

House Bill 1554

By: Representative Morris of the 155th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to
2 elections and primaries generally, so as to change the method by which political party
3 primaries are conducted; to provide that all political party primaries shall be combined on
4 one ballot; to provide that voters may choose to vote from among the candidates of one
5 political party per office on the ballot; to change the form of the primary ballot; to change
6 election procedures for political party primaries; to change the method by which political
7 parties may present questions to the electors; to provide for related matters; to repeal
8 conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to elections and
12 primaries generally, is amended by striking Code Section 21-2-138, relating to nonpartism
13 elections for judicial offices, in its entirety and inserting in lieu thereof a new Code Section
14 21-2-138 to read as follows:

15 "21-2-138.

16 The names of all candidates who have qualified with the Secretary of State for the office
17 of judge of a superior court, Judge of the Court of Appeals, or Justice of the Supreme Court
18 of this state and the names of all candidates who have qualified with the election
19 superintendent for the office of judge of a state court shall be placed on the ballot in a
20 nonpartisan election to be held and conducted jointly with the general primary in each
21 even-numbered year; provided that nonpartisan elections for the office of judge of the state
22 court which was covered on July 1, 2001, by a local Act of the General Assembly which
23 provided for election in a nonpartisan election without a prior nonpartisan primary shall be
24 held and conducted jointly with the general election in even-numbered years. No
25 candidates for any such office shall be nominated by a political party or by a petition as a
26 candidate of a political body or as an independent candidate. Candidates for any such

1 office, except offices which were covered on July 1, 2001, by a local Act of the General
 2 Assembly which provided for election in a nonpartisan election without a prior nonpartisan
 3 primary, shall have their names placed on the nonpartisan portion of each political ~~party~~
 4 primary ballot by complying with the requirements prescribed in Code Section 21-2-132
 5 specifically related to such nonpartisan candidates and by paying the requisite qualifying
 6 fees as prescribed in Code Section 21-2-131. The Secretary of State may provide for the
 7 printing of independent ballots containing the names of the nonpartisan candidates for
 8 those voters not affiliated with a political party. Candidates shall be listed on the official
 9 ballot in a nonpartisan election as provided in Code Sections 21-2-284.1 and 21-2-285.1,
 10 respectively. Except as otherwise specified in this chapter, the procedures to be employed
 11 in conducting the nonpartisan election of judges of state courts, judges of superior courts,
 12 Judges of the Court of Appeals, and Justices of the Supreme Court shall conform as nearly
 13 as practicable to the procedures governing general primaries and general elections; and
 14 such general primary and general election procedures as are necessary to complete this
 15 nonpartisan election process shall be adopted in a manner consistent with such nonpartisan
 16 elections."

17 SECTION 2.

18 Said chapter is further amended by striking Code Section 21-2-284, relating to form of
 19 official primary ballot, in its entirety and inserting in lieu thereof a new Code Section
 20 21-2-284 to read as follows:

21 "21-2-284.

22 (a) In each primary ~~separate~~ official ballots shall be prepared for the political ~~party~~ parties
 23 holding the primary. At the top of each ballot shall be printed in prominent type the words
 24 'OFFICIAL PRIMARY BALLOT OF _____ PARTY FOR,'
 25 followed by the designation of the precinct for which it is prepared and the name and date
 26 of the primary.

27 (b) Immediately under this caption, the following directions shall be printed: 'Place a cross
 28 (X) or check (✓) mark in the square opposite the name of each candidate for whom you
 29 choose to vote. If you spoil your ballot, do not erase, but ask for a new ballot. Use only pen
 30 or pencil.'

