

House Bill 841 (AS PASSED HOUSE AND SENATE)

By: Representatives Crawford of the 91st and Ray of the 108th

A BILL TO BE ENTITLED
AN ACT

1 To create a board of elections and registration for Upson County and 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 conflicting rules and regulations; to
7 provide for expenditures of public funds; to provide for compensation of members of the
8 board; to provide for offices and equipment; to provide for personnel, including a chief
9 election official, and compensation; to provide for the board's performance of certain
10 functions and duties for certain municipalities; to provide for submission; to provide for
11 related matters; to provide an effective date; to repeal conflicting laws; and for other
12 purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 Pursuant to subsection (b) of Code Section 21-2-40 of the O.C.G.A., there is created the
16 Upson County Board of Elections and Registration, hereinafter referred to as "the board."
17 The board shall have the powers and duties of the former Upson County election
18 superintendent relating to the conduct of primaries and elections and shall have the powers
19 and duties of the Upson County Board of Registrars relating to the registration of voters and
20 absentee balloting procedures.

21 **SECTION 2.**

22 The terms "election," "elector," "political party," "primary," and "public office" shall have
23 the same meaning as set forth in Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election
24 Code," unless otherwise clearly apparent from the text of this Act, and the term

1 "commissioners" means the Board of Commissioners of Upson County and "county" means
2 Upson County.

3 **SECTION 3.**

4 (a) The board shall be composed of five members, each of whom shall be an elector and a
5 resident of Upson County. All members of the board shall be appointed by the Board of
6 Commissioners of Upson County. The Upson County Board of Elections and Registration
7 shall select a chairperson from among its members.

8 (b) The initial terms of office of three members, as designated in their appointment, shall
9 expire December 31, 2005, and upon the appointment and qualification of their respective
10 successors. The initial terms of office of the remaining members of the board shall expire
11 December 31, 2007, and upon the appointment and qualification of their respective
12 successors.

13 **SECTION 4.**

14 The board shall appoint a person to serve as the chief election official of Upson County.
15 Such position shall be full time and such person shall be paid a salary to be set by the board
16 and payable from county funds. The chief election official shall generally direct and control
17 the administration of elections and voter registration in Upson County. The chief election
18 official shall be supervised by the board and shall be subject to removal from office by the
19 board, with or without cause. The chief election official shall not be a member of the board
20 nor an elected official.

21 **SECTION 5.**

22 Each member of the board shall:

- 23 (1) Serve for a term of four years and until a successor is appointed and qualified, except
24 that initial terms of office shall be as provided in subsection (b) of Section 3 of this Act;
25 (2) Be eligible to be reappointed to succeed such member and shall have the right to
26 resign at any time by giving written notice of such resignation to the commissioners and
27 to the clerk of the Superior Court of Upson County; and
28 (3) Be subject to removal from the board at any time for cause, after notice and hearing,
29 by the judge of the Superior Court of Upson County.

30 **SECTION 6.**

31 (a) The appointment of each member shall be evidenced by the appointing authority filing
32 an affidavit with the clerk of the Superior Court of Upson County no later than 30 days
33 preceding the date on which such member is to take office, stating the name and residence

1 address of the person appointed and certifying that such member has been duly appointed
 2 as provided in this Act. The clerk of the Superior Court of Upson County shall be notified
 3 of interim appointments and shall record and certify such appointments in the same manner
 4 as the regular appointment of members.

5 (b) The clerk of the Superior Court of Upson County shall record each such certification on
 6 the minutes of that superior court and shall certify the name of each member to the Secretary
 7 of State and provide for the issuance of appropriate commissions to the members as provided
 8 by law for county registrars.

9 **SECTION 7.**

10 (a) In the event a vacancy occurs in the office of any member before the expiration of a term
 11 by reason of removal, death, resignation, or otherwise, the appointing authority which is
 12 required under Section 3 of this Act to make the appointment to the office upon expiration
 13 of the term shall appoint a successor to serve for the remainder of the unexpired term in the
 14 manner set forth in Section 3 of this Act.

