

House Bill 110 (AM)

By: Representatives Holmes of the 53<sup>rd</sup>, Watson of the 70<sup>th</sup>, Borders of the 177<sup>th</sup>, Hudson of the 120<sup>th</sup> and DeLoach of the 172<sup>nd</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 21 of the Official Code of Georgia Annotated, relating to elections, so as to  
2 make clerical and conforming changes to the Georgia Election Code; to provide that  
3 candidates for county and municipal offices who pay a qualifying fee with a check that is  
4 dishonored are automatically found not to have met the qualifications for holding the office  
5 sought; to allow the State Elections Board to authorize the Secretary of State to investigate  
6 violations of the Georgia Election Code; to provide that qualifying periods and primaries and  
7 elections may be extended or postponed in the event the Governor declares a state of  
8 emergency or natural disaster; to provide that municipal election superintendents be  
9 appointed in a public meeting; to extend municipal write-in candidates' time to give notice  
10 of such candidacy until seven days after municipal qualifying ends; to provide that municipal  
11 registrars must be registered Georgia voters and to eliminate the requirement that they be  
12 residents of their municipality; to change provisions relating to a voter's change of address;  
13 to provide for incumbency to be noted on a ballot in a nonpartisan election and to provide  
14 that candidates be listed alphabetically; to provide that ballots be supplied in a number equal  
15 to that of active registered voters; to provide that addresses of candidates who have the same  
16 last name shall be printed on the ballots or ballot labels as appropriate; to change provisions  
17 relating to testing of tabulating machines; to provide that absentee voters who vote in person  
18 shall show the same identification a voter must show at the polling place; to provide that  
19 challenges to absentee voters must be done prior to noon on the day of the primary or  
20 election; to eliminate the use of a hunting or fishing license as proper voter identification; to  
21 eliminate the provision that only one poll may be open in a special election for a member of  
22 the General Assembly if only one candidate qualifies for the special election; to provide that  
23 tampering with voting equipment is a felony; to change provisions relating to recall elections;  
24 to provide for related matters; to provide an effective date; to repeal conflicting laws; and for  
25 other purposes.

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Title 21 of the Official Code of Georgia Annotated, relating to elections, is amended by redesignating subsection (d) of Code Section 21-2-6, relating to qualifications of candidates for county and municipal offices, as subsection (e) and inserting a new subsection (d) to read as follows:

"(d) In the event that a candidate pays his or her qualifying fee with a check that is subsequently returned for insufficient funds, the superintendent shall automatically find that such candidate has not met the qualifications for holding the office being sought, unless the bank, credit union, or other financial institution returning the check certifies in writing by an officer's or director's oath that the bank, credit union, or financial institution erred in returning the check."

**SECTION 2.**

Said title is further amended by striking paragraph (5) of Code Section 21-2-31, relating to the powers and duties of the State Election Board, and inserting in lieu thereof a new paragraph to read as follows:

"(5) To investigate, or authorize the Secretary of State to investigate, when necessary or advisable the administration of primary and election laws and frauds and irregularities in primaries and elections and to report violations of the primary and election laws either to the Attorney General or the appropriate district attorney who shall be responsible for further investigation and prosecution. Nothing in this paragraph shall be so construed as to require any complaining party to request an investigation by the board before such party might proceed to seek any other remedy available to that party under this chapter or any other provision of law;"

**SECTION 3.**

Said title is further amended by adding following Code Section 21-2-50, relating to powers and duties of the Secretary of State, a new Code section to read as follows:

"21-2-50.1.

In the event the Governor declares that a state of emergency or disaster exists pursuant to Code Section 38-3-51, the Secretary of State is authorized to postpone or extend the qualifying periods provided in this chapter for the qualification of candidates seeking municipal, county, or state-wide office and to postpone the date of any primary, special primary, election, or special election in the affected area. The Secretary of State shall exercise the powers granted by this Code section carefully, and any such postponement or extension shall not exceed 45 days."

**SECTION 4.**

Said title is further amended by striking Code Section 21-2-70.1, relating to municipal superintendents, and inserting in lieu thereof a new Code section to read as follows:

"21-2-70.1.

(a) The municipal superintendent shall conduct, in accordance with this chapter, all municipal elections held within his or her municipality.

