

The House Committee on Governmental Affairs offered the following substitute to HB 1213:

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 clarify the definition of precinct; to change the
3 requirements concerning the electronic filing of election returns by precinct; to change the
4 information required on candidate affidavits; to change the qualifications of county registrars
5 and deputy registrars; to provide that persons who move their residence outside a county or
6 municipality may not continue to vote in elections in that county or municipality; to specify
7 certain required information on registration cards; to change the qualifications for voting by
8 absentee ballot; to prohibit distribution of absentee ballot applications under certain
9 circumstances; to provide for the use of direct electronic recording voting systems for voting
10 by absentee ballot in certain circumstances; to require that absentee ballots returned too late
11 to be counted shall be delivered to the appropriate clerk for storage as provided by law; to
12 prohibit certain persons from providing assistance in voting; to require that optical scan
13 tabulators return or reject ballots with overvotes in certain circumstances; to provide for a
14 vote review panel to examine rejected optical scan ballots to determine voter intent; to
15 authorize the Secretary of State to correct election returns when errors are found in the
16 certified returns or in the tabulation, computation, or canvassing of the returns; to authorize
17 the extension of deadlines to certify returns under certain circumstances; to require that
18 appeals of election contests be heard by the Supreme Court; to provide for special election
19 dates in the even-numbered year immediately following the official release of the United
20 States decennial census data to the states for the purpose of redistricting of the legislatures
21 and the United States House of Representatives; to provide for related matters; to provide an
22 effective date; to repeal conflicting laws; and for other purposes.

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

1 in office, or felony involving moral turpitude or conviction of domestic violence under
 2 the laws of this state or any other state or of the United States, or that the candidate's civil
 3 rights have been restored and that at least ten years have elapsed from the date of the
 4 completion of the sentence without a subsequent conviction of another felony involving
 5 moral turpitude; and

6 ~~(8)~~(10) That he or she will not knowingly violate this chapter or rules and regulations
 7 adopted under this chapter.

8 The affidavit shall contain such other information as may be prescribed by the officer with
 9 whom the candidate files his or her notice of candidacy."

10 SECTION 4.

11 Said chapter is further amended by striking subsection (e) of Code Section 21-2-153, relating
 12 to qualification of candidates for party nomination in a state or county primary, and inserting
 13 in lieu thereof a new subsection (e) to read as follows:

14 "(e) Each candidate for party nomination described in subsection (a) of this Code section
 15 shall file an affidavit with the political party at the time of his or her qualifying stating:

16 (1) His or her full name and the name as the candidate desires it to be listed on the ballot;

17 (2) His or her race and gender;

18 ~~(1)~~(3) His or her residence, with street and number, if any, and his or her post office
 19 address;

20 ~~(2)~~(4) His or her profession, business, or occupation, if any;

21 ~~(3)~~(5) The name of his or her precinct;

22 ~~(4)~~(6) That he or she is an elector of the county of his or her residence eligible to vote
 23 in the primary election in which he or she is a candidate for nomination;

24 ~~(5)~~(7) The name of the office he or she is seeking;

25 ~~(6)~~(8) That he or she is eligible to hold such office;

26 ~~(7)~~(9) That the candidate has never been convicted and sentenced in any court of
 27 competent jurisdiction for fraudulent violation of primary or election laws, malfeasance
 28 in office, or felony involving moral turpitude under the laws of this state or any other
 29 state or of the United States, or that the candidate's civil rights have been restored and
 30 that at least ten years have elapsed from the date of the completion of the sentence
 31 without a subsequent conviction of another felony involving moral turpitude; and

32 ~~(8)~~(10) That he or she will not knowingly violate this chapter or rules or regulations
 33 adopted under this chapter."

1 to seek public offices to be filled in an election, shall not vote in a primary held by any
 2 other party for the nomination of candidates to seek public offices to be filled in the same
 3 such election."

4 SECTION 8.

5 Said chapter is further amended by adding a new subsection (e) to Code Section 21-2-300,
 6 relating to provision of new voting equipment by state, to read as follows:

7 "(e) At such time as the General Assembly appropriates funds to implement this Code
 8 section, county governments shall utilize the voting equipment furnished to them by the
 9 state in all future county, state, and federal elections under terms and conditions specified
 10 by the Secretary of State. Counties shall be authorized to contract with municipal
 11 governments for the use of such voting equipment in municipal elections under terms and
 12 conditions specified by the Secretary of State to assure that the equipment is properly used
 13 and kept secure."