15 (b) If the appointing authority does not, in conformity with this Act, certify an appointment
 16 to the board within 30 days after the beginning of a term of office or within 30 days after the
 17 creation of a vacancy in that office, the judge of the Superior Court of Upson County shall
 18 immediately appoint a person to fill the vacancy and shall certify such appointment as
 19 provided in Section 6 of this Act. Any person appointed to fill a vacancy shall serve out the
 20 unexpired term of office.

21 **SECTION 8.**

22 (a) The first members of the board under this Act shall be appointed as provided in this Act
 23 to take office on July 1, 2003. The board shall take no official action until all members have
 24 been certified to the clerk of the Superior Court of Upson County.

25 (b) Before entering upon the duties of office, each member shall take substantially the same
 26 oath as required by law for county registrars and shall have the same privileges from arrest.

27 **SECTION 9.**

28 (a) The Upson County Board of Elections and Registration shall be empowered with all the
 29 powers and duties relating to the conduct of primaries and elections as election
 30 superintendents pursuant to the provisions of Chapter 2 of Title 21 of the O.C.G.A., the
 31 "Georgia Election Code."

32 (b) The board is empowered with all the powers and duties relating to the registration of
 33 voters and absentee balloting procedures as boards of registrars pursuant to the provisions
 34 of Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code."

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

3 **SECTION 10.**

4 No person who holds elective public office shall be eligible to serve as a member of the
5 board during the term of such elective public office, and the position of membership of any
6 member shall be deemed vacant upon such member's qualifying as a candidate for an
7 elective public office.

8 **SECTION 11.**

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

13 **SECTION 12.**

14 (a) Nothing in this Act shall be construed to require or prohibit joint primaries or to require
15 or prohibit the commissioners or any other public agency to bear any expense of conducting
16 primaries not otherwise required by law.

17 (b) The board shall have the authority to serve as municipal registrar and to conduct
18 municipal elections and primaries for any municipal corporation located within Upson
19 County if such municipal corporation has entered into a contract for that purpose with the
20 Upson County Board of Commissioners.

21 **SECTION 13.**

22 With the approval of the commissioners, the board shall be authorized to expend public funds
23 for the purpose of preparing and distributing material solely to inform and instruct electors
24 of the county adequately with regard to elections. No material distributed by the board shall
25 contain or express, in any manner or form, any commentary or expression of opinion or
26 request for support with respect to any political issue or matter of political concern.

27 **SECTION 14.**

28 (a) The board shall be authorized and empowered to organize itself, may elect from among
29 its membership a vice chairperson, shall determine its procedural rules and regulations, adopt
30 bylaws, specify the functions and duties of its employees, and otherwise take such actions
31 as are appropriate to the management of its affairs; provided, however, that no such action
32 shall conflict with general law.

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

3 **SECTION 15.**

4 (a) The board shall fix and establish by appropriate resolution entered on its minutes
5 directives governing the execution of matters within its jurisdiction. The board shall hold
6 meetings at the county courthouse or at the place of meeting of the commissioners. These
7 meetings shall be held quarterly in years in which there is no county-wide election and
8 monthly in years in which there is a county-wide election. Any specially called meetings
9 held pursuant to the bylaws adopted by the board shall be held only after notification of the
10 time and place of the holding of such meeting has been communicated in writing to the chief
11 election official to provide public notice of the meeting as required by law. All meetings of
12 whatever kind of the board shall be conducted pursuant to Chapter 14 of Title 50 of the
13 O.C.G.A., relating to open meetings.

14 (b) The board shall maintain a written record of policy decisions that shall be amended to
15 include additions or deletions. Such written record shall be subject to Article 4 of Chapter
16 18 of Title 50 of the O.C.G.A., relating to inspection of public records.

17 **SECTION 16.**

18 (a) The chairperson of the board of elections and registration shall chair all meetings of the
19 board and be the spokesperson for the board.

20 (b) The members of the board shall receive such compensation for their services as members
21 of the board as may be determined by the Board of Commissioners of Upson County. In
22 addition thereto, they shall be reimbursed for their actual and necessary expenses incurred
23 in the performance of their duties.

24 (c) All amounts payable under this section shall be paid from the funds of Upson County.

