

House Bill 540 (AS PASSED HOUSE AND SENATE)

By: Representative Leverett of the 123rd

A BILL TO BE ENTITLED
AN ACT

1 To create a board of elections and registration for Wilkes County; to provide for its powers
2 and duties; to provide for definitions; to provide for the composition of the board and the
3 appointment and certification of members; to provide for the qualifications, terms, and
4 removal of members; to provide for vacancies; to provide for oaths and privileges; to provide
5 for the conduct of primaries and elections; to provide for action, meetings, and records; to
6 authorize the conduct of municipal elections; to authorize expenditure of public funds for an
7 elections supervisor and clerical assistants; to provide compensation for board members and
8 staff; to provide for offices, supplies, and other materials; to provide for the transfer of
9 powers, duties, facilities, and personal property; to allow for joint primaries; to abolish the
10 Board of Registrars of Wilkes County; to provide for related matters; to provide effective
11 dates; to repeal 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 Official Code of Georgia
15 Annotated, there is created the Board of Elections and Registration of Wilkes County. The
16 Board of Elections and Registration of Wilkes County shall have the powers, duties, and

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17 responsibilities of the superintendent of elections of Wilkes County under Chapter 2 of
18 Title 21 of the Official Code of Georgia Annotated, the "Georgia Election Code," as the same
19 now exists or may hereafter be amended, which powers, duties, and responsibilities are
20 currently being exercised by the judge of the Probate Court of Wilkes County, and the
21 powers, duties, and responsibilities of the Board of Registrars of Wilkes County under
22 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, the "Georgia Election
23 Code," as the same now exists or may hereafter be amended.

24 **SECTION 2.**

25 As used in this Act, the term:

- 26 (1) "Board" means the Wilkes County Board of Elections and Registration.
27 (2) "Commissioners" means the Board of Commissioners of Wilkes County.
28 (3) "County" means Wilkes County.
29 (4) "Election," "primary," and "public office" shall have the same meanings as ascribed
30 to those terms by Code Section 21-2-2 of the Official Code of Georgia Annotated, unless
31 otherwise clearly apparent from the text of this Act.

32 **SECTION 3.**

- 33 (a) The board shall be composed of a chairperson and four members who shall be appointed
34 as provided in this section.
35 (b) Four members of the board shall be appointed by the commissioners and one member
36 shall be appointed by the chairperson of the commissioners, which member shall serve as
37 chairperson of the board during his or her term of office.
38 (c)(1) The initial members of the board shall be appointed no later than June 1, 2023.
39 The initial members shall take office on July 1, 2023.
40 (2) Two of the initial members shall serve two-year terms and three of the initial
41 members, including the chairperson, shall serve four-year terms. Successors to members

42 serving two-year initial terms shall be appointed not later than 30 days prior to the
43 expiration of such member's two-year term of office, to take office on July 1, 2025, and
44 such members shall serve four-year terms thereafter and until their respective successors
45 are appointed and qualified. Successors to all members shall be appointed not later
46 than 30 days prior to the expiration of such member's term.

47 (3) Successors to the initial members shall be appointed and certified in the same manner
48 as the initial members of the board.

49 **SECTION 4.**

50 (a) No person who holds elective public office shall be eligible to serve as a member of the
51 board during the term of such elective public office, and the position of any member of the
52 board shall be deemed vacant upon such member's qualifying as a candidate for elective
53 public office.

54 (b) Members of the board shall be residents of Wilkes County and shall have been registered
55 voters in Wilkes County for a period of at least one year prior to the date of their appointment
56 to the board.

57 **SECTION 5.**

58 The governing authority of Wilkes County shall certify the appointment of each member of
59 the board by filing an affidavit with the clerk of the superior court not later than 15 days
60 preceding the date upon which each member is to take office, stating the name and residential
61 address of the person appointed and certifying that such member has been duly appointed as
62 provided in this Act. The clerk of the superior court shall record each of such certifications
63 on the minutes of the superior court and shall certify the name of each such appointed
64 member to the Secretary of State and provide for the issuance of appropriate commissions
65 to the members within the same time and in the same manner as provided by law for
66 registrars.