31 (c) Immediately under the directions, the names of all candidates who have qualified with
 32 the ~~party~~ parties in accordance with this chapter and party rules and who have been
 33 certified to the superintendent or Secretary of State as having so qualified shall be printed
 34 on the ballots, except unopposed candidates in municipal primaries where the municipal
 35 charter or ordinance does not prohibit the omission of such candidates' names from the
 36 ballot. The names of the candidates shall in all cases be arranged under the title of the

1 office for which they are candidates and be printed thereunder in alphabetical order
 2 ,grouped by party, in descending order of the totals of votes cast for candidates of the
 3 parties for Governor at the last gubernatorial election, provided that parties that had no
 4 candidate for Governor in the last gubernatorial election shall be listed last. The
 5 incumbency of a candidate seeking party nomination for the public office he or she then
 6 holds shall be indicated on the ballots. Under the title of each office shall be placed a
 7 direction as to the number of candidates to be voted for. The ballot shall be designed such
 8 that, for each office on the ballot, the elector may choose to vote for one candidate of one
 9 political party but may not vote for any candidate of any other political party for such
 10 office on the ballot. In the event that an elector is authorized to vote for more than one
 11 candidate for an office, the elector may vote for additional candidates of the same party for
 12 such office but shall not be permitted to vote for any candidate of any other party for such
 13 office.

14 (d) If at any general primary a political party shall submit to ~~its members~~ the electors any
 15 matter or question to be voted upon, the party shall by the deadline for certifying
 16 candidates for the primary election certify the wording of said question to the
 17 superintendent, if to be voted on by one county only, or to the Secretary of State, if to be
 18 voted on by more than one county; and the superintendent or Secretary of State shall have
 19 such language printed on the ballot form. To the left of each question there shall be placed
 20 the words "Yes" and "No" together with appropriate squares to the left of each for the
 21 convenient insertion of a cross (X) or check (✓) mark. If at any municipal primary a
 22 political party shall submit to ~~its members~~ the electors any matter or question to be voted
 23 upon, the party shall also have printed on the ballots the necessary language to guide the
 24 elector in the expression of his or her choice as to such matter or question.

25 (e) Each ballot shall have printed thereon the following:

26 'I understand that the offer or acceptance of money or any other object of value to vote
 27 for any particular candidate, list of candidates, issue, or list of issues included in this
 28 election constitutes an act of voter fraud and is a felony under Georgia law.'

29 (f) The ballots shall vary in form only as the names of precincts, offices, candidates, color
 30 of ballot cards, or this chapter may require."

31 SECTION 3.

32 Said chapter is further amended by striking Code Section 21-2-284.1, relating to form of
 33 nonpartisan election ballots, in its entirety and inserting in lieu thereof a new Code Section
 34 21-2-284.1 to read as follows:

35 "21-2-284.1.

1 (a) The names of all candidates seeking election in a nonpartisan election conducted in
2 conjunction with a partisan primary shall be printed on the partisan primary ballot of each
3 ~~political party~~; and insofar as practicable such offices to be filled in a nonpartisan election
4 shall be separated from the names of political party candidates by being listed last on each
5 ~~political party~~ primary ballot, with the top of that portion of the ballot relating to the
6 nonpartisan election to have printed in prominent type the words 'OFFICIAL
7 NONPARTISAN ELECTION BALLOT.' Immediately under this caption the following
8 directions shall be printed: 'Place a cross (X) or check (✓) mark in the square opposite the
9 name of each nonpartisan candidate for whom you choose to vote. To vote for a person
10 whose name is not on the ballot, manually write his or her name, accompanied by the title
11 of the office involved, in the write-in column. If you spoil your ballot, do not erase, but ask
12 for a new ballot. Use only pen or pencil.' Immediately under the directions, the names of
13 the nonpartisan candidates shall in all cases be arranged under the title of the office for
14 which they are candidates and be printed thereunder in alphabetical order. No party
15 designation or affiliation shall appear beside the name of any candidate for nonpartisan
16 office. An appropriate space shall also be placed on the ballot for the casting of write-in
17 votes for such offices. The incumbency of a nonpartisan candidate seeking nomination for
18 the public office he or she then holds shall be indicated on the ballots by printing the word
19 'Incumbent' beside his or her name. Under the title of each office shall be placed a direction
20 as to the number of nonpartisan candidates to be voted for. The votes cast for each
21 nonpartisan candidate listed on all ~~political party~~ ballots shall be combined to determine
22 the total number of votes received by each candidate in the nonpartisan election. In the
23 event that a candidate in such nonpartisan election does not receive a plurality of the total
24 votes cast for such office, there shall be a nonpartisan election runoff between the
25 candidates receiving the two highest numbers of votes for such office; and the names of
26 such candidates shall be placed on each ~~political party~~ ballot at the general primary runoff
27 in the same nonpartisan portion as prescribed in this Code section. If no political party
28 runoff is required, the form of the ballot for the nonpartisan election runoff shall be
29 prescribed by the Secretary of State or election superintendent in essentially the same
30 format prescribed for nonpartisan elections. The candidate receiving the highest number
31 of votes cast in the nonpartisan election runoff shall be declared duly elected to such office.

