

House Bill 114

By: Representatives Williams of the 128th, Bordeaux of the 125th, Skipper of the 116th,
Mosley of the 129th, Post 1 and James of the 114th

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 generally, so as to provide that the election superintendent shall ensure that all
3 ballots are counted before closing the election superintendent's office after a primary or
4 election; to provide for security for ballots under certain circumstances; to provide for related
5 matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to elections
9 generally, is amended by adding a new subsection (h) to Code Section 21-2-379.11, relating
10 to procedure for tabulating direct recording electronic votes, to read as follows:

11 "(h) The election superintendent shall not close his or her office until all ballots, including
12 absentee ballots, have been counted after the polls close on the day of a primary or election.
13 If it is not possible to count all ballots prior to closing the office of the election
14 superintendent, then all ballots shall be stored securely in a vault or stationary safe in the
15 election superintendent's office equipped with a working combination lock or the ballots
16 may be stored in some other suitable secure container or containers and placed under guard
17 by law enforcement officers of the county or municipality who shall remain in the physical
18 presence of such container or containers at all times until the office of election
19 superintendent reopens and the election superintendent retakes custody of the container.
20 This subsection shall not apply to provisional ballots under Code Section 21-2-419."

21 **SECTION 2.**

22 Said chapter is further amended by striking subsection (c) of Code Section 21-2-386, relating
23 to safekeeping, certification, and validation of absentee ballots, and inserting in lieu thereof
24 a new subsection (c) to read as follows:

1 "(c) Except as otherwise provided in this Code section, after the close of the polls on the
 2 day of the primary or election, a manager shall then open the outer envelope in such
 3 manner as not to destroy the oath printed thereon and shall deposit the inner envelope
 4 marked 'Official Absentee Ballot' in a ballot box reserved for absentee ballots. Such
 5 manager with two assistant managers, appointed by the superintendent, with such clerks
 6 as the manager deems necessary shall count the absentee ballots following the procedures
 7 prescribed by this chapter for other ballots, insofar as practicable, and prepare an election
 8 return for the county or municipality showing the results of the absentee ballots cast in such
 9 county or municipality. The election superintendent shall not close his or her office until
 10 all absentee ballots have been counted after the polls close on the day of a primary or
 11 election. If it is not possible to count all absentee ballots prior to closing the office of the
 12 election superintendent, then all absentee ballots shall be stored securely in a vault or
 13 stationary safe in the election superintendent's office equipped with a working combination
 14 lock or the ballots may be stored in some other suitable secure container or containers and
 15 placed under guard by law enforcement officers of the county or municipality who shall
 16 remain in the physical presence of such container or containers at all times until the office
 17 of election superintendent reopens and the election superintendent retakes custody of the
 18 container. This subsection shall not apply to provisional ballots under Code Section
 19 21-2-419."

20 SECTION 3.

21 Said chapter is further amended by striking subsection (a) of Code Section 21-2-437, relating
 22 to count and return of votes generally, and inserting in lieu thereof a new subsection (a) to
 23 read as follows:

24 "(a) After the polls close and as soon as all the ballots have been properly accounted for
 25 and those outside the ballot box as well as the voter's certificates, numbered list of voters,
 26 and electors list have been sealed, the poll officers shall open the ballot box and take
 27 therefrom all ballots contained therein. In primaries in which more than one ballot box is
 28 used, any ballots or stubs belonging to another party holding its primary in the same polling
 29 place shall be returned to the ballot box for the party for which they were issued. In
 30 primaries, separate tally and return sheets shall be prepared for each party, and separate
 31 poll officers shall be designated by the chief manager to count and tally each party's ballot.
 32 Where the same ballot box is being used by one or more parties, the ballots and stubs shall
 33 first be divided by party before being tallied and counted. The ballots shall then be counted
 34 one by one and a record made of the total number. Then the chief manager, together with
 35 such assistant managers and other poll officers as the chief manager may designate, under
 36 the scrutiny of one of the assistant managers and in the presence of the other poll officers,

1 shall read aloud the names of the candidates marked or written upon each ballot, together
 2 with the office for which the person named is a candidate, and the answers contained on
 3 the ballots to the questions submitted, if any; and the other assistant manager and clerks
 4 shall carefully enter each vote as read and keep account of the same in ink on a sufficient
 5 number of tally papers, all of which shall be made at the same time. All ballots, after being
 6 removed from the box, shall be kept within the unobstructed view of all persons in the
 7 voting room until replaced in the box. No person, while handling the ballots, shall have in
 8 his or her hand any pencil, pen, stamp, or other means of marking or spoiling any ballot.
 9 The poll officers shall immediately proceed to canvass and compute the votes cast and shall
 10 not adjourn or postpone the canvass or computation until it shall have been fully
 11 completed, except that, in the discretion of the superintendent, the poll officers may stop
 12 the counting after all contested races and questions are counted, provided that the results
 13 of these contested races and questions are posted for the information of the public outside
 14 the polling place and the ballots are returned to the ballot box and deposited with the
 15 superintendent until counting is resumed on the following day. The election superintendent
 16 shall not close his or her office until all ballots, including absentee ballots, have been
 17 counted after the polls close on the day of a primary or election. If it is not possible to
 18 count all ballots prior to closing the office of the election superintendent, then all ballots
 19 shall be stored securely in a vault or stationary safe in the election superintendent's office
 20 equipped with a working combination lock or the ballots may be stored in some other
 21 suitable secure container or containers and placed under guard by law enforcement officers
 22 of the county or municipality who shall remain in the physical presence of such container
 23 or containers at all times until the office of election superintendent reopens and the election
 24 superintendent retakes custody of the container. This subsection shall not apply to
 25 provisional ballots under Code Section 21-2-419."

26 **SECTION 4.**

27 Said chapter is further amended by adding a new subsection (h) to Code Section 21-2-471,
 28 relating to counting vote recorder ballots, to read as follows:

29 "(h) The election superintendent shall not close his or her office until all ballots, including
 30 absentee ballots, have been counted after the polls close on the day of a primary or election.
 31 If it is not possible to count all ballots prior to closing the office of the election
 32 superintendent, then all ballots shall be stored securely in a vault or stationary safe in the
 33 election superintendent's office equipped with a working combination lock or the ballots
 34 may be stored in some other suitable secure container or containers and placed under guard
 35 by law enforcement officers of the county or municipality who shall remain in the physical
 36 presence of such container or containers at all times until the office of election

1 superintendent reopens and the election superintendent retakes custody of the container.
2 This subsection shall not apply to provisional ballots under Code Section 21-2-419."

3 **SECTION 5.**

4 Said chapter is further amended by adding a new subsection (i) to Code Section 21-2-483,
5 relating to counting of optical scan ballots, to read as follows:

6 "(i) The election superintendent shall not close his or her office until all ballots, including
7 absentee ballots, have been counted after the polls close on the day of a primary or election.
8 If it is not possible to count all ballots prior to closing the office of the election
9 superintendent, then all ballots shall be stored securely in a vault or stationary safe in the
10 election superintendent's office equipped with a working combination lock or the ballots
11 may be stored in some other suitable secure container or containers and placed under guard
12 by law enforcement officers of the county or municipality who shall remain in the physical
13 presence of such container or containers at all times until the office of election
14 superintendent reopens and the election superintendent retakes custody of the container.
15 This subsection shall not apply to provisional ballots under Code Section 21-2-419."

16 **SECTION 6.**

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