

House Bill 772

By: Representatives Park of the 101st, Clark of the 108th, Kendrick of the 93rd, Marin of the 96th, McLeod of the 105th, and others

A BILL TO BE ENTITLED
AN ACT

1 To reconstitute and reestablish the board of registrations and elections for Gwinnett County,
2 Georgia; to provide for the powers and duties of the board; to provide for the appointment,
3 resignation, and removal of its members; to provide for appointments upon expiration of
4 terms and vacancies on the board; to provide for meetings and special meetings of the board;
5 to provide an administrative office for elections and registrations; to staff such office with
6 an elections supervisor, clerical assistants, and other employees; to provide compensation for
7 administrative personnel and members of the board; to provide definitions; to provide for
8 related matters; to provide a contingent effective date and automatic repeal; to repeal
9 conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 (a) Pursuant to Code Section 21-2-40 of the O.C.G.A., as of July 1, 2021, the Gwinnett
13 County Board of Registrations and Elections shall be reconstituted and reestablished, and
14 such board shall have the powers and duties of the election superintendent of Gwinnett
15 County relating to the conduct of elections and the powers and duties of the board of
16 registrars relating to the registration of voters and absentee balloting procedures.

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17 (b) The board provided for in subsection (a) of this section shall be the successor to the
18 Gwinnett County Board of Registrations and Elections, provided for in an Act to establish
19 a Gwinnett County Board of Registrations and Elections, approved March 24, 1988
20 (Ga. L. 1988, p. 4296), as amended.

21 **SECTION 2.**

22 (a) Such board shall be composed of five members, each of whom shall be an elector and
23 a resident of Gwinnett County, and who shall be selected in the following manner:

24 (1) Except as provided in subsections (c), (d), and (e) of this section, two members shall
25 be appointed by the governing authority of Gwinnett County from nominations made by
26 the county executive committee of the political party whose candidates at the last
27 preceding regular general election held for the election of all members of the General
28 Assembly received the largest number of votes in Gwinnett County for members of the
29 General Assembly;

30 (2) Except as provided in subsections (c), (d), and (e) of this section, two members shall
31 be appointed by the governing authority of Gwinnett County from nominations made by
32 the county executive committee of the political party whose candidates at the election
33 described in paragraph (1) of this section received the second largest number of such
34 votes; and

35 (3) Except as provided in subsection (e) of this section, one member shall be appointed
36 by the governing authority of Gwinnett County without regard to political party
37 nomination or affiliation.

38 (b) Except as provided in subsection (e) of this section, all members of the board shall be
39 appointed by a majority vote of the governing authority of Gwinnett County.

40 (c) Upon the expiration of his or her term for the members appointed pursuant to
41 paragraphs (1) and (2) of subsection (a) of this section:

42 (1) All such nominees shall be approved by a majority of the members of the county
43 executive committee of the respective political party, such nomination being approved
44 at either a regular or special meeting of such executive committee;

45 (2) The appropriate executive committee of a political party making nominations shall
46 submit a list of three nominees to the governing authority of Gwinnett County within 30
47 days of an opening on the board;

48 (3) The governing authority of Gwinnett County shall vote upon such nominees within
49 30 days upon receipt of a list submitted pursuant to paragraph (2) of this subsection; and

50 (4) In the event that within 30 days of an opening on the board a list is not submitted
51 pursuant to paragraph (2) of this subsection, the governing authority of Gwinnett County
52 may appoint a board member without regard to any party nominations.

53 (d) When a vacancy occurs for the members appointed pursuant to paragraphs (1) and (2)
54 of subsection (a) of this section:

55 (1) All such nominees shall be approved by a majority of the members of the county
56 executive committee of the respective political party, such nomination being approved
57 at either a regular or special meeting of such executive committee;

58 (2) The appropriate executive committee of a political party making nominations shall
59 submit a list of three nominees to the governing authority of Gwinnett County within 30
60 days of an opening or vacancy on the board;

61 (3) The governing authority of Gwinnett County shall vote upon such nominees within
62 30 days upon receipt of a list submitted pursuant to paragraph (2) of this subsection; and

63 (4) In the event that within 30 days of an opening or vacancy on the board a list is not
64 submitted pursuant to paragraph (2) of this subsection, the governing authority of
65 Gwinnett County may appoint a board member without regard to any party nominations.