32 (b) In the case of nonpartisan municipal primaries, the form of the official nonpartisan
33 primary ballot shall conform insofar as practicable to the form of the official primary ballot
34 as detailed in Code Section 21-2-284, except that:

35 (1) The following shall be printed at the top of each ballot in prominent type:

1 'OFFICIAL NONPARTISAN PRIMARY BALLOT OF

2 _____
 3 (Name of Municipality);

4 (2) There shall be no name or designation of any political organization nor any words,
 5 designation, or emblems descriptive of a candidate's political affiliation printed under or
 6 after any candidate's name which is printed on the ballot; and

7 (3) The incumbency of a candidate seeking election for the public office he or she then
 8 holds shall be indicated on the ballot."

9 **SECTION 4.**

10 Said chapter is further amended by striking subsection (b) of Code Section 21-2-286, relating
 11 to printing specifications, numbering, and binding of ballots, and inserting in lieu thereof a
 12 new subsection (b) to read as follows:

13 "(b) Ballots shall be at least six inches long and four inches wide and shall have a margin
 14 extending beyond any printing thereon. They shall be printed with the same kind of type,
 15 which shall not be smaller than the size known as 'brevier' or 'eight-point body,' upon white
 16 paper of uniform quality, without any impression or mark to distinguish one from another,
 17 and with sufficient thickness to prevent the printed matter from showing through, ~~except~~
 18 ~~that ballots being used in primaries held by more than one party may be of different colors~~
 19 ~~if the parties so agree.~~ Each ballot shall be attached to a name stub, and all the ballots for
 20 the same precinct shall be bound together in books of 25, 50, or 100, in such manner that
 21 each ballot may be detached from its stub and removed separately. ~~The ballots for each~~
 22 ~~party to be used at a primary shall be bound separately.~~ The name stubs of the ballots shall
 23 be consecutively numbered; ~~and, in the case of primary ballots, the number shall be~~
 24 ~~preceded by an initial or abbreviation designating the party name.~~ The number and initial
 25 ~~or abbreviation~~ which appears upon the stub shall also be printed in the upper portion of
 26 the front of the ballot, separated from the remainder of the ballot by a horizontal perforated
 27 line so as to constitute a number strip and so prepared that the upper portion of the front of
 28 the ballot containing the number may be detached from the ballot before it is deposited in
 29 the ballot box. The number strip on the ballot shall also have the following words printed
 30 thereon: "Tear off before depositing ballot in ballot box."