(b) The municipal superintendent shall be a person or committee selected ~~in the manner prescribed~~ by the governing authority of the municipality ~~with compensation~~ in a public meeting and such selection shall be recorded in the minutes of such meeting. The municipal superintendent shall receive compensation fixed and paid by the governing authority of the municipality from municipal funds. A parent, spouse, child, brother, sister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law of a candidate shall not be eligible to serve as a municipal superintendent in any ~~precinct primary or election~~ primary or election in which such candidate's name appears on the ballot ~~in any primary or election.~~"

**SECTION 5.**

Said title is further amended by striking subsection (a) of Code Section 21-2-133, relating to procedures for write-in candidacy, and inserting in lieu thereof a new subsection to read as follows:

"(a) No person elected on a write-in vote shall be eligible to hold office unless notice of his or her intention of candidacy was filed and published no earlier than January 1 and no later than the Tuesday after the first Monday in September prior to the election for county, state, and federal elections and no later than seven days after the close of the municipal qualifying period for municipal elections in the case of a general election or at least 20 or more days prior to a special election by the person to be a write-in candidate or by some other person or group of persons qualified to vote in the subject election, as follows:

(1) In a state general or special election, notice shall be filed with the Secretary of State and published in a paper of general circulation in the state;

(2) In a general or special election of county officers, notice shall be filed with the superintendent of elections in the county in which he or she is to be a candidate and published in the official organ of the same county; or

(3) In a municipal general or special election, notice shall be filed with the superintendent and published in the official gazette of the municipality holding the election."

**SECTION 6.**

Said title is further amended by striking subsection (a) of Code Section 21-2-214, relating to qualifications and duties of registrars and deputy registrars, and inserting in lieu thereof a new subsection to read as follows:

"(a) County registrars ~~Registrars~~ and deputy registrars shall be electors of the county ~~or municipality~~ in which they are appointed and shall be able to read, write, and speak the English language. Municipal registrars shall be registered Georgia voters and shall be able to read, write, and speak the English language."

#### SECTION 7.

Said title is further amended by striking Code Section 21-2-218, relating to address changes and corrections and cancellation of voter registration in former state or county, and inserting in lieu thereof a new Code section to read as follows:

"21-2-218.

(a) Any person, who is registered to vote in another state and who moves such person's residence from that state to this state, shall, at the time of making application to register to vote in this state, provide such information as specified by the Secretary of State in order to notify such person's former voting jurisdiction of the person's application to register to vote in this state and to cancel such person's registration in the former place of residence.

(b) Any person, who is registered to vote in another county or municipality in this state and who moves such person's residence from that county or municipality to another county or municipality in this state, shall, at the time of making application to register to vote in that county or municipality, provide such information as specified by the Secretary of State in order to notify such person's former voting jurisdiction of the person's application to register to vote in the new place of residence and to cancel such person's registration in the former place of residence.

(c) In the event that an elector moves to a residence within the county or municipality and has a different address from the address contained on the person's registration card, it shall be the duty of such elector to notify the board of registrars of such fact ~~at least 30 days by~~ the fifth Monday prior to the primary or election in which such elector wishes to vote by submitting the change of address in writing. The board of registrars shall then correct the elector's record to reflect the change of address and place the elector in the proper precinct and voting districts. The board of registrars may accept a properly submitted application for an absentee ballot for this purpose for electors who move to an address within the county or municipality which is different from the address contained on the person's registration card.

(d) In the event that an elector moves to a residence within the county or municipality but into a different precinct or who moves to a residence in the same precinct but at a different

1 address and fails to notify the board of registrars of such fact ~~at least 30 days~~ by the fifth  
2 Monday prior to an election or primary such elector shall vote in the precinct of such  
3 elector's former residence for such election or primary and for any runoffs resulting  
4 therefrom. The superintendent of an election shall make available at each polling place  
5 forms furnished by the Secretary of State which shall be completed by each such elector  
6 to reflect such elector's present legal residence. Such forms may also be used to notify the  
7 board of registrars of a change in an elector's name. The board of registrars shall thereafter  
8 place the elector in the proper precinct and voting districts and correct the list of electors  
9 accordingly. If the elector is placed in a precinct other than the one in which such elector  
10 has previously been voting, such elector shall be notified of the new polling place by  
11 first-class mail.

12 (e) Any provision of this chapter to the contrary notwithstanding, an elector who moves  
13 from one county or municipality to another ~~within 30 days~~ after the fifth Monday prior to  
14 a primary or election may vote in the county or municipality or precinct in which such  
15 elector is registered to vote.

16 (f) No person shall vote in any county or municipality other than the county or  
17 municipality of such person's residence except as provided in subsection (e) of this Code  
18 section.

