

House Bill 110

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

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:

H. B. 110

SECTION 1.

1
2 Title 21 of the Official Code of Georgia Annotated, relating to elections, is amended by
3 redesignating subsection (d) of Code Section 21-2-6, relating to qualifications of candidates
4 for county and municipal offices, as subsection (e) and inserting a new subsection (d) to read
5 as follows:

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

SECTION 2.

12
13 Said title is further amended by striking paragraph (5) of Code Section 21-2-31, relating to
14 the powers and duties of the State Election Board, and inserting in lieu thereof a new
15 paragraph to read as follows:

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

SECTION 3.

24
25 Said title is further amended by adding following Code Section 21-2-50, relating to powers
26 and duties of the Secretary of State, a new Code section to read as follows:

27 "21-2-50.1.

28 In the event the Governor declares that a state of emergency or disaster exists pursuant to
29 Code Section 38-3-51, the Secretary of State is authorized to postpone or extend the
30 qualifying periods provided in this chapter for the qualification of candidates seeking
31 municipal, county, or state-wide office and to postpone the date of any primary, special
32 primary, election, or special election in the affected area. The Secretary of State shall
33 exercise the powers granted by this Code section carefully, and any such postponement or
34 extension shall be reasonable."

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

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

8 **SECTION 7.**

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

12 "21-2-218.

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

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

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

35 (d) In the event that an elector moves to a residence within the county or municipality but
 36 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

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

22 **SECTION 9.**

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

26 "21-2-290.

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

29 **SECTION 10.**

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

32 "21-2-325.1.

33 If two or more candidates for the same nomination or office shall have the same or similar
 34 names, the Secretary of State, in the case of federal or state offices, the superintendent of
 35 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.**

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

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

9

SECTION 15.

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

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

- 17 (1) A valid Georgia driver's license;
- 18 (2) A valid identification card issued by a branch, department, agency, or entity of the
 19 State of Georgia, any other state, or the United States authorized by law to issue personal
 20 identification;
- 21 (3) A valid United States passport;
- 22 (4) A valid employee identification card containing a photograph of the elector and
 23 issued by any branch, department, agency, or entity of the United States government, this
 24 state, or any county, municipality, board, authority, or other entity of this state;
- 25 (5) A valid employee identification card containing a photograph of the elector and
 26 issued by any employer of the elector in the ordinary course of such employer's business;
- 27 (6) A valid student identification card containing a photograph of the elector from any
 28 public or private college, university, or postgraduate technical or professional school
 29 located within the State of Georgia;
- 30 ~~(7) A valid Georgia hunting or fishing license;~~
- 31 ~~(8)~~(7) A valid Georgia license to carry a pistol or revolver;
- 32 ~~(9)~~(8) A valid pilot's license issued by the Federal Aviation Administration or other
 33 authorized agency of the United States;
- 34 ~~(10)~~(9) A valid United States military identification card;
- 35 ~~(11)~~(10) A certified copy of the elector's birth certificate;
- 36 ~~(12)~~(11) A valid social security card;

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.