

The House Committee on Governmental Affairs offers the following substitute
to HB 112:

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 permit absentee voting without qualification
3 during a certain period preceding an election or primary provided the elector shows proper
4 identification; to provide for definitions; to define qualified absentee elector; to define the
5 open absentee voting period; to provide that the registrar's and absentee ballot clerk's offices
6 shall be open for extended hours during the open absentee voting period; to provide a
7 procedure for establishing additional sites for receiving absentee ballots; to change
8 provisions relating to penalties for absentee voting improperly; to provide for submission;
9 to provide for related matters; to provide an effective date; to repeal conflicting laws; and for
10 other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

12 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to elections and
13 primaries generally, is amended by striking subsection (c) of Code Section 21-2-215, relating
14 to the location, hours, and duties of boards of registrars, and inserting in lieu thereof a new
15 subsection to read as follows:
16

17 "(c) Except as otherwise provided in Code Section 21-2-382.1, the The main office of the
18 board of registrars in each county shall remain open for business during regular office
19 hours on each business day, except Saturday. The main office, or such other offices, shall
20 be open at such designated times other than the normal business hours as shall reasonably
21 be necessary to facilitate registration and at such other hours as will suit the convenience
22 of the public."

SECTION 2.

23 Said chapter is further amended by striking Code Section 21-2-380, relating to the definition
24 of an absentee elector, and inserting in lieu thereof a new Code section to read as follows:
25

H. B. 112 (SUB)

1 "21-2-380.

2 (a) As used in this article, the term 'absentee elector' means an elector of this state or a
3 municipality thereof who:

4 (1) Is required to be absent from his or her ~~precinct~~ county during the entire time of the
5 open absentee voting period prior to the primary or election he or she desires to vote in;

6 ~~(2) Will perform any of the official acts or duties set forth in this chapter in connection
7 with the primary or election he or she desires to vote in;~~

8 ~~(3)~~(2) Because of physical disability or because of being required to give constant care
9 to someone who is physically disabled, will be unable to be present at the polls on the day
10 of such primary or election;

11 ~~(4) Because the election or primary falls upon a religious holiday observed by such
12 elector, will be unable to be present at the polls on the day of such primary or election;~~

13 ~~(5) Is required to remain on duty in his or her place of employment for the protection of
14 the health, life, or safety of the public during the entire time the polls are open when such
15 place of employment is within the precinct in which the voter resides; or~~

16 ~~(6)~~(3) Is 75 years of age or older; or

17 (4) Votes an absentee ballot without qualification during the open absentee voting
18 period.

19 (b) As used in this article, the term 'open absentee voting period' means the 15 days prior
20 to a primary or election when absentee voting without qualification is permitted pursuant
21 to Code Section 21-2-385.

22 (c) As used in this article, the term 'qualified absentee elector' means any absentee elector
23 who fits one of the qualifications listed in paragraphs (1) through (3) of subsection (a) of
24 this Code section."

25 SECTION 3.

26 Said chapter is further amended by striking Code Section 21-2-381, relating to application
27 and eligibility for an absentee ballot, and inserting in lieu thereof a new Code section to read
28 as follows:

29 "21-2-381.

30 (a)(1) Not more than 180 days prior to the date of the primary or election, or runoff of
31 either, in which the elector desires to vote, any qualified absentee elector may make,
32 either by mail, by facsimile transmission, or in person in the registrar's or absentee ballot
33 clerk's office, an application for an official ballot of the elector's precinct to be voted at
34 such primary, election, or runoff. In the case of an elector residing temporarily out of the
35 county or municipality or a physically disabled elector residing within the county or
36 municipality, the application for the elector's absentee ballot may, upon satisfactory proof

1 of relationship, be made by such elector's mother, father, grandparent, aunt, uncle, sister,
 2 brother, spouse, son, daughter, niece, nephew, grandchild, son-in-law, daughter-in-law,
 3 mother-in-law, father-in-law, brother-in-law, or sister-in-law of the age of 18 or over. The
 4 application shall be in writing and shall contain sufficient information for proper
 5 identification of the elector; the permanent or temporary address of the elector to which
 6 the absentee ballot shall be mailed; the identity of the primary, election, or runoff in
 7 which the elector wishes to vote; the reason for requesting the absentee ballot; and the
 8 name and relationship of the person requesting the ballot if other than the elector.

9 (2) Except in the case of physically disabled electors residing in the county or
 10 municipality, no absentee ballot shall be mailed to an address other than the permanent
 11 mailing address of the elector as recorded on the elector's voter registration record or a
 12 temporary out-of-county or out-of-municipality address.

