

Senate Bill 414

By: Senators Hill of the 4th, Thomas of the 10th and Ragan of the 11th

**AS PASSED**

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 primaries and elections generally, so as to revise certain definitions; to repeal certain  
3 provisions of law regarding vote recorders; to provide for certain instructions for ballots and  
4 voting equipment; to provide that the state shall provide a uniform system of direct recording  
5 electronic voting equipment for use by counties in the state by 2004; to provide for  
6 municipalities to acquire such systems and counties to acquire additional such equipment;  
7 to provide for use of bonds for acquiring such systems; to provide for provisional ballots; to  
8 provide for the method of voting and counting such ballots; to provide for certain  
9 notifications to persons voting provisional ballots; to provide for related matters; to provide  
10 an effective date; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **PART I**  
13 **SECTION 1-1.**

14 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and  
15 elections generally, is amended by striking paragraphs (1), (18), and (40) of Code Section  
16 21-2-2, relating to definitions, and inserting in lieu thereof new paragraphs (1), (4.1), (18),  
17 and (40) to read as follows:

18 "(1) 'Ballot card' means the tabulating or punch card upon 'official ballot' or 'paper ballot'  
19 and shall include the instrument, whether paper, mechanical, or electronic, by which an  
20 elector records casts his or her vote by the use of a vote recorder. 'Ballot card' also means  
21 a ballot upon which an elector records his or her vote for tabulation by an optical scan  
22 tabulating machine."

23 "(4.1) 'Direct recording electronic' or 'DRE' voting equipment means a computer-driven  
24 unit for casting and counting votes on which an elector touches a video screen or a button  
25 adjacent to a video screen to cast his or her vote."

"(18) 'Official ballot' means a paper ballot, whether paper, mechanical, or electronic, which is furnished by the superintendent or governing authority in accordance with Code Section 21-2-280, including ballots read by optical scanning tabulators."

"(40) 'Voting machine' shall not include a vote recorder or tabulating machine. is a mechanical device on which an elector may cast a vote and which tabulates those votes by its own devices and is also known as a 'lever machine.'"

## **SECTION 1-2.**

8 Said chapter is further amended by striking Code Section 21-2-379.3, relating to payment for  
9 electronic recording voting systems, and inserting in lieu thereof a new Code Section  
10 21-2-379.3 to read as follows:

"21-2-379.3.

(a) The governing authority of any county or municipality which adopts direct electronic recording voting systems in the manner provided for by this part shall, upon the purchase of direct electronic recording voting systems, provide for their payment by the county or municipality. Bonds or other evidence of indebtedness may be issued in accordance with the provisions of law relating to the increase of indebtedness of counties or municipalities to meet all or any part of the cost of the direct electronic recording voting systems: The state shall furnish a uniform system of direct recording electronic (DRE) equipment for use in each county by 2004. The governing authority of a municipality may elect to acquire its own DRE equipment by purchase, lease, rental, or other procurement process at its own expense. The governing authority of a county may purchase, lease, or otherwise acquire more of the type of DRE equipment furnished by the state, if the governing authority so desires, at its own expense.

(b) The governing authority of a municipality or a county desiring to acquire such equipment may at any regular meeting or at a special meeting called for the purpose, by a majority vote, authorize and direct the acquisition of such equipment. Bonds or other evidence of indebtedness may be issued in accordance with the provisions of law relating to the increase of indebtedness of counties and municipalities to meet all or any part of the cost of such DRE voting systems."

## SECTION 1-3.

31 Said chapter is further amended by striking Code Section 21-2-379.4, relating to approval  
32 required for purchase of systems, and inserting in lieu thereof a new Code Section 21-2-379.4  
33 to read as follows:

1 "21-2-379.4.

2 (a) ~~The governing authority of any county or municipality may at any regular meeting or~~  
3 ~~at a special meeting called for the purpose, by a majority vote, authorize and direct the~~  
4 ~~purchase of direct electronic recording voting systems for recording and computing the~~  
5 ~~vote at elections held in the county or municipality; and thereupon the governing authority~~  
6 ~~shall purchase, lease, rent, or otherwise procure direct electronic recording voting systems~~  
7 ~~conforming to the requirements of this part. The ballots for direct recording electronic~~  
8 ~~(DRE) voting systems shall be of such size and arrangement as will suit the construction~~  
9 ~~of the DRE screen and shall be in plain, clear type that is easily readable by persons with~~  
10 ~~normal vision. If the equipment has the capacity for color display, the names of all~~  
11 ~~candidates in a particular race shall be displayed in the same color, font and size and the~~  
12 ~~political party or body affiliation of candidates may be displayed in a color different from~~  
13 ~~that used to display the names of the candidates, but all political party or body affiliations~~  
14 ~~shall be displayed in the same color. All candidates name and political party shall be~~  
15 ~~printed in the same size and font. All ballot questions and constitutional amendments shall~~  
16 ~~be displayed in the same color.~~

17 (b) The arrangement of offices, names of candidates, and questions upon the ballots shall  
18 conform as nearly as practicable to this chapter for the arrangement of such offices, names  
19 of candidates, and questions on paper ballots.