67 **SECTION 6.**

68 Each member of the board shall have the right to resign at any time by giving written notice
69 of such resignation to the governing authority of Wilkes County and to the clerk of the
70 superior court and shall be subject to removal from the board by the governing authority of
71 Wilkes County at any time, for cause, after notice and hearing.

72 **SECTION 7.**

73 In the event a vacancy occurs in the office of any appointed member or the chairperson
74 before the expiration of his or her term, by removal, death, resignation, or otherwise, the
75 commissioners or the chairperson of the commissioners, as appropriate, shall appoint a
76 successor to serve the remainder of the unexpired term as provided for in Section 3 of this
77 Act. The clerk of the superior court shall be notified of such interim appointments and
78 record and certify such appointments in the same manner as the regular appointments of
79 members.

80 **SECTION 8.**

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

83 **SECTION 9.**

84 (a) The board shall be authorized to organize itself, determine its procedural rules and
85 regulations, adopt bylaws, specify the functions and duties of its employees, and otherwise
86 take such action as is appropriate to the management of the affairs committed to its
87 supervision; provided, however, that no such action shall conflict with state law. Action and
88 decision by the board shall be by a majority of the members of the board. The board shall
89 be responsible for the selection and appointment of poll workers in primaries and elections.

90 (b) The board shall fix and establish, by appropriate resolution entered on its minutes,
91 directives governing the execution of matters within its jurisdiction. Any specially called
92 meeting shall be called by the chairperson or any two members of the board. The board shall
93 maintain a written record of policy decisions amended to include additions or deletions.
94 Such written records shall be made available for the public to review.

95 **SECTION 10.**

96 The Board of Commissioners shall have the authority to contract with any municipality
97 located within Wilkes County for the holding by the board of any primary or election to be
98 conducted within such municipality.

99 **SECTION 11.**

100 (a) The governing authority of Wilkes County shall be authorized to allocate funds for, and
101 the county administrator of Wilkes County shall be authorized to appoint, an elections
102 supervisor to generally supervise, direct, and control the administration of the affairs of the
103 board pursuant to law and duly adopted resolution of the board. The elections supervisor
104 shall not be a member of the board or any elected official. The elections supervisor shall be
105 considered an employee of Wilkes County and shall be entitled to the same benefits as other
106 employees of Wilkes County.

107 (b) The governing authority of Wilkes County shall be authorized to allocate funds for, and
108 the elections supervisor shall be authorized to employ, additional clerical assistants as needed
109 to carry out the duties and functions of the board, with the advice and consent of the Board
110 of Elections and Registration. All such clerical assistants shall be considered to be
111 employees of Wilkes County and shall be entitled to the same benefits as other employees
112 of Wilkes County.

113 **SECTION 12.**

114 Compensation for the members of the board, elections supervisor, clerical assistants, and
115 other employees shall be fixed by the governing authority of Wilkes County. Such
116 compensation shall be paid wholly from county funds.

117 **SECTION 13.**

118 Nothing in this Act shall be construed to require or prohibit joint primaries or to require or
119 prohibit the commissioners or any other public agency to bear any expense of conducting
120 primaries not otherwise required by law.

121 **SECTION 14.**

122 The governing authority of Wilkes County shall provide the board with such proper and
123 suitable offices, equipment, materials, and supplies and with such clerical assistance and
124 employees as the governing authority of Wilkes County deems appropriate.

125 **SECTION 15.**

126 This Act shall become effective upon its approval by the Governor or upon it becoming law
127 without such approval for the purposes of making initial appointments to the board only. The
128 remainder of the Act shall become effective on July 1, 2023. Upon the entirety of this Act
129 becoming effective, the judge of the Probate Court of Wilkes County and the Board of
130 Registrars of Wilkes County shall be relieved of all powers and duties to which the board
131 succeeds by the provisions of this Act and shall deliver to the board all equipment, supplies,
132 materials, books, papers, records, and facilities pertaining to such powers and duties. On
133 such date, the Board of Registrars of Wilkes County shall be abolished.

134 **SECTION 16.**

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