

House Bill 642 (AS PASSED HOUSE AND SENATE)

By: Representatives Ridley of the 22<sup>nd</sup>, Byrd of the 20<sup>th</sup>, Thomas of the 21<sup>st</sup>, Jasperse of the 11<sup>th</sup>, Carson of the 46<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To establish the board of elections and registration for Cherokee County, Georgia; to provide  
2 for its powers and duties; to provide for the composition of the board and the selection,  
3 qualification, and terms of its members; to provide for resignation, succession, and removal  
4 of members and for filling vacancies; to provide for oaths and privileges; to relieve certain  
5 boards and officers of certain powers and duties and provide for the transfer of certain items  
6 to the newly created board; to abolish a certain board and officers; to provide for meetings  
7 and procedures; to provide for the election supervisor and the powers and duties of such  
8 election supervisor; to provide for board employees and their compensation; to provide for  
9 expenditures of public funds for certain purposes; to provide for compensation of the  
10 members of the board and election supervisor; to provide for offices and equipment; to  
11 provide for the board's performance of certain functions and duties for certain municipalities;  
12 to provide for the meaning of certain terms; to provide for effective dates and automatic  
13 repeal; to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

16 Pursuant to subsection (b) of Code Section 21-2-40 of the O.C.G.A., as of July 1, 2023, there  
17 is created the Board of Elections and Registration for Cherokee County. The board shall  
18 have the powers and duties of the election superintendent relating to the conduct of primaries  
19 and elections and shall have the powers and duties of the board of registrars relating to the  
20 registration of voters and absentee balloting procedures.

21 **SECTION 2.**

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

24 (1) Two members shall be appointed by the governing authority of Cherokee County  
25 after consideration of a list of at least five nominations provided by the chairperson of the  
26 county executive committee of the political party whose candidate at the last preceding  
27 regular general election held for the election of Governor received the largest number of  
28 votes in this state for Governor; provided, however, that each of such nominations shall  
29 have been ratified by a majority of the members of such executive committee voting at  
30 a regularly scheduled meeting of such executive committee or a meeting duly called and  
31 held for such purposes. In the event such nominations are not ratified by a majority of  
32 the members of such executive committee at least 60 days preceding the date on which  
33 such members are to take office, then the members of the executive committee may  
34 nominate such members by a two-thirds' majority of the membership of such executive  
35 committee at a regularly scheduled meeting or at a meeting duly called and held for such  
36 purposes. In the event the members of such executive committee fail to nominate such  
37 members at least 30 days preceding the date on which such members are to take office,  
38 then such members shall be appointed in accordance with the provisions of subsection  
39 (b) of Section 5 of this Act;

40 (2) Two members shall be appointed by the governing authority of Cherokee County  
41 after consideration of a list of at least five nominations provided by the chairperson of the  
42 county executive committee of the political party whose candidate at the last preceding  
43 regular general election held for the election of Governor received the second largest  
44 number of votes in this state for Governor; provided, however, that each of such  
45 nominations shall have been ratified by a majority of the members of such executive  
46 committee voting at a regularly scheduled meeting of such executive committee or a  
47 meeting duly called and held for such purposes. In the event such nominations are not  
48 ratified by a majority of the members of such executive committee at least 60 days  
49 preceding the date on which such members are to take office, then the members of such  
50 executive committee may nominate such members by a two-thirds' majority of the  
51 membership of such executive committee at a regularly scheduled meeting or at a  
52 meeting duly called and held for such purposes. In the event the members of such  
53 executive committee fail to nominate such members at least 30 days preceding the date  
54 on which such members are to take office, then such members shall be appointed in  
55 accordance with the provisions of subsection (b) of Section 5 of this Act; and

56 (3) One member shall be appointed by a majority vote of the other four members of the  
57 board. The initial appointed fifth member shall be appointed not later than July 30, 2023.  
58 Any successor to such fifth member shall be appointed within 30 days of the party  
59 appointed members taking office. The fifth member shall be deemed to be a member at  
60 large and shall be the chairperson of the board. Any appointment made under the  
61 provisions of this paragraph shall also be entered upon the minutes of the county  
62 governing authority. The appointment of the member at large shall not be governed by  
63 the provisions of subsection (b) of Section 5 of this Act.

64 (b) When appointing board members pursuant to this section or subsection (b) of Section 5  
65 of this Act, the governing authority of Cherokee County is under no obligation to appoint  
66 a person from any list of nominations. After giving consideration to a list of nominations,

67 the governing authority may reject all persons nominated on a particular nomination list  
68 and appoint any qualified individual to the board.