25 **SECTION 17.**

26 Subject to appropriation of funds by the commissioners, the board shall be authorized to
27 expend public funds to provide for such proper and suitable administrative offices and for
28 such clerical assistants and other employees as the board shall deem appropriate.
29 Compensation for such administrative personnel shall be paid by the board under the county
30 personnel system wholly from county funds. This section shall not be construed so as to
31 require the board to expend any funds simply because they are authorized to do so under this
32 Act. Employees of the board shall be considered county employees for purposes of pay,
33 benefits, sick leave, vacation, and for other purposes.

By Laws of the Upson County Board of

Elections and Registration

Article One

Name and Location of Offices

1.1 Name: Pursuant to House Bill 841 (as passed House and Senate), and pursuant to subsection (b) of Code Section 21-2-40 of the O.C.G.A. effective July 1, 2003, the Upson County Board of Elections and Registration will be referred to as “the board”. In an election year, the board will hold meetings monthly on the first Thursday of each month at 10:00 a.m. in the Information Technology Department Conference room located currently at 106 E. Lee St, STE B100, Thomaston, Georgia, 30286. In a non-election year the board will hold meetings quarterly in the same location on the first Thursday of the first month in each calendar quarter. If a holiday falls on the first Thursday of the month, the meeting will be held on the following Thursday at the same time and location. If the first Thursday falls during the week of an election, then the board may, if it so chooses, hold the meeting on the following Thursday at the same time and location. The board has the authority to change the date and/or location of any meeting provided that proper notice has been given to board members and the public. The board also has the authority to hold special or called meetings to conduct business and notification will be published on the Upson County website and the office of the Elections and Registration office.

Such special or called meetings may be called by the Chair or by any three members of the board, provided that at least twenty four hours notice by telephone or forty eight hours notice by email is given to all members of the board.

Article Two

Responsibilities, Powers, and Governing

2.1 The Upson County Board of Elections and Registration shall have the powers and duties of Election Superintendent relating to the conduct of primaries and elections and shall have the powers and duties of the board of registrars relating to the registrars relating to the registration of voters and absentee balloting procedures. The Board was granted the powers and duties as superintendent exclusive of those powers and duties of the Chief Judicial

Officer. The board is empowered with all the powers and duties relating to primaries and elections as superintendent pursuant to the provisions of Chapter 2 of Title 21 of the O.C.G.A, the "Georgia Election Code".

Article Three

Membership

- 3.1 Membership:** The Upson County Board of Elections and Registration shall be composed of five members, each of whom shall be an elector and resident of Upson County and shall be appointed by the Upson County Board of Commissioners.
- 3.2 Disqualification of Members:** No person who holds public office, whether elective or appointive, shall be eligible to serve as a member of the board during the term of such office. And the membership shall be deemed vacant upon such member qualifying as a candidate for any elective office.
- 3.3 Resignation:** Each member of the board shall:
- a. Serve for a term of four years and until his or her successor is appointed by the Board of Commissioners of Upson County, except in the event of resignation or removal due to death, resignation, or otherwise, the Board of Commissioners shall appoint a successor to serve for the remainder of the unexpired term. The clerk of the superior court shall be notified of interim appointments and record and certify such appointments or elections in the same manner as the regular appointment or election of members.
 - b. Be eligible to succeed him or herself and have the right to resign at any time by giving written notice of his or her resignation to the appropriate appointing or electing authority and to the clerk of the superior court.
 - c. Be subject to removal from the board at any time for cause, after notice and hearing, in the same manner and by the same authority as is provided for the removal of registrars.
- 3.4 Vacancies:** Any vacancy in the board shall be filled by the Upson County Board of Commissioners.
- 3.5 Removal:** Any officer or member can be subject to removal from the board at any time for cause, after notice and hearing, in the same manner and by the same authority as is provided for the removal of registrars pursuant to Code Section 21-2-40 of the O.C.G.A.
- 3.6 Officers:** Each fiscal year beginning in January, a chairman will be elected among the five members and the member with the majority vote of the members shall be deemed chairman. The five members will also elect a vice chairman and the member with the majority vote of the members shall be

deemed vice chairman. The chairman shall preside over all meetings of the board with the right to vote on all appropriate motions. The chairman shall also be entitled to second motions and nominate. The vice chairman shall perform the duties and have the authority and powers of the chairman on his absence. The five members will also elect a Secretary and the member with the majority vote of the members shall be deemed Secretary. The Secretary shall record minutes from all meetings and keep a minute book to be located in the Office of the Registrar. In the absence of the Secretary, the Vice Chairman shall record all minutes.