20 (c) Electors shall be permitted to cast write-in votes on DRE voting systems as provided  
21 in Code Section 21-2-133. The design of the ballot shall permit the election superintendent  
22 and poll workers when obtaining the vote count from such systems to determine readily  
23 whether an elector has cast any write-in vote not authorized by law.

24 (d) The form and arrangement of ballots shall be prescribed by the Secretary of State and  
25 prepared by the election superintendent."

## 26 SECTION 1-4.

27 Said chapter is further amended by adding new Code Sections 21-2-379.5, 21-2-379.6,  
28 21-2-379.7, 21-2-379.8, 21-2-379.9, 21-2-379.10, and 21-2-379.11 to read as follows:

29 "21-2-379.5.

30 (a) If two or more candidates for the same nomination or office shall have the same or  
31 similar names, the Secretary of State, in the case of federal or state offices, the  
32 superintendent of elections, in the case of county offices, or the official with whom such  
33 candidates qualify, in the case of municipal elections, shall print or cause to be printed the  
34 residence of all candidates for such nomination or office on the ballot under their names.

35 The designated official shall determine whether the names of the candidates are of such a

1 similar nature as to warrant printing the residence of all candidates for that office on the  
2 ballot; and the decision of the designated official shall be conclusive.

3 (b) The ballot for each candidate or group of candidates nominated by a political party or  
4 body shall display the name or designation of the political party or body.

5 (c) The incumbency of a candidate seeking election for the public office he or she then  
6 holds shall be indicated on the ballot.

7 (d) Unless a candidate has filed with his or her nominating petition a certificate from a  
8 political party or body attesting that such candidate is the nominee of such party or body  
9 by virtue of having been nominated in a duly constituted party or body convention, the  
10 candidate's name shall appear on the ballot as an independent.

11 (e) When presidential electors are to be elected, the names or the nominees of each  
12 political party or body for such offices shall be arranged alphabetically under the names of  
13 the candidates of the party or body for President and Vice President of the United States.

14 (f) When proposed constitutional amendments or other questions are submitted to a vote  
15 of the electors, each amendment or other question so submitted may be printed upon the  
16 ballot below the groups of candidates for the various offices. Proposed constitutional  
17 amendments so submitted shall be printed in the order determined by the Constitutional  
18 Amendments Publication Board and in brief form as directed by the General Assembly or,  
19 in the event of a failure to so direct, the form shall be determined by the Secretary of State  
20 and shall include the short title or heading provided for in subsection (c) of Code Section  
21 50-12-101. Unless otherwise provided by law, any other state-wide questions so submitted  
22 shall be printed in brief form as directed by the General Assembly or, in the event of a  
23 failure to so direct, the form shall be determined by the Secretary of State; and any local  
24 questions so submitted shall be printed in brief form as directed by the General Assembly  
25 or, in the event of a failure to so direct, the form shall be determined by the superintendent.  
26 Next to or below the question there shall be placed the words 'YES' and 'NO' between  
27 which the elector may choose in casting his or her vote.

28 (g) The ballots shall vary in form only as the names of precincts, offices, candidates, or  
29 this chapter may require.

30 21-2-379.6.

31 (a) The superintendent of each county or municipality shall cause the proper ballot design  
32 and style to be programmed for each direct recording electronic (DRE) unit which is to be  
33 used in any precinct within such county or municipality, cause each such unit to be placed  
34 in proper order for voting, examine each unit before it is sent to a polling place, verify that  
35 each registering mechanism is set at zero, and properly secure each unit so that the  
36 counting machinery cannot be operated until later authorized.

1       (b) The superintendent may appoint, with the approval of the governing authority, a  
2       custodian of the DRE units, and deputy custodians as may be necessary, whose duty shall  
3       be to prepare the units to be used in the county at the primaries and elections to be held  
4       therein. Each custodian and deputy custodian shall receive from the county or municipality  
5       such compensation as shall be fixed by the governing authority of the county or  
6       municipality. Such custodian shall, under the direction of the superintendent, have charge  
7       of and represent the superintendent during the preparation of the units as required by this  
8       chapter. The custodian and deputy custodians shall serve at the pleasure of the  
9       superintendent. Each custodian shall take an oath of office prepared by the Secretary of  
10      State before each primary or election which shall be filed with the superintendent.