66 (e) In the event that a majority of the governing authority of Gwinnett County cannot
67 appoint a board member within 60 days of an opening or vacancy on the board, the chief
68 judge of the Superior Court of Gwinnett County shall appoint such board member.

69 **SECTION 3.**

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

74 **SECTION 4.**

75 (a) The appointment of each member shall be made by the appointing authority filing an
76 affidavit with the clerk of the superior court no later than 30 days preceding the date at
77 which such member is to take office, stating the name and residence address of the person
78 appointed or elected and certifying that such member has been duly appointed or elected
79 as provided in this Act.

80 (b) The appointment of the fifth member of the board, known as the member at large, shall
81 be made by the governing authority of the county filing an affidavit with the clerk of the
82 superior court no later than 15 days preceding the date at which such member is to take
83 office, stating the name and residence address of the person appointed and certifying that
84 such member has been duly appointed as provided in this Act.

85 (c) The clerk of the superior court shall record each of such certifications on the minutes
86 of the court and shall certify the name of each member to the Secretary of State and provide
87 for the issuance of appropriate commissions to the members as provided by law for
88 registrars.

89 **SECTION 5.**

90 In the event any appointing authority fails:

- 91 (1) To make a regular appointment or election within the times specified in Section 2 or
92 Section 4 of this Act; or

93 (2) To make an interim appointment to fill a vacancy within 60 days after the creation
94 of such vacancy,
95 the chief judge of the Superior Court of Gwinnett County shall make such appointment.

96 **SECTION 6.**

97 Each member of the board shall:

- 98 (1) Except as provided Section 20, serve for a term of two years and until a successor is
99 appointed or elected and qualified, except in the event of resignation or removal as
100 hereinafter provided;
- 101 (2) Be eligible to succeed such member and have the right to resign at any time by giving
102 written notice of such resignation to the respective appointing authority and to the clerk
103 of the superior court;
- 104 (3) Take substantially the same oath as required by law for registrars before entering
105 upon the duties of office;
- 106 (4) Have the same privileges from arrest as provided by law for registrars; and
- 107 (5) Be subject to removal from the board at any time, for cause, by vote of a simple
108 majority of the members of the governing authority of Gwinnett County.

109 **SECTION 7.**

110 In the event a vacancy occurs in the office of any member before the expiration of a term,
111 by removal, death, resignation, or otherwise, the respective authority shall appoint a
112 successor to serve for the remainder of the unexpired term. A seat vacated by a member
113 nominated by a political party shall be filled with a new nominee from the same party. The
114 clerk of the superior court shall be notified of interim appointments and record and certify
115 such appointments in the same manner as the regular appointment of members.

116 **SECTION 8.**

117 The board shall be responsible for the registration of electors of Gwinnett County; the
118 preparing, equipping, and furnishing of polling places; the counting of all ballots, both
119 absentee and those regularly cast; and for the selection, appointment, and training of poll
120 workers. Such poll workers may be appointed, insofar as practicable, from a list provided
121 to the board by the county executive committee of each political party.

122 **SECTION 9.**

123 (a) The Gwinnett County Board of Registrations and Elections shall be empowered with
124 all the powers and duties relating to the conduct of elections as election superintendents
125 pursuant to the provisions of Title 21 of the O.C.G.A.

126 (b) The board is empowered with all the powers and duties relating to the registration of
127 voters and absentee balloting procedures as boards of registrars pursuant to the provisions
128 of Title 21 of the O.C.G.A.

129 (c) This Act is intended to implement the provisions of subsection (b) of Code
130 Section 21-2-40 of the O.C.G.A. and shall be construed liberally so as to effectuate that
131 purpose.

132 **SECTION 10.**

133 Any rule or regulation promulgated by a county executive committee under the provisions
134 of subsection (c) of Code Section 21-2-111 of the O.C.G.A., with regard to the conduct of
135 primaries, shall be null and void if in conflict with a valid rule or regulation of the board.

136 **SECTION 11.**

137 (a) Nothing in this Act shall be construed to require or prohibit joint primaries or to require
138 or prohibit the county governing authority or any other public agency to bear any expense
139 of conducting primaries not otherwise required by law.