- 3.7 Quorum:** At all meetings of the Upson County Board of Elections and Registration the presence, in person, of at least three members shall constitute a quorum. If a quorum is present, a majority of the votes shall determine any matter coming before the board.
- 3.8** If any member of the board misses four consecutive meetings or more than six meetings in a twelve month period, then the board will send a letter to the appropriate appointing or electing authority informing them of these absences and asking if they wish to replace such member on the board.

Article Four

Administrative Director

- 4.1 Director:** An Administrative Director “to be known as “supervisor” to administer and conduct the elections, primaries, and registration of Upson County, shall be selected by the Board of Elections. The term shall be two years and the compensation will be determined by the governing authority of Upson County.

- 4.2 Duties of Director:** The Election Director shall have overall charge of the Elections and Registration staff to supervise the operations in carrying out the policies, procedures, orders and general charge of the daily duties. The Election Director shall represent and conduct public relations contacts and have general charge of the operating functions of the office. The Elections Director shall employ, discharge, and supervise the staff of the Upson County Elections and Registration Office. The Election Director shall bring forth recommendations for the hiring and termination of any full or part-time personnel of the Elections and Registration Office.
- 4.3** By the direction of the board, the Election Director shall sign statements and reports required to be filed with State and Federal agencies.

Article Five

Administrative Support

- 5.1** The governing authority of the county shall expend public funds to provide the elections supervisor with such proper and suitable administrative offices and with such assistants and other employees as the governing authority shall deem appropriate in accordance with the merit system. Compensation for such administrative personnel shall be paid by the governing authority under its personnel policies wholly from county funds.
- 5.2** All staff hired to perform the duties of the office of Board of Elections and Registration will faithfully uphold the position as Election Officer.
- 5.3** Unless deemed necessary by The Board and with a majority vote, all office staff hired to perform the duties of the office of Board of Elections and Registration, whether temporarily or permanently employed, shall not be family members of other staff members and shall also fall under the personnel policies of the Upson County Board of Commissioners.

Article Six

Terms and Regulations

- 6.1** The board members shall take office on January 1st of the proposed four year terms conditional to legislation to stagger the terms of these members. Any

legislation passed changing the terms shall become effective upon its approval by the Governor or upon its becoming law without such approval.

- 6.2** Before entering upon his or her duties, each member shall take an oath as required by law and shall have the same privileges from arrest as registrars.
- 6.3** Compensation for board members shall be \$25.00/meeting and said compensation shall be paid by the governing authority wholly from county funds.
- 6.4** The Upson County Board of Elections and Registration shall pass any rules that will attach and become apart of the regulations that adhere and will be called "the rules" of the board. The recording secretary of the board shall have written record of any rules passed to administer to all poll workers and other staff.

Article Seven

Amendments

- 7.1** These bylaws may be amended by the board at any regular monthly meeting provided the proposed amendment is sent to all members at least seven days prior to the meeting. A majority vote of all members of the board is necessary for amendment.

Article Eight

Subject to State Law

- 8.1** House Bill 841 as passed in 2003 and subsequent legislative changes to this bill are hereby incorporated as part of these bylaws. Any part of these bylaws found to be in conflict with HB 841 or any other laws of the State of Georgia shall be deemed void and invalid. If, however, any part of these laws should be found to be in conflict, such conflict shall not affect the validity of the remainder of these bylaws.

The By Laws of the Upson County Board of Elections and Registration determine its procedural rules and regulations and specify the functions, duties of board members, administrative director, and staff to specify functions and all duties to the management of the affairs committed to its supervision within state law.

The By laws of the Upson County Board of Elections and Registration are adopted
this _____, 2009.

Board Member

Board Member

Board Member

Board Member

Board Member