11      (c) On or before the third day preceding a primary or election, including special primaries,  
12      special elections, and referendum elections, the superintendent shall have each DRE unit  
13      tested to ascertain that it will correctly count the votes cast for all offices and on all  
14      questions in a manner that the State Election Board shall prescribe by rule or regulation.  
15      Public notice of the time and place of the test shall be made at least five days prior thereto.  
16      Representatives of political parties and bodies, news media, and the public shall be  
17      permitted to observe such tests.

18      (d) In every primary or election, the superintendent shall furnish, at the expense of the  
19      county or municipality, all ballots, forms of certificates, and other papers and supplies  
20      required under this chapter which are not furnished by the Secretary of State, all of which  
21      shall be in the form and according to any specifications prescribed, from time to time, by  
22      the Secretary of State.

23      21-2-379.7.

24      (a) The superintendent or the custodians shall deliver the proper direct recording electronic  
25      (DRE) units to the polling places of the respective precincts at least one hour before the  
26      time for opening the polls at each primary or election and shall cause each unit to be set up  
27      in the proper manner for use in voting.

28      (b) The superintendent shall require that each DRE unit be thoroughly tested, inspected,  
29      and sealed prior to the delivery of each DRE unit to the polling place. Prior to opening the  
30      polls each day on which the units will be used in a primary or election, the manager shall  
31      break the seal on each unit, turn on each unit, certify that each unit is operating properly  
32      and is set to zero, and print a zero tape certifying that each unit is set to zero, and shall keep  
33      or record such certification on each unit.

34      (c) The superintendent and poll managers shall provide ample protection against  
35      molestation of and injury to the DRE units, and, for that purpose, the superintendent and  
36      poll manager may call upon any law enforcement officer to furnish such assistance as may

1      be necessary. It shall be the duty of any such law enforcement officer to furnish such  
2      assistance when so requested by the superintendent or poll manager.

3      (d) The superintendent shall, at least one hour prior to the opening of the polls:

4            (1) Provide sufficient lighting to enable electors, if needed in the voting booth, to read  
5            the ballot and which shall be suitable for the use of the poll officers in examining the  
6            booth and conducting their responsibilities;

7            (2) Provide directions for voting on the DRE units which shall be prominently posted  
8            within each voting booth and at least two sample ballots for the primary or election which  
9            shall be prominently posted outside the enclosed space within the polling place;

10          (3) Ensure that each DRE unit's tabulating mechanism is secure throughout the day  
11          during the primary or election; and

12          (4) Provide such other materials and supplies as may be necessary or required by law.

13         21-2-379.8.

14          (a) The superintendent or his or her designee shall place on public exhibition and  
15          demonstrate the use of the direct recording electronic (DRE) units throughout the county  
16          or municipality during the month preceding each primary and election. The Secretary of  
17          State shall advise the superintendents on recommended methods of demonstrating such  
18          units so as to properly educate electors in the use thereof, and, at least during the initial  
19          year in which DRE equipment is used in a county or municipality, all superintendents shall  
20          offer a series of demonstrations and organized voter education initiatives to equip electors  
21          for using such equipment in voting.

22          (b) At least 30 days before a general primary or election or during the ten days before a  
23          special primary or election, the superintendent shall place on public exhibition, in such  
24          public places and at such times as the superintendent shall deem most suitable for the  
25          information and instruction of the electors, a sample ballot to be used in such election. The  
26          sample ballot shall show the offices and questions to be voted upon, the names and  
27          arrangements of the political parties and bodies, and the names and arrangements of the  
28          candidates to be voted for. Such sample ballots shall be under the charge and care of a  
29          person who is, in the opinion of the superintendent, competent and qualified as an  
30          instructor concerning such ballots and voting procedures.

31         21-2-379.9

32          (a) All direct recording electronic (DRE) units and related equipment, when not in use,  
33          shall be properly stored and secured under conditions as shall be specified by the Secretary  
34          of State.

1       (b) The superintendent shall store the units and related equipment under his or her  
2       supervision or shall designate a person or entity who shall provide secure storage of such  
3       units and related equipment when it is not in use at a primary or election. The  
4       superintendent shall provide compensation for the safe storage and care of such units and  
5       related equipment if the units and related equipment are stored by a person or entity other  
6       than the superintendent.

7       21-2-379.10.