13 (3) Relatives applying for absentee ballots for electors must also sign an oath stating that
 14 facts in the application are true.

15 (4) If the elector is unable to fill out or sign such elector's own application because of
 16 illiteracy or physical disability, the elector shall make such elector's mark, and the person
 17 filling in the rest of the application shall sign such person's name below it as a witness.

18 (5) One timely and proper application for an absentee ballot for use in a primary shall
 19 be sufficient to require the mailing of the absentee ballot for such primary as well as for
 20 any runoffs resulting therefrom and for the election for which such primary shall
 21 nominate candidates and any runoffs resulting therefrom to an eligible absentee elector
 22 who lives outside the county or municipality in which the election is held and is also a
 23 member of the armed forces of the United States, a member of the merchant marine of
 24 the United States, or a spouse or dependent of a member of the armed forces or the
 25 merchant marine residing with or accompanying said member or overseas citizen. Any
 26 elector meeting ~~criteria~~ the criterion of advanced age or disability specified by rule or
 27 regulation of the Secretary of State may request in writing on one application a ballot for
 28 a primary as well as for any runoffs resulting therefrom and for the election for which
 29 such primary shall nominate candidates as well as any runoffs resulting therefrom. If not
 30 so requested by such person, a separate and distinct application shall be required for each
 31 primary, run-off primary, election, and run-off election. Notwithstanding the foregoing,
 32 a separate and distinct application for an absentee ballot shall always be required for the
 33 presidential preference primary held pursuant to Article 5 of this chapter and for any
 34 special election or special primary.

35 ~~(2)~~(6) A properly executed registration card submitted under the provisions of subsection
 36 (b) of Code Section 21-2-219, if submitted within 180 days of a primary or election in
 37 which the registrant is entitled to vote, shall be considered to be an application for an

1 absentee ballot under this Code section, or for a special absentee ballot under Code
2 Section 21-2-381.1, as appropriate.

3 ~~(3)~~(7) Any application for an official absentee ballot that is distributed by a person,
4 entity, or organization shall require a voter to identify thereon which one of the legally
5 acceptable categories of qualified absentee electors listed in paragraphs (1) through (3)
6 of subsection (a) of Code Section 21-2-380 authorizes the voter to vote by absentee
7 ballot.

8 (b)(1) Upon receipt of a timely application, a registrar or absentee ballot clerk shall enter
9 thereon the date received and shall determine if the applicant is eligible to vote in the
10 primary or election involved.

11 (2) If found eligible, the registrar or absentee ballot clerk shall certify by signing in the
12 proper place on the application and shall either mail the ballot as provided in this Code
13 section or issue the ballot to the elector to be voted within the confines of the registrar's
14 or absentee ballot clerk's office or deliver the ballot in person to the elector if such elector
15 is confined to a hospital.

16 (3) If found ineligible, the clerk or the board of registrars shall deny the application by
17 writing the reason for rejection in the proper space on the application and shall promptly
18 notify the applicant in writing of the ground of ineligibility, a copy of which notification
19 should be retained on file in the office of the board of registrars or absentee ballot clerk
20 for at least one year.

21 (4) If the registrar or clerk is unable to determine the identity of the elector from
22 information given on the application, the registrar or clerk should promptly write to
23 request additional information.

24 (5) In the case of an unregistered applicant who is eligible to register to vote, the clerk
25 or the board shall immediately mail a blank registration card as provided by Code Section
26 21-2-223, and such applicant, if otherwise qualified, shall be deemed eligible to vote by
27 absentee ballot in such primary or election, if the registration card, properly completed,
28 is returned to the clerk or the board on or before the last day for registering to vote in
29 such primary or election. If the closing date for registration in the primary or election
30 concerned has not passed, the clerk or registrar shall also mail a ballot to the applicant,
31 as soon as it is prepared and available; and the ballot shall be cast in such primary or
32 election if returned to the clerk or board not later than the close of the polls on the day of
33 the primary or election concerned.

34 (c) In those counties or municipalities in which the absentee ballot clerk or board of
35 registrars provides application forms for absentee ballots, the clerk or board shall provide
36 such quantity of the application form to the dean of each college or university located in
37 that county as said dean determines necessary for the students of such college or university.

