itself, determine its procedural rules and
100 regulations, adopt bylaws, specify the functions and duties of its employees, and otherwise
101 take such action as is appropriate for the management of the affairs committed to its
102 supervision; provided, however, that no such action shall conflict with state law. Decisions
103 by the board shall be by a majority of the members of the board.

104 (b) 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 hold
106 a minimum of quarterly meetings at times, dates, and places as determined by the board.
107 Any 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 review.

110 **SECTION 10.**

111 The board shall have the authority to contract with any municipality located within the
112 county for the holding by the board of any primary or election to be conducted within such
113 municipality.

114 **SECTION 11.**

115 (a) The board shall be authorized to appoint an elections supervisor to generally supervise,
116 direct, and facilitate the administration of the affairs of the board pursuant to law and duly
117 adopted resolutions of the board. The elections supervisor shall not be a member of the
118 board or an election official. The elections supervisor shall be considered an employee and
119 a department head of Banks County and shall be entitled to the same benefits as other
120 employees of Banks County.

121 (b) The board and the elections supervisor, subject to funding by the governing authority of
122 the county, shall be authorized to employ such full-time and part-time employees as deemed
123 necessary for the efficient conduct of elections, primaries, and registration of electors for the
124 county. All such employees shall be considered to be employees of Banks County and shall
125 be entitled to the same benefits as other employees of Banks County.

126 **SECTION 12.**

127 Compensation for the members of the board, elections supervisor, clerical assistants, and
128 other employees shall be fixed by the governing authority of the county, provided that the
129 members of the board shall receive compensation in at least the amount provided in
130 subsection (d) of Code Section 21-2-212 of the O.C.G.A. Such compensation shall be paid
131 wholly from county funds.

132 **SECTION 13.**

133 The governing authority of Banks County shall provide the board with such proper and
134 suitable offices, equipment, materials, and supplies as the governing authority deems
135 appropriate.

136 **SECTION 14.**

137 The local election officials of Banks County shall attend the training as required by Code
138 Section 21-2-100 of the O.C.G.A., and the governing authority of Banks County shall pay
139 the cost of such training.

140 **SECTION 15.**

141 The board of commissioners of Banks County shall through its legal counsel cause this Act
142 to be submitted for preclearance under Section 5 of the federal Voting Rights Act of 1965,
143 as amended, and such submission shall be made to the United States Department of Justice
144 or filed with the appropriate court no later than 45 days after the date on which this Act is
145 approved by the Governor or otherwise becomes law without such approval.

146 **SECTION 16.**

147 This Act shall become effective on the first day of the month following the month in which
148 it is approved by the Governor or becomes law without such approval. Upon this Act
149 becoming effective, the judge of the Probate Court of Banks County and the Board of
150 Registrars of Banks County shall be relieved of all powers and duties to which the board
151 succeeds by the provisions of this Act and shall deliver to the board all equipment, supplies,
152 materials, books, papers, records, and facilities pertaining to such powers and duties. On
153 such date, the Board of Registrars of Banks County shall be abolished, but the members of
154 the board of registrars shall become the initial members of the board of Banks County as
155 provided in this Act.

156 **SECTION 17.**

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