8       (a) A duly qualified elector shall cast his or her vote on a direct recording electronic (DRE)  
9       unit by touching the screen or pressing the appropriate button on the unit for the candidate  
10      or issue of such elector's choice. After having the opportunity to vote in all races and upon  
11      all questions in which the elector is eligible to vote, the unit shall display a summary of the  
12      choices which the elector has made. At that time, the elector shall also be notified of any  
13      races or questions in which the elector did not make a selection and all other choices of the  
14      elector shall be displayed for the elector's review. The elector shall have the opportunity  
15      to change any choices which the elector made in voting the ballot, and be allowed to vote  
16      in those races and on those questions which the elector did not previously make a selection  
17      or cast a vote, and the elector will again be presented with a summary display of his or her  
18      choices.

19       (b) After the summary screen is displayed and the elector desires to make no further  
20      changes to his or her votes, the elector shall be notified that he or she is about to cast the  
21      ballot. The elector shall then press the appropriate button on the unit or location on the  
22      screen to actually cast his or her ballot. After pressing the appropriate button on the unit  
23      or location on the screen to cast the ballot, the elector's vote shall be final and shall not be  
24      subsequently altered.

25       (c) If an elector leaves the voting booth without having pressed the appropriate button on  
26      the unit or location on the screen to finally cast his or her ballot and cannot be located to  
27      return to the booth to complete the voting process, then a poll worker shall take the steps  
28      necessary to void the ballot that was not completed by the elector and an appropriate record  
29      shall be made of such event.

30       21-2-379.11.

31       (a) In primaries and elections in which direct recording electronic (DRE) voting equipment  
32      is used, the ballots shall be counted at the precinct or tabulating center under the direction  
33      of the superintendent. All persons who perform any duties at the tabulating center shall be  
34      deputized by the superintendent and only persons so deputized shall touch any ballot,

1      container, paper, or machine utilized in the conduct of the count or be permitted to be in  
2      the immediate area designated for officers deputized to conduct the count.

3      (b) All proceedings at the tabulating center and precincts shall be open to the view of the  
4      public, but no person except one employed and designated for the purpose by the  
5      superintendent or the superintendent's authorized deputy shall touch any ballot, any DRE  
6      unit, or the tabulating equipment.

7      (c) After the polls have closed and all voting in the precinct has ceased, the poll manager  
8      shall shut down the DRE units and extract the election results from each unit as follows:

9            (1) The manager shall obtain the tabulating tape from each DRE unit and verify that the  
10         number of ballots cast as recorded on the tape matches the public count number as  
11         displayed on the DRE unit;

12           (2) If a system is established by the Secretary of State, the poll manager shall first  
13         transmit the election results extracted from each DRE unit in each precinct via modem  
14         to the central tabulating center of the county; and

15           (3) The manager shall then extract the ballot storage medium from each DRE unit.

16      (d) Upon completion of shutting down each DRE unit and extracting the election results,  
17      the manager shall cause to be completed and signed a ballot recap form, in sufficient  
18      counterparts, showing:

19           (1) The number of valid ballots;

20           (2) The number of spoiled and invalid ballots;

21           (3) The number of provisional ballots; and

22           (4) The number of unused provisional ballots and any other unused ballots.

23      The manager shall cause to be placed in the ballot supply container one copy of the recap  
24      form and any unused, defective, spoiled, and invalid ballots, each enclosed in an envelope.

25      (e) The manager shall wrap the zero tape and the tabulating tape for each DRE unit around  
26      the ballot storage medium for that unit and enclose all such items in an envelope which  
27      shall be sealed and initialed by the manager so that it cannot be opened without breaking  
28      the seal. One envelope shall be used for the documentation for each DRE unit and all  
29      envelopes from the polling place shall be placed in an envelope container which shall also  
30      be sealed so that it cannot be opened without breaking the seal.

31      (f) The manager and one poll worker shall then deliver the envelope container to the  
32      tabulating center for the county or municipality or to such other place designated by the  
33      superintendent and shall receive a receipt therefor. The copies of the recap forms, unused  
34      ballots, records, and other materials shall be returned to the designated location and  
35      retained as provided by law.

36      (g) Upon receipt of the sealed envelopes containing the zero tapes, tabulating tapes, and  
37      ballot storage media, the election superintendent shall verify the signatures on the

1 envelope. Once verified, the superintendent shall break the seal of the envelope and  
2 remove its contents. The superintendent shall then download the results stored on the  
3 ballot storage medium from each DRE unit into the election management system located  
4 at the central tabulation point of the county in order to obtain election results for  
5 certification."