19 (g) In the event that the registration records incorrectly indicate that an elector has moved  
20 from an address within a precinct, the elector may vote in the precinct upon affirming in  
21 writing on a form prescribed by the Secretary of State that the elector still resides in the  
22 precinct at the address previously provided to the board of registrars. The registrars shall  
23 correct the elector's registration record to reflect the correct address.

24 (h) If a voter registration application is completed at a polling place for the purpose of  
25 recording a change of address and the new address is outside the county, then the registrar  
26 shall forward the application to the registrar in the new county of residence."

## 27 SECTION 8.

28 Said title is further amended by striking Code Section 21-2-285.1, relating to nonpartisan  
29 elections, and inserting in lieu thereof a new Code section to read as follows:

30 "21-2-285.1.

31 The names of all candidates nominated in the nonpartisan primary shall be printed on each  
32 official election ballot; and insofar as practicable such offices to be filled in the nonpartisan  
33 election shall be separated from the names of candidates for other offices by being listed  
34 last on each ballot, with the top of that portion of each official election ballot relating to the  
35 nonpartisan election to have printed in prominent type the words 'OFFICIAL  
36 NONPARTISAN ELECTION BALLOT.' Immediately under this caption the following

directions shall be printed: 'Place a cross (X) or check (✓) mark in the square opposite the name of each nonpartisan candidate for whom you choose to vote. To vote for a person whose name is not on the ballot, manually write his or her name, accompanied by the title of the office involved, in the write-in column. If you spoil your ballot, do not erase, but ask for a new ballot. Use only pen or pencil.' Immediately under the directions, the name of each nonpartisan candidate shall be arranged alphabetically by last name under the title of the office for which such candidate was nominated in the official nonpartisan primary. The incumbency of a candidate seeking election for the public office he or she then holds shall be indicated on the ballot. No party designation or affiliation shall appear beside the name of any candidate for nonpartisan office. An appropriate space shall also be placed on the ballot for the casting of write-in votes for such offices. In the event that no candidate in such nonpartisan election receives a plurality of the total votes cast for such office, there shall be a nonpartisan election runoff between the candidates receiving the two highest numbers of votes; and the names of such candidates shall be placed on the official ballot at the general election runoff in the same manner as prescribed in this Code section for the nonpartisan election. In the event that only nonpartisan candidates are to be placed on a run-off ballot, the form of the ballot shall be as prescribed by the Secretary of State or election superintendent in essentially the same format as prescribed for the nonpartisan election. The candidate having a plurality of the votes cast in the nonpartisan election or the candidate receiving the highest number of votes cast in the nonpartisan election runoff shall be declared duly elected to such office."

## SECTION 9.

Said title is further amended by striking Code Section 21-2-290, relating to the provision of ballots by the superintendent, and inserting in lieu thereof a new Code section to read as follows:

"21-2-290.

The superintendent shall provide, for each precinct in which a primary or election is to be held, a sufficient number of ballots equal to the number of active registered electors."

## SECTION 10.

Said title is further amended by adding following Code Section 21-2-325, relating to the form of ballot labels for voting machines, a new Code section to read as follows:

"21-2-325.1.

If two or more candidates for the same nomination or office shall have the same or similar names, the Secretary of State, in the case of federal or state offices, the superintendent of elections, in the case of county offices, or the official with whom such candidates qualify,

1 in the case of municipal offices, shall print or cause to be printed the residence address of  
2 all candidates for such nomination or office on the ballot label under their names. The  
3 designated official shall determine whether the names of the candidates are of such a  
4 similar nature as to warrant printing the residence address of all candidates for that office  
5 on the ballot label; and the decision of the designated official shall be conclusive."

#### 6 **SECTION 11.**

7 Said title is further amended by striking subsection (c) of Code Section 21-2-359, relating  
8 to preparation of vote recorders, and inserting in lieu thereof a new subsection to read as  
9 follows:

10 "(c) On or before the third day preceding a primary or election, the superintendent shall  
11 have the tabulating machines tested to ascertain that they will correctly count the votes cast  
12 for all offices and on all questions. Public notice of the time and place of the test shall be  
13 made at least five days prior thereto. Representatives of political parties and bodies,  
14 candidates, news media, and the public shall be permitted to observe such tests. The test  
15 shall be conducted by processing a preaudited group of ballot cards so punched or marked  
16 as to record a predetermined number of valid votes for each candidate and on each question  
17 and shall include for each office one or more ballot cards which are improperly marked and  
18 one or more ballot cards which have votes in excess of the number allowed by law in order  
19 to test the ability of the tabulating machine to reject such votes. The tabulating machine  
20 shall not be approved unless it produces an errorless count. If any error is detected, the  
21 cause therefor shall be ascertained and corrected; and an errorless count shall be made  
22 before the machine is approved. The same test shall be repeated immediately before the  
23 start of the official count of the ballot cards and at the conclusion of such count. The  
24 superintendent or custodian shall also prepare the vote recorders for voting at the various  
25 polling places to be used in the primary or election. In preparing the vote recorders, he or  
26 she shall arrange the recorders and the ballot labels so that they meet all requirements of  
27 voting and counting at such primary or election, thoroughly inspect and test the vote  
28 recorders, and file a certificate in the office of the superintendent of the county or the city  
29 clerk of the municipality that the recorders are in proper order with correct ballot labels."

#### 30 **SECTION 12.**

31 Said title is further amended by striking Code Section 21-2-380.1, relating to the appointment  
32 of absentee ballot clerks, and inserting in lieu thereof a new Code section to read as follows:

33 "21-2-380.1.

1 The governing authority of a municipality shall appoint an absentee ballot clerk who may  
2 be the county registrar, municipal registrar, or any other designated official and who shall  
3 perform the duties set forth in this article."

#### 4 SECTION 13.

5 Said title is further amended by striking subsection (b) of Code Section 21-2-381, relating  
6 to applications for absentee ballots and eligibility to vote by absentee ballot, and inserting  
7 in lieu thereof a new subsection to read as follows:

8 "(b) 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. In order to be found eligible to vote an absentee ballot in  
11 person at the registrar's office or absentee ballot clerk's office, such person shall show one  
12 of the forms of identification listed in Code Section 21-2-417. If found eligible, the  
13 registrar or absentee ballot clerk shall certify by signing in the proper place on the  
14 application and shall either mail the ballot as provided in this Code section or issue the  
15 ballot to the elector to be voted within the confines of the registrar's or absentee ballot  
16 clerk's office or deliver the ballot in person to the elector if such elector is confined to a  
17 hospital. If found ineligible, the clerk or the board of registrars shall deny the application  
18 by writing the reason for rejection in the proper space on the application and shall promptly  
19 notify the applicant in writing of the ground of ineligibility, a copy of which notification  
20 should be retained on file in the office of the board of registrars or absentee ballot clerk for  
21 at least one year. If the registrar or clerk is unable to determine the identity of the elector  
22 from information given on the application, the registrar or clerk should promptly write to  
23 request additional information. In the case of an unregistered applicant who is eligible to  
24 register to vote, the clerk or the board shall immediately mail a blank registration card as  
25 provided by Code Section 21-2-223, and such applicant, if otherwise qualified, shall be  
26 deemed eligible to vote by absentee ballot in such primary or election, if the registration  
27 card, properly completed, is returned to the clerk or the board on or before the last day for  
28 registering to vote in such primary or election. If the closing date for registration in the  
29 primary or election concerned has not passed, the clerk or registrar shall also mail a ballot  
30 to the applicant, as soon as it is prepared and available; and the ballot shall be cast in such  
31 primary or election if returned to the clerk or board not later than the close of the polls on  
32 the day of the primary or election concerned."

#### 33 SECTION 14.



Said title is further amended by striking subsection (d) of Code Section 21-2-384, relating to preparation and delivery of election supplies, oaths of absentee electors, and challenges, and inserting in lieu thereof a new subsection (d) to read as follows:

"(d) Each board of registrars or absentee ballot clerk shall maintain for public inspection a master list, arranged by precincts, setting forth the name and residence of every elector to whom an official absentee ballot has been sent. Absentee electors whose names appear on the master list may be challenged by any elector prior to ~~closing of the polls~~ 12:00 Noon on the day of the primary or election."

