

RESOLUTION NO. ____

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF BEN HILL COUNTY, GEORGIA, TO REQUEST THE GENERAL ASSEMBLY TO ENACT LEGISLATION TO AMEND THE APPOINTMENT PROCESS FOR THE BOARD OF ELECTIONS AND REGISTRATION AND TO AMEND THE DUTIES OF THE CHAIRPERSON AND ELECTIONS SUPERVISOR AND CHIEF REGISTRAR

WHEREAS, the Board of Commissioners of Ben Hill County, Georgia (the “Board”) has determined it would be in the best interests of Ben Hill County and its citizens that the legislation designating the appointment procedures for the Board of Elections and Registration be amended; and

WHEREAS, the Board has determined it is in the best interests of Ben Hill County and its citizens that the Elections Supervisor and Chief Registrar supervises, directs and controls the administration of the affairs of the board pursuant to law and duly adopted resolutions of the Board of Elections and Registration;

WHEREAS, GA. CONST. Art 1, §2, ¶ I states that “[a]ll government, of right, originates with the people, is founded upon their will only, and is instituted solely for the good of the whole. Public officers are the trustees and servants of the people and are at all times amenable to them;” and

WHEREAS, GA. CONST. Art 1, § 2, ¶ II states that “[t]he people of this state have the inherent right of regulating their internal government. Government is instituted for the protection, security, and benefit of the people; and at all times they have the right to alter or reform the same whenever the public good may require it;” and

WHEREAS, the Supreme Court of Georgia, in *Delay v. Sutton*, 304 Ga. 338 (2018), held that “private entities do not answer to the people as required by our constitution, [so] they are not authorized to wield the power to appoint public officials . . . ;” and

WHEREAS, Section 2(1) of Ga. L. 1994, Vol. 2, p. 4989 reads as follows: “One member shall be appointed by the chairperson of the county executive committee of the political party which receives the highest number of votes within the county for its candidate for Governor in the general election immediately preceding the appointment of the member, and one member shall be appointed by the political party which receives the second highest number of votes within the county for its candidate for Governor in the general election immediately preceding the appointment of the member. Each of such appointments shall have been ratified by a majority of the members of each of such respective executive committees voting at a meeting duly called and held for such purpose;”

NOW, THEREFORE, BE IT RESOLVED that the Board hereby endorses and urges its Georgia legislative delegation to enact legislation during the 2023 Session amending the local legislation so that the Board has authority to appoint all members of the Board of Elections and Registration.

BE IT FURTHER RESOLVED that the Board proposes the following amendment:

Amend Sections 2, 4, 6, 7, and 12 of Ga. L. 1994, Vol. 2, p. 4989 by deleting them in their entirety and replacing with the following:

Section 2. The Ben Hill County Board of Election and Registration shall be comprised of five members, each of whom shall be an elector and a resident of Ben Hill County, and who shall be selected in the following manner:

All members shall be appointed by the governing authority of Ben Hill County, Georgia and one of said members shall be designated by said governing authority chairperson of the board. Said person shall hold the position of chairperson for a period of two years. Thereafter, the chairperson of said board shall be appointed by the governing authority of Ben Hill County as one of the members of said board for a term of two years and nothing shall prevent said governing authority from appointing the same person.

Section 4. No person shall take office as a member of the board unless the respective appointing or electing authority files an affidavit with the clerk of the Superior Court of Ben Hill County no later than 30 days immediately preceding the date on which such member is to take office stating the name and residential address of the person appointed or elected and certifying that such member has been duly appointed or elected as provided in this Act. The clerk of the superior court shall record each such certification on the minutes of the superior court and shall certify the name of each appointed or elected member to the Secretary of State and shall provide for the issuance of appropriate commissions to the members within the same time and in the same manner as provided by general law for registrars.

Section 6. The compensation of the Elections Supervisor and Chief Registrar shall be fixed by the governing authority of Ben Hill County and the compensation of the members of the board shall be likewise fixed and paid by the governing authority of Ben Hill County.

Section 7. In the event a vacancy occurs in the office of any member before the expiration of that member's term of office, whether by removal, death, resignation, or otherwise, the respective appointing or electing authority shall appoint or elect a successor to serve the remainder of the unexpired term and until a successor is regularly appointed or elected.

Section 12. The Elections Supervisor and Chief Registrar shall be the chief executive officer and shall generally supervise, direct, and control the administration of the affairs of the board pursuant to law and duly adopted resolutions of the board. The board shall fix and establish, by appropriate resolution entered on its minutes, directives governing the execution of matters within its jurisdiction.

SO RESOLVED AND ADOPTED at a meeting of the Ben Hill County Board of Commissioners, this ___ day of February, 2023.

BEN HILL COUNTY BOARD OF COMMISSIONERS:

BY: _____
STEVE TAYLOR, CHAIRMAN

By: _____
HOPE HARMON, VICE CHAIRMAN

By: _____
DANIEL COWAN, COMMISSIONER

By: _____
BENNIE CALLOWAY, COMMISSIONER

By: _____
JOHN WILLIAM MOONEY, COMMISSIONER

ATTEST:

BY: _____
DONNA PRATHER, COUNTY CLERK