69 (c) Notwithstanding any provision of this section to the contrary, the members of the board  
70 provided for in an Act to create the board of elections and registration for Cherokee  
71 County, approved April 4, 1991 (Ga. L. 1991, p. 3830), as amended, appointed by a  
72 political party shall automatically be included on the initial list of nominees provided by  
73 his or her respective party for the initial board provided for in this Act.

74 **SECTION 3.**

75 (a) Except as provided for in subsection (d) of this section, each member of the board shall  
76 serve for a term of two years and until a successor is appointed and qualified, except in the  
77 event of resignation or removal as provided for in subsection (c) of this section.

78 (b) Each member shall be eligible to succeed himself or herself, provided that a member  
79 cannot serve more than eight consecutive years on the board. Each member shall have the  
80 right to resign at any time by giving written notice of resignation to the governing authority  
81 of Cherokee County.

82 (c) Each member shall be subject to removal from the board at any time, for cause after  
83 notice and hearing, in the same manner and by the same authority as provided for removal  
84 of registrars. The members of the Board of Elections and Registration of Cherokee County  
85 holding office on the effective date of this Act shall continue to hold office until their  
86 successors are appointed in accordance with the provisions of this Act.

87 (d) At the time of appointment of the initial board members provided for in this Act, to  
88 establish staggered terms of office for board members, the governing authority of Cherokee  
89 County shall:

90 (1) Designate one of the appointees appointed pursuant to paragraph (1) of Section 2 of  
91 this Act and one of the appointees appointed pursuant to paragraph (2) of Section 2 of this  
92 Act to a term of one year; and

93 (2) Designate one of the appointees appointed pursuant to paragraph (1) of Section 2 of  
94 this Act and one of the appointees appointed pursuant to paragraph (2) of Section 2 of this  
95 Act to a term of two years.

96 **SECTION 4.**

97 The governing authority of Cherokee County shall file with the clerk of the Superior Court  
98 of Cherokee County an affidavit which states the name and residential address of the person  
99 appointed and certifies that such member has been duly appointed as provided in this Act.  
100 The affidavit for the member who has been appointed as chairperson of the board shall also  
101 specify that member's position as chairperson. The clerk of the superior court shall record  
102 each such certification on the minutes of the court and shall certify the name of each such  
103 member to the Secretary of State and provide for the issuance of appropriate commissions  
104 to the members and chairperson within the same time and in the same manner as provided  
105 by law for registrars.

106 **SECTION 5.**

107 (a) In the event that a vacancy occurs in the office of any member of the board by removal,  
108 death, resignation, or otherwise, except by expiration of term, the respective appointing  
109 authority shall appoint a successor for the remainder of the unexpired term. The clerk of the  
110 superior court shall be notified of interim appointments and record and certify such  
111 appointments in the same manner as the regular appointment of members.

112 (b) If any nominating authority does not, in conformity with this Act, certify nominations  
113 to the board within 30 days after the beginning of a term of office or within 30 days after the  
114 creation of a vacancy in that office, then the governing authority of the county shall appoint  
115 such member after considering a list of nominations that is made by a recommendation board  
116 composed of the following:

117 (1) The judge of the Probate Court of Cherokee County;

- 118 (2) The chairperson of the governing authority of Cherokee County; and  
119 (3) The chairperson of the local delegation of Cherokee County in the General  
120 Assembly, such delegation being composed of the members of the Senate and House of  
121 Representatives who represent all or any portion of Cherokee County.  
122 Any board member appointed pursuant to this subsection shall immediately fill that vacancy,  
123 and the governing authority shall certify such appointment as provided in Section 4.

124 **SECTION 6.**

125 Before entering upon his or her duties, each member of the board shall take substantially the  
126 same oath as required by law for registrars. Each member of the board shall have the same  
127 privileges from arrest as registrars.

128 **SECTION 7.**

129 (a) The board provided for in this Act shall be the successor to the Board of Elections and  
130 Registration for Cherokee County provided for in an Act to create the board of elections and  
131 registration for Cherokee County, approved April 4, 1991 (Ga. L. 1991, p. 3830), as  
132 amended.

133 (b) On July 1, 2023, the previous election superintendent of Cherokee County and the board  
134 of registrars of Cherokee County shall be relieved of all powers and duties to which the board  
135 succeeds by the provisions of this Act; and such election superintendent and board of  
136 registrars shall deliver thereafter to the chairperson of the board, upon his or her written  
137 request, the custody of all equipment, supplies, materials, books, papers, records, and  
138 facilities of every kind pertaining to such powers and duties.