31 **SECTION 5.**

32 Said chapter is further amended by striking paragraph (6) of Code Section 21-2-322, relating
 33 to general requirements as to voting machines, and inserting a new paragraph (6) to read as
 34 follows:

1 ~~"(6) It shall be capable of adjustment by poll officers so as to permit each elector at a~~
 2 ~~primary to vote only for the candidates seeking nomination by the party in whose primary~~
 3 ~~he or she is then voting and so as to preclude him or her from voting for the candidates~~
 4 ~~seeking nomination by any party in whose primary he or she is not then voting~~
 5 Reserved;"

6 SECTION 6.

7 Said chapter is further amended by striking subsections (h) and (i) of Code Section 21-2-325,
 8 relating to form of ballot labels generally, and inserting in lieu thereof new subsections (h)
 9 and (i) to read as follows:

10 "(h) In primaries, the ballot labels containing the names of candidates seeking nomination
 11 by a political party shall be ~~segregated on the face of the machine in adjacent rows or~~
 12 ~~columns by parties~~ grouped alphabetically under each office by party, the priority of such
 13 political parties ~~on the ballot labels~~ to be determined in the order prescribed by
 14 subsection (c) of Code Section ~~21-2-285~~ 21-2-284. If a nonpartisan election is being held
 15 in conjunction with a partisan primary, each partisan ballot label shall be clearly marked
 16 to indicate that the elector may vote in the nonpartisan election also. In nonpartisan
 17 elections, the ballot labels shall include a separate portion for the names of candidates
 18 seeking election in a nonpartisan election and the heading and arrangement of such
 19 candidates shall be as prescribed by Code Section 21-2-284.1 insofar as practicable. At the
 20 top of the separate portion shall be printed in prominent type the words 'OFFICIAL
 21 NONPARTISAN ELECTION BALLOT.'

22 (i) ~~In primaries, if it shall be impracticable to place on the ballot labels of one machine the~~
 23 ~~names of all candidates seeking nomination in all political parties and the names of all~~
 24 ~~candidates seeking election in a nonpartisan election, the superintendent may arrange for~~
 25 ~~the names of all the candidates seeking nomination in any one political party to be placed~~
 26 ~~on separate voting machines; provided, however, that the names of all candidates seeking~~
 27 ~~election in a nonpartisan election shall appear on all machines~~ Reserved."

28 SECTION 7.

29 Said chapter is further amended by striking subsection (a) of Code Section 21-2-327, relating
 30 to preparation of voting machines, and inserting in lieu thereof a new subsection (a) to read
 31 as follows:

32 "(a) The superintendent of each county or municipality shall cause the proper ballot labels
 33 to be placed on each voting machine which is to be used in any precinct within such county
 34 or municipality, cause each machine to be placed in proper order for voting, examine each
 35 machine before it is sent out to a polling place, see that each registering counter on each

1 machine is set at zero, lock each machine so that the counting machinery cannot be
 2 operated, and seal each machine with a numbered seal. ~~The superintendent or his or her~~
 3 ~~agent shall adjust each machine to be used at a primary, so that the poll officers may lock~~
 4 ~~it on primary day, in such a way that each elector can vote only for the candidates seeking~~
 5 ~~nomination by the political party in whose primary he or she is then voting and so that no~~
 6 ~~elector can vote for the candidates seeking nomination by any political party in whose~~
 7 ~~primary he or she is not then voting."~~

8 **SECTION 8.**

9 Said chapter is further amended by striking paragraph (3) of Code Section 21-2-350, relating
 10 to general requirements as to vote recorders, and inserting in lieu thereof a new paragraph
 11 (3) to read as follows:

12 "(3) Except as provided in paragraph (2) of this Code section for presidential electors, it
 13 shall permit each elector, ~~at other than primaries,~~ to vote a ticket selected from the
 14 nominees of any and all parties or bodies, from independent nominations, and from
 15 persons not in nomination;"

16 **SECTION 9.**

17 Said chapter is further amended by striking Code Section 21-2-355, relating to use of
 18 separate vote recorders for each political party in primaries, in its entirety and inserting in
 19 lieu thereof a new Code Section 21-2-355 to read as follows:

20 "21-2-355.

21 ~~In primaries, separate vote recorders shall be used for each political party~~ Reserved."