6 **SECTION 1-5.**

7 Said chapter is further amended by adding a new Code Section 21-2-418 to read as follows:  
8 "21-2-418.

9 (a) If a person presents himself or herself at a polling place or registration office for the  
10 purpose of casting a ballot in a primary or election believing that he or she has timely  
11 registered to vote in such primary or election and the person's name does not appear on the  
12 list of registered electors and it cannot be immediately determined that the person did  
13 timely register to vote in such primary or election, the person shall be entitled to cast a  
14 provisional ballot as provided in this Code section.

15 (b) Such person voting a provisional ballot shall complete an official voter registration  
16 form and a provisional ballot voting certificate which shall include information about the  
17 place, manner, and approximate date on which the person registered to vote. The person  
18 shall swear or affirm in writing that he or she previously registered to vote in such primary  
19 or election, is eligible to vote in such primary or election, has not voted previously in such  
20 primary or election, and meets the criteria for registering to vote in such primary or  
21 election. The form of the provisional ballot voting certificate shall be prescribed by the  
22 Secretary of State. The person shall also present the identification required by Code  
23 Section 21-2-417.

24 (c) When the person has provided the information as required by this Code section, the  
25 person shall be issued a provisional ballot and allowed to cast such ballot as any other duly  
26 registered elector subject to the provisions of Code Section 21-2-419."

27 **SECTION 1-6.**

28 Said chapter is further amended by adding a new Code Section 21-2-419 to read as follows:  
29 "21-2-419.

30 (a) A person shall cast a provisional ballot on the same type of ballot that is utilized by the  
31 county or municipality for mail-in absentee ballots. Such provisional ballot shall be sealed  
32 in double envelopes as provided in Code Section 21-2-384 and shall be deposited by the  
33 person casting such ballot in a secure, sealed ballot box.

34 (b) At the earliest time possible after the casting of a provisional ballot, but no later than  
35 the day after the primary or election in which such provisional ballot was cast, the board

1 of registrars of the county or municipality, as the case may be, shall be notified by the  
2 election superintendent that provisional ballots were cast in the primary or election and the  
3 registrars shall be provided with the documents completed by the person casting the  
4 provisional ballot as provided in Code Section 21-2-418. Provisional ballots shall be  
5 securely maintained by the election superintendent until a determination has been made  
6 concerning their status. The board of registrars shall immediately examine the information  
7 contained on such documents and make a good faith effort to determine whether the person  
8 casting the provisional ballot was entitled to vote in the primary or election.

9 (c)(1) If the registrars determine after the polls close, but not later than two days  
10 following the primary or election, that the person casting the provisional ballot timely  
11 registered to vote and was eligible and entitled to vote in such primary or election, the  
12 registrars shall notify the election superintendent and the provisional ballot shall be  
13 counted and included in the county or municipality's certified election results.

14 (2) If the registrars determine after the polls close, but not later than two days following  
15 the primary or election, that the person voting the provisional ballot timely registered and  
16 was eligible and entitled to vote in the primary or election, but voted in the wrong  
17 precinct, then the board of registrars shall notify the election superintendent. The  
18 superintendent shall count such person's votes which were cast for candidates in those  
19 races for which the person was entitled to vote, but shall not count the votes cast for  
20 candidates in those races in which such person was not entitled to vote. The  
21 superintendent shall order the proper election official at the tabulating center or precinct  
22 to prepare an accurate duplicate ballot containing only those votes cast by such person  
23 in those races in which such person was entitled to vote for processing at the tabulating  
24 center or precinct, which shall be verified in the presence of a witness. Such duplicate  
25 ballot shall be clearly labeled with the word 'Duplicate,' shall bear the designation of the  
26 polling place, and shall be given the same serial number as the original ballot. The  
27 original ballot shall be retained.

28 (3) If the registrars determine that the person casting the provisional ballot did not timely  
29 register to vote or was not eligible or entitled to vote in such primary or election or shall  
30 be unable to determine within two days following such primary or election whether such  
31 person timely registered to vote and was eligible and entitled to vote in such primary or  
32 election, the registrars shall so notify the election superintendent and such ballot shall not  
33 be counted. The election superintendent shall mark or otherwise document that such  
34 ballot was not counted and shall deliver and store such ballots with all other ballots and  
35 election materials as provided in Code Section 21-2-500.

36 (d)(1) The board of registrars shall notify in writing those persons whose provisional  
37 ballots were not counted that their ballots were not counted because of the inability of the

1 registrars to verify that the persons timely registered to vote or other proper reason. The  
2 registrars shall process the official voter registration form completed by such persons  
3 pursuant to Code Section 21-2-418 and shall add such persons to the electors list if found  
4 qualified.