139 (c) On July 1, 2023, all employees of the previous election superintendent of Cherokee  
140 County or the board of registrars of Cherokee County shall automatically become employees  
141 of the board provided for in this Act.

142 **SECTION 8.**

143 (a) The board shall be authorized to organize itself, elect its officers, determine its  
144 procedural rules and regulations, adopt bylaws, specify the functions and duties of its  
145 employees, and otherwise take such action as is appropriate for the management of the affairs  
146 committed to its supervision; provided, however, that no such action shall conflict with state  
147 law.

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

149 **SECTION 9.**

150 (a) The board shall fix and establish, by appropriate resolution entered on its minutes,  
151 directives governing the execution of matters within its jurisdiction. The board shall hold  
152 regular monthly meetings at a time and place to be fixed by resolution of the board. All  
153 meetings shall comply with the open meetings laws and open records laws of the State of  
154 Georgia.

155 (b) The board shall maintain a written record of policy decisions that shall be amended to  
156 include additions or deletions. Such written record shall be made available for the public to  
157 review.

158 **SECTION 10.**

159 (a) The board shall be responsible for the selection and appointment of an administrative  
160 director, to be known as the election supervisor, to administer and supervise conduct of  
161 elections, primaries, and registration of electors for the county. The board shall act within  
162 60 days of its members taking office under this Act to retain or appoint an election supervisor  
163 who shall be hired by the board from a job description drawn by said board.

164 (b) In the event that the board fails to appoint or retain an election supervisor to fill a  
165 vacancy within the time specified in subsection (a) of this section, an acting election

166 supervisor who shall temporarily fill such vacancy shall be appointed by the governing  
167 authority of Cherokee County to serve until the board fills the vacancy.

168 (c) At any time the board may vote to recommend terminating the employment of the  
169 election supervisor. Within ten business days of a majority of the board voting to  
170 recommend termination, the recommendation panel provided for in subsection (b) of  
171 Section 5 of this Act shall meet to consider whether to forward the recommendation of  
172 termination to the governing authority of Cherokee County. If a majority of such panel votes  
173 to forward such termination recommendation to the governing authority, by majority vote  
174 the governing authority may terminate the employment of the election supervisor, and a new  
175 election supervisor shall be appointed as provided for in this section.

176 **SECTION 11.**

177 The board shall be authorized to employ such full-time and part-time employees, including  
178 a full-time chief clerk, as the board shall deem necessary. The governing authority of  
179 Cherokee County shall have the right to approve the hiring of any such employee.

180 **SECTION 12.**

181 With the consent of the governing authority of Cherokee County, the board of elections and  
182 registration shall be authorized to expend public funds for the purpose of distributing sample  
183 ballots, voter information booklets, and other material designed to inform and adequately  
184 instruct the electors of the county with regard to elections. No material distributed by the  
185 board shall contain or express, in any manner or form, any commentary or expression of  
186 opinion or request for support with respect to any political issue or matter of political  
187 concern.

188 **SECTION 13.**

189 Compensation for the members of the board, employees of the board, and the election  
190 supervisor shall be fixed by the board with the approval of the governing authority of  
191 Cherokee County. Such compensation shall be paid from county funds.

192 **SECTION 14.**

193 The governing authority of Cherokee County shall provide the board and the election  
194 supervisor with proper and suitable offices and equipment.

195 **SECTION 15.**

196 The board is authorized to perform for any municipality located wholly or partially within  
197 Cherokee County any functions and duties which election superintendents and boards of  
198 registrars are authorized by general law to perform on behalf of municipalities under such  
199 conditions as provided by general law.

200 **SECTION 16.**

201 The words "election," "elector," "political party," "primary," "public office," "special  
202 election," and "special primary" shall have the same meanings ascribed to those words by  
203 Code Section 21-2-2 of the O.C.G.A., unless otherwise clearly apparent from the text of this  
204 Act.

205 **SECTION 17.**

206 This Act shall become effective upon its approval by the Governor or upon its becoming law  
207 without such approval, provided that an Act to amend an Act to create the board of elections  
208 and registration for Cherokee County, approved April 4, 1991 (Ga. L. 1991, p. 3830), as  
209 amended, is enacted in the 2023 regular session of the General Assembly providing for the

210 abolition of such board of elections on a date certain; if such abolition Act is not so approved,  
211 this Act shall not become effective and shall be automatically repealed on July 1, 2023.

212 **SECTION 18.**

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