22 **SECTION 10.**

23 Said chapter is further amended by striking paragraph (3) of Code Section 21-2-365, relating
 24 to requirements for use of optical scanning voting systems, and inserting in lieu thereof a new
 25 paragraph (3) to read as follows:

26 "(3) Except as provided in paragraph (2) of this Code section for presidential electors, it
 27 shall permit each elector, ~~at other than primaries,~~ to vote a ticket selected from the
 28 nominees of any and all parties or bodies, from independent nominations, and from
 29 persons not in nomination;"

30 **SECTION 11.**

31 Said chapter is further amended by striking paragraph (3) of Code Section 21-2-379.1,
 32 relating to requirements for the use of electronic recording voting systems, and inserting in
 33 lieu thereof a new paragraph (3) to read as follows:

1 shall be void but shall not affect any other valid votes on the ballot for other offices. No
 2 elector shall be permitted to cast a write-in ballot in a primary. A ballot upon which a voter
 3 has marked out or struck through the name of a candidate for whom the voter does not
 4 intend to cast his or her vote may be counted if the ballot clearly indicates that candidate
 5 for whom the voter desired to cast his or her vote."

6 **SECTION 14.**

7 Said chapter is further amended by striking subsection (a) of Code Section 21-2-437, relating
 8 to procedure as to count and return of votes generally, and inserting in lieu thereof a new
 9 subsection (a) to read as follows:

10 "(a) After the polls close and as soon as all the ballots have been properly accounted for
 11 and those outside the ballot box as well as the voter's certificates, numbered list of voters,
 12 and electors list have been sealed, the poll officers shall open the ballot box and take
 13 therefrom all ballots contained therein. ~~In primaries in which more than one ballot box is
 14 used, any ballots or stubs belonging to another party holding its primary in the same polling
 15 place shall be returned to the ballot box for the party for which they were issued.~~ In
 16 primaries, separate tally and return sheets shall be prepared for each party, and separate
 17 poll officers shall be designated by the chief manager to count and tally for each party's
 18 ballot party. ~~Where the same ballot box is being used by one or more parties, the ballots
 19 and stubs shall first be divided by party before being tallied and counted.~~ The ballots shall
 20 then be counted one by one and a record made of the total number. Then the chief manager,
 21 together with such assistant managers and other poll officers as the chief manager may
 22 designate, under the scrutiny of one of the assistant managers and in the presence of the
 23 other poll officers, shall read aloud the names of the candidates marked or written upon
 24 each ballot, together with the office for which the person named is a candidate, and the
 25 answers contained on the ballots to the questions submitted, if any; and the other assistant
 26 manager and clerks shall carefully enter each vote as read and keep account of the same in
 27 ink on a sufficient number of tally papers, all of which shall be made at the same time. All
 28 ballots, after being removed from the box, shall be kept within the unobstructed view of
 29 all persons in the voting room until replaced in the box. No person, while handling the
 30 ballots, shall have in his or her hand any pencil, pen, stamp, or other means of marking or
 31 spoiling any ballot. The poll officers shall immediately proceed to canvass and compute
 32 the votes cast and shall not adjourn or postpone the canvass or computation until it shall
 33 have been fully completed, except that, in the discretion of the superintendent, the poll
 34 officers may stop the counting after all contested races and questions are counted, provided
 35 that the results of these contested races and questions are posted for the information of the

1 public outside the polling place and the ballots are returned to the ballot box and deposited
2 with the superintendent until counting is resumed on the following day."

3 **SECTION 15.**

4 Said chapter is further amended by striking subsection (b) of Code Section 21-2-452, relating
5 to voting procedures on voting machines generally, and inserting in lieu thereof a new
6 subsection (b) to read as follows:

7 "(b) At primaries, before an elector is admitted to the voting machine, it shall be adjusted
8 by the poll officer in charge thereof so that such elector will only be able to vote ~~for the~~
9 ~~candidates of the party in whose~~ the primary in which he or she is then participating."

10 **SECTION 16.**

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