1 (d)(1) A citizen of the United States permanently residing outside the United States is
 2 entitled to make application for an absentee ballot from Georgia and to vote by absentee
 3 ballot in any election for presidential electors and United States senator or representative
 4 in Congress:

5 (A) If such citizen was last domiciled in Georgia immediately before his or her
 6 departure from the United States; and

7 (B) If such citizen could have met all qualifications, except any qualification relating
 8 to minimum voting age, to vote in federal elections even though, while residing outside
 9 the United States, he or she does not have a place of abode or other address in Georgia.

10 (2) An individual is entitled to make application for an absentee ballot under paragraph
 11 (1) of this subsection even if such individual's intent to return to Georgia may be
 12 uncertain, as long as:

13 (A) He or she has complied with all applicable Georgia qualifications and requirements
 14 which are consistent with 42 U.S.C. Section 1973ff concerning absentee registration for
 15 and voting by absentee ballots;

16 (B) He or she does not maintain a domicile, is not registered to vote, and is not voting
 17 in any other state or election district of a state or territory or in any territory or
 18 possession of the United States; and

19 (C) He or she has a valid passport or card of identity and registration issued under the
 20 authority of the Secretary of State of the United States or, in lieu thereof, an alternative
 21 form of identification consistent with 42 U.S.C. Section 1973ff and applicable state
 22 requirements, if a citizen does not possess a valid passport or card of identity and
 23 registration.

24 (e) The Secretary of State is authorized to promulgate reasonable rules and regulations for
 25 the implementation of ~~paragraph (1)~~ of subsection (a) of this Code section. Said rules and
 26 regulations may include provisions for the limitation of opportunities for fraudulent
 27 application, including, but not limited to, comparison of voter registration records with
 28 death certificates."

29 SECTION 4.

30 Said chapter is further amended by striking Code Section 21-2-382, relating to additional
 31 sites as additional registrar's office or place of registration for absentee ballots, and inserting
 32 in lieu thereof two new Code sections to read as follows:

33 "21-2-382.

34 (a) Any other provisions of this chapter to the contrary notwithstanding, the board of
 35 registrars or municipal governing authority, as appropriate, may establish by unanimous
 36 vote additional sites as additional registrar's offices, absentee ballot clerk's offices, or

1 places of registration for the purpose of receiving absentee ballots under Code Section
 2 21-2-381 and for the purpose of voting absentee ballots under Code Section 21-2-385,
 3 provided that any such site is a branch of the county courthouse, a courthouse annex, a
 4 government service center providing general government services, an authorized polling
 5 place, or another government building generally accessible to the public.

6 (b) Any other provisions of this chapter to the contrary notwithstanding, in all counties of
 7 this state having a population of 550,000 or more or having a population between 88,000
 8 and 90,000 according to the United States decennial census of 1990 or any future such
 9 census, any branch of the county courthouse or courthouse annex established within any
 10 such county shall be an additional registrar's office or place of registration for the purpose
 11 of receiving absentee ballots under Code Section 21-2-381 and for the purpose of voting
 12 absentee ballots under Code Section 21-2-385.

13 21-2-382.1.

14 During the open absentee voting period and for the purpose of absentee voting without
 15 qualification, the main office of the board of registrars, the absentee ballot clerk's office,
 16 and other such locations within the city or county as may be designated by the board of
 17 registrars or the governing authority of the municipality for the purpose of absentee voting
 18 without qualification shall be open as follows:

19 (1) In counties with a population of 50,000 or less and in cities with a population of
 20 25,000 or less according to the United States decennial census of 1990 or any future such
 21 census, on at least two weekday evenings until at least 7:00 P.M. and for a reasonable
 22 period of time on at least one weekend day, provided that such offices and such other
 23 locations shall be open on the last Saturday of the open absentee voting period. Such
 24 period of time shall not be less than four hours on each such weekend day; and

25 (2) In counties with a population of over 50,000 and cities with a population of over
 26 25,000 according to the United States decennial census of 1990 or any future such census,
 27 on at least four weekday evenings until at least 7:00 P.M. and for a reasonable period of
 28 time on at least two weekend days, provided that such offices and such locations shall be
 29 open on the last Saturday of the open absentee voting period. Such period of time shall
 30 not be less than four hours on each such weekend day."

31 **SECTION 5.**

32 Said chapter is further amended by striking Code Section 21-2-385, relating to the procedure
 33 for voting by absentee ballot, and inserting in lieu thereof a new Code section to read as
 34 follows:

1 "21-2-385.