140 (b) The board shall have the authority to contract with any municipal corporation located
141 within the county for the holding by the board of any primary or election to be conducted
142 within the municipal corporation.

143 **SECTION 12.**

144 With the consent of the governing authority, the board shall be authorized to expend public
145 funds for the purpose of preparing and distributing material solely to inform and instruct
146 electors of the county adequately with regard to elections. No material distributed by the
147 board shall contain or express, in any manner or form, any commentary or expression of
148 opinion, or request for support, with respect to any political issue or matter of political
149 concern.

150 **SECTION 13.**

151 (a) The board shall be authorized and empowered to organize itself, elect its officers from
152 within its own members, determine its procedural rules and regulations, adopt by-laws,
153 specify the functions and duties of its employees, and otherwise take such action as is
154 appropriate to the management of the affairs committed to its supervision; provided,
155 however, that no such action shall conflict with state law.

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

157 (c) The board shall elect from its members, by a simple majority, a person to serve as
158 chairperson of the board.

159 **SECTION 14.**

160 (a) The board shall fix and establish by appropriate resolution entered on its minutes
161 directives governing the execution of matters within its jurisdiction. The board shall hold
162 regular monthly meetings at the county courthouse or at the place of meeting of the county
163 governing authority.

164 (b) Any special called meeting of the board shall be held only after written notice of the
165 time and place of such meeting has been provided to the person designated by the
166 governing authority of Gwinnett County to provide such information to the public and to
167 each member of the General Assembly whose districts are wholly or partially in Gwinnett
168 County.

169 (c) All meetings of the board shall be conducted in the manner specified in Chapter 14 of
170 Title 50 of the O.C.G.A., relating to open and public meetings.

171 (d) The board shall ensure that all meetings of the board are recorded and archived in the
172 public domain in a manner easily accessible to the public.

173 (e) The board shall maintain a written record of policy decisions that shall be amended to
174 include additions or deletions. Such written record shall be made available for the public
175 to review.

176 **SECTION 15.**

177 The board shall be responsible for selecting and appointing an administrative director, to be
178 known as the elections supervisor, to administer and supervise the conduct of elections,
179 primaries, and registration of electors for the county. Such appointment shall be effective
180 only if the nominee receives at least four affirmative votes from the five-member board.
181 Compensation for the elections supervisor shall be determined and paid by the governing
182 authority wholly from county funds. The elections supervisor shall serve at the pleasure of
183 the board.

184 **SECTION 16.**

185 The governing authority of the county shall expend public funds to provide the elections
186 supervisor with such proper and suitable administrative offices and with such clerical
187 assistants and other employees as the governing authority shall deem appropriate in

188 accordance with the merit system. Compensation for such administrative personnel shall be
189 paid by the governing authority under the merit system wholly from county funds.

190 **SECTION 17.**

191 The board shall be responsible for the selection, appointment, and training of poll workers
192 in elections. Such workers may be appointed from lists provided by the county executive
193 committees of the two major political parties appointing members to the board.

194 **SECTION 18.**

195 Compensation for board members shall be set by the county governing authority and shall
196 be paid by the governing authority wholly from county funds.

197 **SECTION 19.**

198 The words "election," "elector," "political party," "primary," and "public office" shall have
199 the same meaning as ascribed to those words by Title 21 of the O.C.G.A., unless otherwise
200 clearly apparent from the text of this Act.

201 **SECTION 20.**

202 The initial board members appointed pursuant to this Act shall take office on July 1, 2021,
203 and shall serve until December 31, 2022. Thereafter, the terms of successors to the initial
204 board members shall begin on January 1 of each even-numbered year and end on December
205 31 of each odd-numbered year.

206 **SECTION 21.**

207 This Act shall become effective upon its approval by the Governor or upon its becoming law
208 without such approval, provided that an Act amending an Act to provide for a Gwinnett
209 County Board of Registrations and Elections, approved March 24, 1988

210 (Ga. L. 1988, p. 4296), as amended, is enacted in the 2021 session of the General Assembly
211 providing for the abolition of such board of elections and registration on a date certain; if
212 such abolition Act is not so approved, this Act shall not become effective and this Act shall
213 be automatically repealed on July 1, 2021.

214

SECTION 22.

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