5 (2) The board of registrars shall notify in writing those electors who voted in the wrong  
6 precinct and whose votes were partially counted of their correct precinct."

7 **PART II**

8 **SECTION 2-1.**

9 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and  
10 elections generally, is amended by striking paragraphs (2), (19), (37), and (38) of Code  
11 Section 21-2-2, relating to definitions, and inserting in lieu thereof new paragraphs (2), (19),  
12 (37), and (38) to read as follows:

13 "(2) 'Ballot labels' means the cards, paper, or other material placed on the front of a  
14 voting machine ~~or vote recorder~~ containing the names of offices and candidates and  
15 statements of questions to be voted on."

16 "(19) 'Official ballot label' means a ballot label prepared in accordance with Article 9 of  
17 this chapter and delivered by the superintendent to the poll officers in accordance with  
18 Code Sections Section 21-2-328 and 21-2-360."

19 "(37) 'Tabulating machine' means any data processing machine used in counting ballot  
20 cards and tabulating votes thereon Reserved.

21 "(38) 'Vote recorder' means a device into which a ballot card may be inserted so that an  
22 elector may record his or her vote for any candidate and for or against any question by  
23 punching or marking the ballot card Reserved."

24 **SECTION 2-2.**

25 Said chapter is further amended by striking Code Section 21-2-280, relating to requirement  
26 as to conduct of primaries and elections by ballot, and inserting in lieu thereof a new Code  
27 Section 21-2-280 to read as follows:

28 "21-2-280.

29 All primaries and elections in this state shall be conducted by ballot, except when voting  
30 machines ~~or vote recorders~~ are used as provided by law. A ballot may be electronic or  
31 printed on paper. All ballots used in any primary or election shall be provided by the  
32 superintendent or governing authority in accordance with this article, and only official  
33 ballots furnished by the superintendent or governing authority shall be cast or counted in  
34 any primary or election in any precinct in which ballots are used."

**SECTION 2-3.**

1 Said chapter is further amended by striking Code Section 21-2-281, relating to voting by  
2 paper ballot when use of voting machine impossible or impracticable, and inserting in lieu  
3 thereof a new Code Section 21-2-281 to read as follows:

4 "21-2-281.

5 In any primary or election in which the use of voting ~~machines~~ equipment is impossible or  
6 impracticable, for the reasons set out in Code Section 21-2-334, the primary or election  
7 may be conducted by paper ballot in the manner provided in Code Section 21-2-334."

**SECTION 2-4.**

8 Said chapter is further amended by striking Code Section 21-2-282, relating to voting by  
9 paper ballot when use of vote recorders impossible or impracticable, and inserting in lieu  
10 thereof a new Code Section 21-2-282 to read as follows:

11 "21-2-282.

12 ~~In any primary or election in which the use of vote recorders is impossible or  
13 impracticable, for the reasons set out in Code Section 21-2-364, the primary or election  
14 may be conducted by paper ballot in the manner provided in Code Section 21-2-364~~  
15 Reserved."

**SECTION 2-5.**

16 Said chapter is further amended by striking subsection (b) of Code Section 21-2-284, relating  
17 to form of official primary ballot, and inserting in lieu thereof a new subsection (b) to read  
18 as follows:

19 "(b) ~~Immediately under this caption, the following directions shall be printed. Place a~~  
20 ~~cross (X) or check (✓) mark in the square opposite the name of each candidate for whom~~  
21 ~~you choose to vote. If you spoil your ballot, do not erase, but ask for a new ballot. Use only~~  
22 ~~pen or pencil. The State Election Board shall by rule and regulation determine the~~  
23 ~~appropriate wording for directions as to how a vote should be cast on each type of voting~~  
24 ~~equipment used in the state and how a new ballot should be issued when a ballot is~~  
25 ~~spoiled.~~"

**SECTION 2-6.**

26 Said chapter is further amended by striking subsection (a) of Code Section 21-2-284.1,  
27 relating to the form of the ballot in nonpartisan elections, and inserting in lieu thereof a new  
28 subsection (a) to read as follows:

29 "(a) The names of all candidates seeking election in a nonpartisan election conducted in  
30 conjunction with a partisan primary shall be printed on the ballot of each political party;

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

## SECTION 2-7.

34 Said chapter is further amended by striking subsections (b), (c), (f), and (g) of Code Section  
35 21-2-285, relating to the form of the official ballot, and inserting in lieu thereof new  
36 subsections (b), (c), (f), and (g) to read as follows:

1       "(b)(1) Immediately Directions that explain how to cast a vote and how to obtain a new  
2       ballot after one is spoiled shall appear immediately under this caption on a ballot  
3       presenting the names of candidates for election to office, ~~the following directions shall~~  
4       ~~be printed, insofar as the same may be appropriate for the election involved:~~

5       (1) ~~To vote for presidential electors, mark a cross (X) or check (✓) mark in the square~~  
6       ~~opposite the names of the candidates of the party or body for the offices of President and~~  
7       ~~Vice President you choose to vote for. Place a cross (X) or check (✓) mark in the square~~  
8       ~~opposite the name of each candidate you choose to vote for. To vote for a person whose~~  
9       ~~name is not on the ballot, manually write his or her name, accompanied by the title of the~~  
10      ~~office involved, in the write-in column. If you spoil your ballot, do not erase, but ask for~~  
11      ~~a new ballot. Use only pen or pencil as specified by the rules and regulations of the State~~  
12      Election Board.

13      (2) Marks made in violation of these directions shall be disregarded in the counting of  
14      the votes cast. The names of persons inserted on the ballot by the elector shall be  
15      manually written only within the write-in ~~column~~ space provided and the insertion of  
16      such names outside such column or by the use of a sticker, paster, stamp, or other printed  
17      or written matter is prohibited.

18      (c) Immediately under the directions, the names of all candidates who have been  
19      nominated in accordance with the requirements of this chapter shall be printed on the ballot  
20      and the names of the candidates shall in all cases be arranged under the titles of the  
21      respective offices they are seeking. In a primary or special election, said names shall be  
22      arranged alphabetically by last name under the title of the office. The incumbency of a  
23      candidate seeking election for the public office he or she then holds shall be indicated on  
24      the ballot. In a general election, the names of candidates who are nominees of a political  
25      party shall be placed under the name of their party. The columns of political parties shall  
26      be printed on the ballot, beginning on the left side thereof, and shall be arranged from left  
27      to right in the descending order of the totals of votes cast for candidates of the political  
28      parties for Governor at the last gubernatorial election. The columns of parties having no  
29      candidate for Governor on the ballot at the last gubernatorial election shall be arranged  
30      alphabetically according to the party name to the right of the columns of the parties so  
31      represented. The columns of political bodies shall be arranged alphabetically according  
32      to the body name to the right of the party columns. The names of all independent  
33      candidates shall be printed on the ballot in a column or columns under the heading  
34      'Independent,' which shall be placed to the right of the political body columns. In the case  
35      of two or more independent candidates seeking the same office, their names shall be  
36      arranged under the title of the office in alphabetical order. The names of candidates  
37      seeking the same office shall be printed horizontally opposite one another in their

respective columns, and such columns shall be of sufficient length to permit such an arrangement. To the right of the independent column or columns shall be printed a blank column sufficient for the insertion of write-in votes. At the left of the name heading every column on the ballot and at the left of the name of every candidate thereon shall be a square of sufficient size for the convenient insertion of a cross (X) or check (✓) mark."

"(f) When proposed constitutional amendments or other questions are submitted to a vote of the electors, each amendment or other question so submitted may be printed upon the ballot to the right of or below following the groups of candidates for the various offices. Proposed constitutional amendments so submitted shall be printed in the order determined by the Constitutional Amendments Publication Board and in brief form as directed by the General Assembly and, in the event of a failure to so direct, the form shall be determined by the Secretary of State and shall include the short title or heading provided for in subsection (c) of Code Section 50-12-101. Unless otherwise provided by law, any other state-wide questions so submitted shall be printed in brief form as directed by the General Assembly and, in the event of a failure to so direct, the form shall be determined by the Secretary of State and any local questions so submitted shall be printed in brief form as directed by the General Assembly and, in the event of a failure to so direct, the form shall be determined by the superintendent. To the left of each question there shall be placed the words 'Yes' and 'No' together with appropriate squares to the left of each for the convenient insertion of a cross (X) or check (✓) mark unless otherwise directed by the General Assembly.

(g) When proposed questions are submitted to a vote of municipal electors, each question so submitted may be printed upon the ballot to the right of or below the groups of candidates for the various offices. To the left of each question there shall be placed the words 'Yes' and 'No' together with appropriate squares to the left of each for the convenient insertion of a cross (X) or check (✓) mark unless otherwise directed by the General Assembly."

## SECTION 2-8.

Said chapter is further amended by striking Code Section 21-2-285.1, relating to form of ballot in nonpartisan elections, and inserting in lieu thereof a new Code Section 21-2-285.1 to read as follows:

"21-2-285.1.