14 SECTION 9.

15 Said chapter is further amended by striking Code Section 21-2-301, relating to a pilot
 16 program, in its entirety and inserting in lieu thereof a new Code Section 21-2-301 to read as
 17 follows:

18 "21-2-301.

19 ~~(a) The Secretary of State is authorized to conduct a pilot project to test and evaluate the~~
 20 ~~use of electronic recording voting systems during the 2001 municipal elections. The~~
 21 ~~Secretary of State in his or her discretion may select a number of municipalities to~~
 22 ~~participate in such pilot program.~~

23 ~~(b) Electronic recording voting systems used in the pilot program shall meet the~~
 24 ~~requirements contained in Part 5 of Article 9 of this chapter and shall have been certified~~
 25 ~~by the Secretary of State as provided in Code Section 21-2-379.2. Such voting systems~~
 26 ~~shall be required to have an independent audit trail for each vote cast.~~

27 ~~(c) The Secretary of State shall furnish the electronic recording voting systems to the~~
 28 ~~selected municipalities for use in the pilot project, provided that the municipalities provide~~
 29 ~~polling places with adequate electrical outlets, telephone lines, and other facilities~~
 30 ~~necessary to operate such electronic recording voting systems.~~

31 ~~(d) The Secretary of State is authorized to use different types of electronic recording~~
 32 ~~voting systems in the pilot project. However, the same type system must be used in all~~
 33 ~~precincts within a municipality and there shall not be any other voting systems used in that~~
 34 ~~municipality for voting at the polling places on election day unless there is an emergency~~
 35 ~~declared by the Secretary of State due to the failure of the system or due to the inability for~~

1 ~~any reason of the electors to be able to cast their ballots on the system. In the event of such~~
 2 ~~declared emergency situation, the Secretary of State may direct the use of any method of~~
 3 ~~voting authorized by this chapter in the municipal election.~~

4 (e)(1) There is created the Twenty-first Century Voting Commission. The commission
 5 shall be composed of two members appointed by the Speaker of the House of
 6 Representatives, two members appointed by the Lieutenant Governor, two members
 7 appointed by the Governor, the chief information officer for the State of Georgia or his
 8 or her designee, eight members appointed by the Secretary of State of which six shall be
 9 county or municipal election officials, the director of the Elections Division of the office
 10 of the Secretary of State, one member designated by each political body that qualified
 11 candidates in the 2000 November general election, and the Secretary of State, who shall
 12 be the chairperson of the commission. In appointing members to such commission, the
 13 Speaker of the House of Representatives, the President of the Senate, the Governor, and
 14 the Secretary of State shall ensure equal representation on the commission by each
 15 political party in their respective appointments; provided, however, that nothing
 16 contained herein shall prohibit the Secretary of State from appointing election officials
 17 to the commission who have no political party affiliation or who are nonpartisan. The
 18 commission shall ~~coordinate and oversee the pilot project authorized by this Code section~~
 19 evaluate improvements to the state's elections and voter registration systems and
 20 processes.

21 (2) The commission may work with the Board of Regents of the University System of
 22 Georgia and the Department of Education in seeking avenues and incentives to encourage
 23 student participation as poll workers and in other areas of the election process.

24 (3) The commission shall make a report to the Governor and the General Assembly by
 25 December 31, ~~2001~~, of each year the commission is in existence on the results of the ~~pilot~~
 26 ~~project and shall further advise the Secretary of State on the choice of voting equipment~~
 27 ~~to be used state wide in all counties pursuant to Code Section 21-2-300~~ work of the
 28 commission.

29 (4) Any members of the General Assembly serving on the commission shall receive the
 30 allowances authorized for legislative members of interim legislative committees. The
 31 public members of the commission who are not public employees shall receive a daily
 32 expense allowance as provided in subsection (b) of Code Section 45-7-21. Any public
 33 employee serving on the commission shall receive no compensation but may be
 34 reimbursed for expenses.

35 (5) The commission shall continue its work through December 31, 2002, after which
 36 time it shall stand abolished unless reauthorized and continued by the General Assembly.

1 (6) The ~~Commission~~ commission shall have at least one meeting in North Georgia
 2 (outside of Atlanta), one meeting in Central Georgia, and one meeting in South Georgia."

3 SECTION 10.

4 Said chapter is further amended by striking Code Section 21-2-380, relating to definition of
 5 absentee elector, in its entirety and inserting in lieu thereof a new Code Section 21-2-380 to
 6 read as follows:

7 "21-2-380.