2 (a) At any time after receiving an official absentee ballot, but before the day of the primary
3 or election, except electors who are confined to a hospital on the day of the primary or
4 election, the elector shall vote his or her absentee ballot, then fold the ballot and enclose
5 and securely seal the same in the envelope on which is printed 'Official Absentee Ballot.'
6 This envelope shall then be placed in the second one, on which is printed the form of the
7 oath of the elector; the name, relationship, and oath of the person assisting, if any; and
8 other required identifying information. The elector shall then fill out, subscribe, and swear
9 to the oath printed on such envelope. Such envelope shall then be securely sealed and the
10 elector shall then mail or personally deliver same to the board of registrars or absentee
11 ballot clerk, provided that delivery by a physically disabled elector may be made by any
12 adult person upon satisfactory proof that such adult person is such elector's mother, father,
13 grandparent, aunt, uncle, brother, sister, spouse, son, daughter, niece, nephew, grandchild,
14 son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, sister-in-law, or
15 an individual residing in the household of such disabled elector. An elector who is
16 confined to a hospital on a primary or election day to whom an absentee ballot is delivered
17 by the registrar or absentee ballot clerk shall then and there vote the ballot, seal it properly,
18 and return it to the registrar or absentee ballot clerk.

19 (b) A physically disabled or illiterate elector may receive assistance in preparing his or her
20 ballot from one of the following: any elector who is qualified to vote in the same county
21 or municipality as the disabled or illiterate elector or the mother, father, grandparent, aunt,
22 uncle, brother, sister, spouse, son, daughter, niece, nephew, grandchild, son-in-law,
23 daughter-in-law, mother-in-law, father-in-law, brother-in-law, or sister-in-law of the
24 disabled or illiterate elector. The person rendering assistance to the elector in preparing the
25 ballot shall sign the oath printed on the same envelope as the oath to be signed by the
26 elector. If the disabled or illiterate elector is sojourning outside his or her own county or
27 municipality, a notary public of the jurisdiction may give such assistance and shall sign the
28 oath printed on the same envelope as the oath to be signed by the elector. No person shall
29 assist more than ten such electors in any primary, election, or runoff.

30 (c) When an elector applies in person for an absentee ballot, after the absentee ballots have
31 been printed, the absentee ballot shall be issued to the elector at the time of the application
32 therefor within the confines of the registrar's or absentee ballot clerk's office; and the
33 elector shall then and there vote and return the absentee ballot as provided in subsections
34 (a) and (b) of this Code section. The board of registrars or absentee ballot clerk shall
35 furnish accommodations to the elector to ensure the privacy of the elector while voting his
36 or her absentee ballot.

1 (d) Absentee voting without qualification is permitted in county, state, and federal
 2 elections during the open absentee voting period which shall begin on the fifteenth day
 3 prior to a primary or election and shall end at 5:00 P.M. on the Saturday before the primary
 4 or election. During the open absentee voting period, an elector may vote an absentee ballot
 5 without meeting any of the qualifications listed in paragraphs (1) through (3) of subsection
 6 (a) of Code Section 21-2-380 by appearing in person at the main office of the board of
 7 registrars or absentee ballot clerk or at any such other location within the city or county as
 8 may be designated pursuant to Code Section 21-2-382, presenting proper identification as
 9 defined in Code Section 21-2-417, and requesting an absentee ballot. If the elector is
 10 qualified to vote, the elector shall receive an absentee ballot and shall then and there vote
 11 and return such ballot as provided in subsections (a) and (b) of this Code section. The board
 12 of registrars or absentee ballot clerk shall furnish accommodations to the elector to ensure
 13 the privacy of the elector while voting his or her absentee ballot."

14 **SECTION 6.**

15 Said chapter is further amended by striking Code Section 21-2-573, relating to absentee
 16 voting by an unqualified elector, and inserting in lieu thereof a new Code section to read as
 17 follows:

18 "21-2-573.

19 (a) Except as provided in subsection (b) of this Code section, any Any person who votes
 20 or attempts to vote by absentee ballot at any primary or election under Article 10 of this
 21 chapter and who is not a qualified to vote absentee elector as defined in subsection (c) of
 22 Code Section 21-2-380 shall be guilty of a misdemeanor.

23 (b) The provisions of subsection (a) of this Code section shall not apply to a person who
 24 votes an absentee ballot without qualification during the open absentee voting period."

25 **SECTION 7.**

26 It shall be the duty of the Attorney General to submit this Act for approval pursuant to
 27 Section 5 of the federal Voting Rights Act of 1965, as amended. If implementation of this
 28 Act is not permissible under the federal Voting Rights Act of 1965, as amended, then this Act
 29 shall be void and stand repealed in its entirety.

30 **SECTION 8.**

31 This Act shall become effective January 1, 2002.

32 **SECTION 9.**

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