The names of all candidates for offices which were covered on July 1, 2001, by a local Act of the General Assembly which provided for election in a nonpartisan election without a prior nonpartisan primary shall be printed on each official election ballot; and insofar as practicable such offices to be filled in the nonpartisan election shall be separated from the

1 names of candidates for other offices by being listed last on each ballot, with the top of that  
2 portion of each official election ballot relating to the nonpartisan election to have printed  
3 in prominent type the words 'OFFICIAL NONPARTISAN ELECTION BALLOT.'  
4 ~~Immediately under this caption the following directions shall be printed: 'Place a cross (X)~~  
5 ~~or check (✓) mark in the square opposite the name of each nonpartisan candidate for whom~~  
6 ~~you choose to vote. To vote for a person whose name is not on the ballot, manually write~~  
7 ~~his or her name, accompanied by the title of the office involved, in the write-in column. If~~  
8 ~~you spoil your ballot, do not erase, but ask for a new ballot. Use only pen or pencil.'~~  
9 Directions that explain how to cast a vote, how to write in a candidate, and how to obtain  
10 a new ballot after the elector spoils his or her ballot shall appear immediately under the  
11 caption, as specified by rule or regulation of the State Election Board. Immediately under  
12 the directions, the name of each such nonpartisan candidate shall be arranged alphabetically  
13 by last name under the title of the office for which they are candidates and be printed  
14 thereunder ~~in alphabetical order.~~ The incumbency of a candidate seeking election for the  
15 public office he or she then holds shall be indicated on the ballot. No party designation or  
16 affiliation shall appear beside the name of any candidate for nonpartisan office. An  
17 appropriate space shall also be placed on the ballot for the casting of write-in votes for such  
18 offices. In the event that no candidate in such nonpartisan election receives a plurality of  
19 the total votes cast for such office, there shall be a nonpartisan election runoff between the  
20 candidates receiving the two highest numbers of votes; and the names of such candidates  
21 shall be placed on the official ballot at the general election runoff in the same manner as  
22 prescribed in this Code section for the nonpartisan election. In the event that only  
23 nonpartisan candidates are to be placed on a run-off ballot, the form of the ballot shall be  
24 as prescribed by the Secretary of State or election superintendent in essentially the same  
25 format as prescribed for the nonpartisan election. The candidate having a plurality of the  
26 votes cast in the nonpartisan election or the candidate receiving the highest number of votes  
27 cast in the nonpartisan election runoff shall be declared duly elected to such office."

28

## SECTION 2-9.

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

32 "(b)(1) Ballots Paper ballots other than those printed for optical scanning voting systems  
33 shall be at least six inches long and four inches wide and shall have a margin extending  
34 beyond any printing thereon. They shall be printed with the same kind of type, which  
35 shall not be smaller than the size known as 'brevier' or 'eight-point body,' upon white  
36 paper of uniform quality, without any impression or mark to distinguish one from

1 another, and with sufficient thickness to prevent the printed matter from showing through,  
2 except that ballots being used in primaries held by more than one party may be of  
3 different colors if the parties so agree. Each ballot shall be attached to a name stub, and  
4 all the ballots for the same precinct shall be bound together in books of 25, 50, or 100,  
5 in such manner that each ballot may be detached from its stub and removed separately.  
6 The ballots for each party to be used at a primary shall be bound separately. The name  
7 stubs of the ballots shall be consecutively numbered; and, in the case of primary ballots,  
8 the number shall be preceded by an initial or abbreviation designating the party name.  
9 The number and initial or abbreviation which appears upon the stub shall also be printed  
10 in the upper portion of the front of the ballot, separated from the remainder of the ballot  
11 by a horizontal perforated line so as to constitute a number strip and so prepared that the  
12 upper portion of the front of the ballot containing the number may be detached from the  
13 ballot before it is deposited in the ballot box. The number strip on the ballot shall also  
14 have the following words printed thereon: 'Tear off before depositing ballot in ballot box.'  
15 (2) Ballots for direct recording electronic voting systems shall be designed as prescribed  
16 by the Secretary of State to ensure easy reading by electors."

17 **SECTION 2-10.**

18 Said chapter is amended by striking and reserving Part 3 of Article 9, relating to voting  
19 machines and vote recorders generally.

20 **PART III**

21 **SECTION 3-1.**

22 Sections 1-1 through 1-4 and Part III of this Act shall become effective upon its approval by  
23 the Governor or upon its becoming law without such approval. Sections 1-5 and 1-6 shall  
24 become effective on October 1, 2002. Part II shall become effective on April 1, 2003.

25 **SECTION 3-2.**

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