

Senate Bill 128

By: Senators Price of the 56th, Johnson of the 1st, Hudgens of the 47th, Hamrick of the 30th, Balfour of the 9th and others

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 provide that, in certain elections, the candidate
3 receiving a majority of the votes cast shall be elected; to change certain provisions regarding
4 definitions; to provide for related matters; to provide an effective date; to repeal conflicting
5 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 and
9 primaries generally, is amended by striking paragraph (22) of Code Section 21-2-2, relating
10 to definitions regarding elections and inserting in its place a new paragraph (22) to read as
11 follows:

12 "(22) 'Plurality' means the receiving by one candidate alone of the highest number of
13 votes cast for eligible candidates in an election among the candidates for the same office;
14 ~~provided that such number of votes exceeds 45 percent of the total number of votes cast~~
15 ~~in such election for such office. In the case where two or more persons tie in receiving~~
16 ~~the highest number of votes or no candidate receives more than 45 percent of the total~~
17 ~~votes cast for eligible candidates in the election for the office sought there is no plurality."~~

18 **SECTION 2.**

19 Said chapter is further amended by striking Code Section 21-2-501, relating to the vote
20 necessary for nomination or election, and inserting in its place a new Code Section 21-2-501
21 to read as follows:

22 21-2-501.

23 (a) Except as otherwise provided in this Code section, no candidate shall be nominated for
24 public office in any general or special primary or elected to public office in any general or
25 special election unless such candidate shall have received a majority of the votes cast to fill

1 such nomination or public office. In instances where no candidate receives a majority of
 2 the votes cast, a run-off primary or ~~special election runoff~~ run-off election between the
 3 candidates receiving the two highest numbers of votes shall be held. Unless such date is
 4 postponed by a court order, such ~~run-off primary or special election~~ runoff shall be held on
 5 the twenty-first day after the day of holding the preceding primary or ~~special~~ election,
 6 provided that, unless postponed by court order, a runoff in the case of a special primary or
 7 special election shall be held no sooner than the fourteenth day and no later than the
 8 twenty-first day after the day of holding the preceding special primary or special election,
 9 which run-off day shall be determined by the Secretary of State in a runoff to fill a federal
 10 or state office or by the superintendent in a runoff to fill a county or militia district office.
 11 If any candidate eligible to be in a runoff withdraws, dies, or is found to be ineligible, the
 12 remaining candidates receiving the two highest numbers of votes shall be the candidates
 13 in the runoff. The candidate receiving the highest number of the votes cast in such run-off
 14 primary or ~~special election runoff~~ run-off election to fill the nomination or public office
 15 sought shall be declared the winner. The name of a write-in candidate eligible for election
 16 in a runoff shall be printed on the ~~special election run-off~~ run-off election ballot in the
 17 independent column. The run-off primary or ~~special election runoff~~ run-off election shall
 18 be a continuation of the primary or ~~special~~ election for the particular office concerned.
 19 Only the electors who were entitled to vote in the primary or ~~special~~ election for candidates
 20 for that particular office shall be entitled to vote therein, and only those votes cast for the
 21 persons designated as candidates in such run-off primary or ~~special election runoff~~ run-off
 22 election shall be counted in the tabulation and canvass of the votes cast. No elector shall
 23 vote in a run-off primary in violation of Code Section 21-2-224.

24 (b) ~~For the purposes of this subsection and notwithstanding the provisions of paragraph~~
 25 ~~(22) of Code Section 21-2-2, the word 'plurality' shall mean the receiving by one candidate~~
 26 ~~alone of the highest number of votes cast.~~ If the municipal charter or ordinances of a
 27 municipality as now existing or as amended subsequent to September 1, 1968, provide that
 28 a candidate may be nominated or elected by a plurality of the votes cast to fill such
 29 nomination or public office, such provision shall prevail. Otherwise, no municipal
 30 candidate shall be nominated for public office in any primary or elected to public office in
 31 any election unless such candidate shall have received a majority of the votes cast to fill
 32 such nomination or public office.

33 (c) In instances in which no municipal candidate receives a majority of the votes cast and
 34 the municipal charter or ordinances do not provide for nomination or election by a plurality
 35 vote, a run-off primary or election shall be held between the candidates receiving the two
 36 highest numbers of votes. Such runoff shall be held on the twenty-first day after the day
 37 of holding the first primary or election, unless such run-off date is postponed by court

1 order. Only the electors entitled to vote in the first primary or election shall be entitled to
2 vote in any run-off primary or election resulting therefrom; provided, however, that no
3 elector shall vote in a run-off primary in violation of Code Section 21-2-216. The run-off
4 primary or election shall be a continuation of the first primary or election, and only those
5 votes cast for the candidates receiving the two highest numbers of votes in the first primary
6 or election shall be counted. No write-in votes may be cast in such a primary, run-off
7 primary, or run-off election. If any candidate eligible to be in a runoff withdraws, dies, or
8 is found to be ineligible, the remaining candidates receiving the two highest numbers of
9 votes shall be the candidates in such runoff. The municipal candidate receiving the highest
10 number of the votes cast in such run-off primary or election to fill the nomination or public
11 office sought shall be declared the winner.

12 (d) The name of a municipal write-in candidate eligible for election in a municipal runoff
13 shall be printed on the municipal run-off election ballot in the independent column.

14 (e) In all cities having a population in excess of 100,000 according to the United States
15 decennial census of 1980 or any future such census, in order for a municipal candidate to
16 be nominated for public office in any primary or elected to public office in any municipal
17 election, he or she must receive a majority of the votes cast.

18 (f) ~~Except for presidential electors, to be elected to public office in a general election, a~~
19 ~~candidate must receive a plurality of the votes cast in an election to fill such public office.~~
20 To be elected to the office of presidential electors, no slate of candidates shall be required
21 to receive a ~~plurality~~ majority of the votes cast, but that slate of candidates shall be elected
22 to such office which receives the highest number of votes cast.

23 ~~(g) In the event that no candidate receives a plurality of the votes cast in a general election~~
24 ~~or more than one candidate in a general election, special election runoff, or run-off primary~~
25 ~~receives the highest number of votes cast, a runoff of the general election, special election~~
26 ~~runoff, or run-off primary between the candidates receiving the two highest numbers of~~
27 ~~votes shall be held. Unless such date is postponed by a court order, such runoff shall be~~
28 ~~held on the twenty-first day after the day of holding the preceding general election, special~~
29 ~~election runoff, or run-off primary. If any candidate eligible to be in such runoff withdraws,~~
30 ~~dies, or is found to be ineligible, the remaining candidates receiving the two highest~~
31 ~~numbers of votes shall be the candidates in the runoff. The candidate receiving the highest~~
32 ~~number of the votes cast in such runoff to fill the nomination or public office such~~
33 ~~candidate seeks shall be declared the winner. The name of a write-in candidate eligible for~~
34 ~~election in a runoff shall be printed on the run-off election ballot in the independent~~
35 ~~column. The runoff of a run-off primary or special election runoff shall be a continuation~~
36 ~~of the primary or special election for the particular office concerned, and the run-off~~
37 ~~election of a general election shall be a continuation of the general election for the~~

1 ~~particular office concerned. Only the electors who were entitled to vote for that particular~~
2 ~~office in such primary or special election or general election, respectively, shall be entitled~~
3 ~~to vote therein, and only those votes cast for the persons designated as candidates in such~~
4 ~~runoff shall be counted in the tabulation and canvass of the votes cast. No elector shall vote~~
5 ~~in a run-off primary in violation of Code Section 21-2-224.'~~

6 **SECTION 3.**

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

9 **SECTION 4.**

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