

House Bill 636

By: Representative Crowe of the 118<sup>th</sup>

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 State Election Board shall be a  
3 distinct budget unit and an independent state agency attached to the office of the Secretary  
4 of State for administrative purposes only; to remove the Secretary of State from the State  
5 Election Board; to provide for an executive director of said board; to provide for venue in  
6 any action of said board and its members; to provide duties for said executive director; to  
7 provide for said board to hire investigators; to provide for related matters; to repeal  
8 conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to elections and  
12 primaries generally, is amended by revising Code Section 21-2-30, relating to creation,  
13 composition, election of chairperson, terms of service, vacancies, quorum, seal and bylaws,  
14 and meetings of the State Election Board, as follows:

H. B. 636

15 "21-2-30.

16 (a) There is created a state board to be known as the State Election Board, to be composed  
17 of a chairperson elected by the General Assembly, an elector to be elected by a majority  
18 vote of the Senate of the General Assembly at its regular session held in each  
19 odd-numbered year, an elector to be elected by a majority vote of the House of  
20 Representatives of the General Assembly at its regular session held in each odd-numbered  
21 year, and a member of each political party to be nominated and appointed in the manner  
22 provided in this Code section. No person while a member of the General Assembly shall  
23 serve as a member of the board.

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

37 (2) The chairperson of the board shall be nonpartisan. At no time during his or her  
38 service as chairperson shall the chairperson actively participate in a political party  
39 organization or in the campaign of a candidate for public office, nor shall he or she make  
40 any campaign contributions to a candidate for public office. Furthermore, to qualify for  
41 appointment as chairperson, in the two years immediately preceding his or her

42 appointment, a person shall not have qualified as a partisan candidate for public office,  
43 participated in a political party organization or the campaign of a partisan candidate for  
44 public office, or made any campaign contributions to a partisan candidate for public  
45 office.

46 (3) The term of office of the chairperson shall continue until a successor is elected as  
47 provided in paragraph (1) of this subsection. In the event of a vacancy in the position of  
48 chairperson at a time when the General Assembly is not in session, it shall be the duty of  
49 the Governor and the Governor is empowered and directed to appoint a chairperson  
50 possessing the qualifications as provided in this subsection who shall serve as chairperson  
51 until the next regular session of the General Assembly, at which time the nomination and  
52 election of a chairperson shall be held by the General Assembly as provided in  
53 paragraph (1) of this subsection.

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

67 (c) Within 30 days after April 3, 1968, the state executive committee of each political  
68 party shall nominate a member of its party to serve as a member of the State Election Board

69 and, thereupon, the Governor shall appoint such nominee as a member of the board to serve  
70 for a term of two years from the date of the appointment and until his or her successor is  
71 elected and qualified, unless sooner removed. Thereafter, such state executive committee  
72 shall select a nominee for such office on the board within 30 days after a vacancy occurs  
73 in such office and shall also select a nominee at least 30 days prior to the expiration of the  
74 term of each incumbent nominated by it; and each such nominee shall be immediately  
75 appointed by the Governor as a member of the board to serve for the unexpired term in the  
76 case of a vacancy, and for a term of two years in the case of an expired term. Each  
77 successor, other than one appointed to serve an unexpired term, shall serve for a term of  
78 two years; and the terms shall run consecutively from the date of the initial gubernatorial  
79 appointment. No person shall be eligible for nomination by such state executive committee  
80 unless he or she is an elector and a member in good standing of the political party of the  
81 committee. Such a member shall cease to serve on the board and his or her office shall be  
82 abolished if and when his or her political organization shall cease to be a 'political party'  
83 as defined in Code Section 21-2-2.

84 ~~(d) The Secretary of State shall be an ex officio nonvoting member of the board.~~ Three  
85 voting members of the board shall constitute a quorum, and no vacancy on the board shall  
86 impair the right of the quorum to exercise all the powers and perform all the duties of the  
87 board. The board shall adopt a seal for its use and bylaws for its own government and  
88 procedure.

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

94 (f) If any member of the board, ~~other than the Secretary of State,~~ shall qualify as a  
95 candidate for any public office which is to be voted upon in any primary or election

96 regulated by the board, that member's position on the board shall be immediately vacated  
97 and such vacancy shall be filled in the manner provided for filling other vacancies on the  
98 board.

99 (g) On and after July 1, 2023, the board shall be a separate and distinct budget unit as  
100 defined in Part 1 of Article 4 of Chapter 12 of Title 45, the 'Budget Act'; provided,  
101 however, that the board shall be attached for administrative purposes only to the office of  
102 the Secretary of State as provided for in Code Section 50-4-3. The board shall neither be  
103 under the jurisdiction of the Secretary of State nor shall it be considered a division of the  
104 office of the Secretary of State.

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

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

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

121 (k) The executive director shall:

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

- 123 (2) With the approval of the board, employ and fix the compensation of personnel as  
124 determined necessary to assist the executive director in his or her duties. Persons hired  
125 for the purpose of conducting investigations on behalf of the board shall have a level of  
126 experience of knowledge of the matters, as determined by the board, to be investigated;  
127 (3) With the consent of the board, schedule the time and location of all meetings and  
128 hearings, as well as maintain a schedule of all meetings and hearings available for public  
129 review;  
130 (4) With the approval of the board, enter into such contracts, leases, agreements, or other  
131 transactions with any person or agency as are deemed necessary to carry out the  
132 provisions of this chapter or to provide the services required by the board; and  
133 (5) On or before the second Tuesday in January of each year, prepare and deliver a  
134 written annual report to the Governor and the chairpersons of the House and Senate  
135 Appropriations Committees describing the activities of the board for the previous  
136 calendar year. Such report shall be made available to any member of the General  
137 Assembly upon request. The report shall include a summary of all actions taken by the  
138 board and a financial report of all income and disbursements and staff personnel. The  
139 Governor may request a preliminary financial report for budgetary purposes prior to the  
140 executive director delivering the annual report.  
141 (1) The board shall have the power to hire investigators for the purpose of conducting  
142 investigations authorized by this chapter."

143

**SECTION 2.**

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