8 As used in this article, the term 'absentee elector' means an elector of this state or a
 9 municipality thereof who:

- 10 (1) Is required to be absent from his or her ~~precinct~~ county during the time of the primary
 11 or election he or she desires to vote in;
- 12 (2) Will perform any of the official acts or duties set forth in this chapter in connection
 13 with the primary or election he or she desires to vote in;
- 14 (3) Because of physical disability or because of being required to give constant care to
 15 someone who is physically disabled, will be unable to be present at the polls on the day
 16 of such primary or election;
- 17 (4) Because the election or primary falls upon a religious holiday observed by such
 18 elector, will be unable to be present at the polls on the day of such primary or election;
- 19 (5) Is required to remain on duty in his or her place of employment for the protection of
 20 the health, life, or safety of the public during the entire time the polls are open when such
 21 place of employment is within the precinct in which the voter resides; or
- 22 (6) Is 75 years of age or older."

23 SECTION 11.

24 Said chapter is further amended by striking paragraph (3) of subsection (a) of Code Section
 25 21-2-381, relating to making of application for absentee ballot, and inserting in lieu thereof
 26 a new paragraph (3) to read as follows:

27 "(3) All applications for an official absentee ballot that are distributed by a person, entity,
 28 or organization shall list thereon all of the legally acceptable categories of absentee
 29 electors contained in Code Section 21-2-380 and shall require the elector to select the
 30 category which qualifies the elector to vote by absentee ballot. Applications for an
 31 official absentee ballot may not be distributed by any person, entity, or organization as
 32 part of or in connection with any publication which advocates the casting of a vote for a
 33 particular candidate, issue, or political party or body."

1 from said application, and shall, if the information and signature appear to be valid, so
 2 certify by signing or initialing his or her name below the voter's oath. Each elector's
 3 name so certified shall be listed by the registrar or clerk on the numbered list of absentee
 4 voters prepared for his or her precinct. If the elector has failed to sign the oath, or if the
 5 signature does not appear to be valid, or if the elector has failed to furnish required
 6 information or information so furnished does not conform with that on file in the
 7 registrar's or clerk's office, or if the elector is otherwise found disqualified to vote, the
 8 registrar or clerk shall write across the face of the envelope 'Rejected,' giving the reason
 9 therefor. The board of registrars or absentee ballot clerk shall promptly notify the elector
 10 of such rejection, a copy of which notification shall be retained in the files of the board
 11 of registrars or absentee ballot clerk for at least one year. Three copies of the numbered
 12 list of voters shall also be prepared for such rejected absentee electors, giving the name
 13 of the elector and the reason for the rejection in each case. Three copies of the numbered
 14 list of certified absentee voters and three copies of the numbered list of rejected absentee
 15 voters for each precinct shall be turned over to the poll manager in charge of counting the
 16 absentee ballots and shall be distributed as required by law for numbered lists of voters.
 17 All absentee ballots returned to the board or absentee ballot clerk after the closing of the
 18 polls on the day of the primary or election shall be safely kept unopened by the board or
 19 absentee ballot clerk and then transferred to the appropriate clerk for storage for the
 20 period of time required for the preservation of ballots used at the primary or election and
 21 shall then, without being opened, be destroyed in like manner as the used ballots of the
 22 primary or election. The board of registrars or absentee ballot clerk shall promptly notify
 23 the elector by first-class mail that the elector's ballot was returned too late to be counted
 24 and that the elector will not receive credit for voting in the primary or election. All such
 25 late absentee ballots shall be delivered to the appropriate clerk and stored as provided in
 26 Code Section 21-2-390."

27 SECTION 14.

28 Said chapter is further amended by striking paragraph (2) of subsection (b) of Code Section
 29 21-2-409, relating to assisting electors who cannot read English or who have physical
 30 disabilities, and inserting in lieu thereof a new paragraph (2) to read as follows:

31 "(2) In all other elections, any elector who is entitled to receive assistance in voting under
 32 this Code section shall be permitted by the managers to select (1) any elector, except a
 33 poll officer or poll watcher, who is a resident of the precinct in which the elector
 34 requiring assistance is attempting to vote; or (2) the mother, father, sister, brother, spouse,
 35 or child of the elector entitled to receive assistance, to enter the voting compartment or
 36 booth with him or her to assist in voting, such assistance to be rendered inside the voting

1 compartment or booth. No person shall assist more than ten such electors in any primary,
 2 election, or runoff covered by this paragraph. No person whose name appears on the
 3 ballot as a candidate at a particular election nor the mother, father, grandparent, aunt,
 4 uncle, sister, brother, spouse, son, daughter, niece, nephew, grandchild, son-in-law,
 5 daughter-in-law, mother-in-law, father-in-law, brother-in-law, or sister-in-law of that
 6 candidate may offer assistance during that particular election under the provisions of this
 7 Code section to any voter who is not related to such candidate. For the purposes of this
 8 paragraph, 'related to such candidate' shall mean the candidate's mother, father,
 9 grandparent, aunt, uncle, sister, brother, spouse, son, daughter, niece, nephew, grandchild,
 10 son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, or
 11 sister-in-law."