#### SECTION 15.

Said title is further amended by striking subsection (a) of Code Section 21-2-417, relating to proper identification for voting at a polling place, and inserting in lieu thereof a new subsection to read as follows:

"(a) Each elector shall present proper identification to a poll worker at or prior to completion of a voter's certificate at any polling place and prior to such person's admission to the enclosed space at such polling place. Proper identification shall consist of any one of the following:

(1) A valid Georgia driver's license;

(2) A valid identification card issued by a branch, department, agency, or entity of the State of Georgia, any other state, or the United States authorized by law to issue personal identification;

(3) A valid United States passport;

(4) A valid employee identification card containing a photograph of the elector and issued by any branch, department, agency, or entity of the United States government, this state, or any county, municipality, board, authority, or other entity of this state;

(5) A valid employee identification card containing a photograph of the elector and issued by any employer of the elector in the ordinary course of such employer's business;

(6) A valid student identification card containing a photograph of the elector from any public or private college, university, or postgraduate technical or professional school located within the State of Georgia;

~~(7) A valid Georgia hunting or fishing license;~~

~~(8)~~(7) A valid Georgia license to carry a pistol or revolver;

~~(9)~~(8) A valid pilot's license issued by the Federal Aviation Administration or other authorized agency of the United States;

~~(10)~~(9) A valid United States military identification card;

~~(11)~~(10) A certified copy of the elector's birth certificate;

~~(12)~~(11) A valid social security card;

(13)(12) Certified naturalization documentation; or

(14)(13) A certified copy of court records showing adoption, name, or sex change."

### SECTION 16.

Said title is further amended by striking Code Section 21-2-544, relating to a special election for a General Assembly vacancy, and inserting in lieu thereof a new Code section to read as follows:

"21-2-544.

Whenever a vacancy shall occur or exist in either house of the General Assembly during a session of the General Assembly or whenever such vacancy shall occur or exist at a time when the members of the General Assembly shall be required to meet, at any time previous to the next November election, the Governor shall issue, within ten days after the occurrence of such vacancy, or after the calling of an extraordinary session of the General Assembly during the existence of such vacancy, a writ of election to the Secretary of State for a special election to fill such vacancy, which election shall be held on the date named in the writ, which shall not be less than 30 nor more than 60 days after its issuance. Upon receiving the writ of election from the Governor, the Secretary of State shall then transmit the writ of election to the superintendent of each county involved and shall publish the call of the election. In all other cases any such special election to fill any such vacancy shall be held if the Governor issues his or her writ of election therefor. In such cases the writ of election shall be issued to the Secretary of State who shall transmit the writ of election to the superintendent of each county involved and shall publish the call of the election. ~~If a vacancy occurs while the General Assembly is in session and the Governor elects to issue a writ, it shall only be necessary to have one poll open in every county involved, which shall be at the county seat, if only one candidate has qualified for the vacant seat."~~

### SECTION 17.

Said title is further amended by adding following Code Section 21-2-582, relating to tampering with vote recorders or tabulating machines, a new Code section to read as follows:

"21-2-582.1.

(a) For the purposes of this Code section, the term 'voting equipment' shall mean a voting machine, vote recorder, tabulating machine, optical scanning voting system, or direct electronic recording voting system.

(b) Any person or entity, including but not limited to a manufacturer or seller of voting equipment, who alters, modifies, or changes any aspect of such voting equipment without prior approval of the Secretary of State is guilty of a felony."

**SECTION 18.**

Said title is further amended by striking subsection (a) of Code Section 21-4-4, relating to who is subject to recall and grounds and procedures for demanding such a recall, and inserting in lieu thereof a new subsection to read as follows:

"(a) Every public official who holds elective office, either by election or by appointment, is subject to recall from office by electors who are registered and qualified to vote in the recall election and who reside in the electoral district from which candidates are elected to that office:

(1) In the case of a state officer whose electoral district encompasses the entire state, the number of electors necessary to petition the recall of the officer shall be equal to at least 15 percent of the number of electors who were registered and qualified to vote at the last preceding ~~general~~ election for any candidate offering for the office held by the officer. At least one-fifteenth of the number of electors necessary to petition the recall of the officer must reside in each of the United States congressional districts in the state as said congressional districts may now or hereafter exist; or

(2) In the case of a state officer whose electoral district encompasses only a part of the state or in the case of a local officer, the number of electors necessary to petition the recall of the officer shall be equal to at least 30 percent of the number of electors registered and qualified to vote at the last preceding ~~general~~ election for any candidate offering for the office held by the officer."

**SECTION 19.**

Said title is further amended by striking subsection (c) of Code Section 21-4-5, relating to recall petitions, and inserting in lieu thereof a new subsection to read as follows:

"(c) The number of official sponsors necessary to file an application for a recall petition must be equal in number to at least 100 electors or equal in number to at least 10 percent of the number of electors who were registered to vote at the last preceding ~~general~~ election for any of the candidates offering for the office held by the public official sought to be recalled, whichever is smaller."

**SECTION 20.**

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

**SECTION 21.**

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