12 SECTION 15.

13 Said chapter is further amended by striking subsection (g) of Code Section 21-2-483, relating
 14 to counting of ballots, and inserting in lieu thereof a new subsection (g) to read as follows:

15 "(g)(1) The precinct tabulator shall be programmed to return to the voter at the time that
 16 the voter inserts the ballot any ballot on which an overvote is indicated, along with any
 17 ballot that cannot be processed by the tabulator for reevaluation or correction or spoiling
 18 of the ballot, and a new ballot shall be issued if ~~needed~~ the voter desires to vote another
 19 ballot in order to correct mistakes, overvotes, or other problems.

20 (2)(A) The central tabulator shall be programmed to reject any ballot, including
 21 absentee ballots, on which an overvote is detected and any ballot so rejected shall be
 22 manually reviewed by the vote review panel described in this Code section to determine
 23 the voter's intent as described in subsection (c) of Code Section 21-2-438.

24 (B) A vote review panel shall be composed of the election superintendent and one
 25 person appointed by the county executive committee of each political party and body
 26 having candidates whose names appear on the ballot for such election, provided that,
 27 if there is no organized county executive committee for a political party or body, the
 28 person shall be appointed by the state executive committee of the political party or
 29 body. The panel shall manually review all ballots rejected by the tabulator under
 30 subparagraph (A) of this paragraph and shall determine by majority vote whether the
 31 elector's intent can be determined as described in subsection (c) of Code Section
 32 21-2-438 and, if so, said vote shall be counted as the elector intended. In the event of
 33 a tie vote by the vote review panel, the vote of the election superintendent shall
 34 control."

SECTION 16.

Said chapter is further amended by striking Code Section 21-2-499, relating to duty of Secretary of State as to tabulation, computation, and canvassing of votes for state and federal officers, in its entirety and inserting in lieu thereof a new Code Section 21-2-499 to read as follows:

"21-2-499.

(a) Upon receiving the certified returns of any election from the various superintendents, the Secretary of State shall immediately proceed to tabulate, compute, and canvass the votes cast for all candidates described in subparagraph (A) of paragraph (4) of Code Section 21-2-497 and upon all questions voted for by the electors of more than one county and shall thereupon certify and file in his or her office the tabulation thereof. In the event an error is found in the certified returns presented to the Secretary of State or in the tabulation, computation, or canvassing of votes as described in this Code section, the Secretary of State shall notify the county submitting the incorrect returns and direct the county to correct and recertify such returns. Upon receipt by the Secretary of State of the corrected certified returns of the county, the Secretary of State shall issue a new certification of the results and shall file the same in his or her office.

(b) The Secretary of State shall also, upon receiving the certified returns for presidential electors, proceed to tabulate, compute, and canvass the votes cast for each slate of presidential electors and shall immediately lay them before the Governor. Not later than 5:00 P.M. on the fourteenth day following the date on which such election was conducted, the Secretary of State shall certify the votes cast for all candidates described in subparagraph (A) of paragraph (4) of Code Section 21-2-497 and upon all questions voted for by the electors of more than one county and shall no later than that same time lay the returns for presidential electors before the Governor. The Governor shall enumerate and ascertain the number of votes for each person so voted and shall certify the slates of presidential electors receiving the highest number of votes. The Governor shall certify the slates of presidential electors no later than 5:00 P.M. on the fifteenth day following the date on which such election was conducted. Notwithstanding the deadlines specified in this Code section, such times may be altered for just cause by an order of a judge of superior court of this state.

~~(b)~~(c) The Secretary of State shall not count, tabulate, or publish the names of any write-in candidates for whom the notice of intention of candidacy has not been provided in compliance with Code Section 21-2-133."

1 (i) The third Tuesday in March; provided, however, that in the event that a special
2 election is to be held under this provision in a year in which a presidential preference
3 primary is to be held, then any such special election shall be held on the date of and
4 in conjunction with the presidential preference primary;

5 (ii) The third Tuesday in June;

6 (iii) The date of the general primary; or

7 (iv) The Tuesday after the first Monday in November."

8 **SECTION 19.**

9 This Act shall become effective upon its approval by the Governor or upon its becoming law
10 without such approval.

11 **SECTION 20.**

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