

House Bill 408

By: Representatives Buckner of the 82<sup>nd</sup>, Dodson of the 84<sup>th</sup>, Post 1 and Barnes of the 84<sup>th</sup>,  
Post 2

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 primaries and elections generally, so as to provide that the general election for nonjudicial  
3 offices elected on a nonpartisan basis shall be held at the time of the November general  
4 election in each even-numbered year; to provide for related matters; 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 primaries and  
9 elections generally, is amended by striking subsections (c), (d), and (i) of Code Section  
10 21-2-132, relating to filing notices of candidacy, and inserting in lieu thereof new subsections  
11 (c), (d), and (i) to read as follows:

12 "(c) Except as provided in subsection (i) of this Code section, all candidates seeking  
13 election to judicial offices in a nonpartisan election shall file their notice of candidacy and  
14 pay the prescribed qualifying fee by the date prescribed in this subsection in order to be  
15 eligible to have their names placed on the nonpartisan election ballot by the Secretary of  
16 State or election superintendent, as the case may be, in the following manner:

17 (1) Each candidate for the office of judge of the superior court, Judge of the Court of  
18 Appeals, or Justice of the Supreme Court, or the candidate's agent, desiring to have his  
19 or her name placed on the nonpartisan election ballot shall file a notice of candidacy,  
20 giving his or her name, residence address, and the office sought, in the office of the  
21 Secretary of State no earlier than 9:00 A.M. on the fourth Monday in April immediately  
22 prior to the election and no later than 12:00 Noon on the Friday following the fourth  
23 Monday in April, notwithstanding the fact that any such days may be legal holidays; and  
24 (2) Each candidate for a county judicial office, ~~a local school board office, or an office~~  
25 ~~of a consolidated government, except those offices which on July 1, 2001, were covered~~  
26 ~~by local Acts of the General Assembly which provided for election in a nonpartisan~~

1 ~~election without a prior nonpartisan primary~~, or the candidate's agent, desiring to have  
 2 his or her name placed on the nonpartisan election ballot shall file notice of candidacy in  
 3 the office of the superintendent no earlier than 9:00 A.M. on the fourth Monday in April  
 4 immediately prior to the election and no later than 12:00 Noon on the Friday following  
 5 the fourth Monday in April, notwithstanding the fact that any such days may be legal  
 6 holidays.

7 (d) Except as provided in subsection (i) of this Code section, all political body and  
 8 independent candidates and candidates seeking election to nonjudicial offices in a  
 9 nonpartisan election shall file their notice of candidacy and pay the prescribed qualifying  
 10 fee by the date prescribed in this subsection in order to be eligible to have their names  
 11 placed on the election ballot by the Secretary of State or election superintendent, as the  
 12 case may be, in the following manner:

13 (1) Each candidate for federal or state office, or ~~his or her~~ the candidate's agent, desiring  
 14 to have his or her name placed on the election ballot shall file a notice of his or her  
 15 candidacy, giving his or her name, residence address, and the office he or she is seeking,  
 16 in the office of the Secretary of State no earlier than 9:00 A.M. on the fourth Monday in  
 17 June immediately prior to the election and no later than 12:00 Noon on the Friday  
 18 following the fourth Monday in June in the case of a general election and no earlier than  
 19 the date of the call of the election and no later than 25 days prior to the election in the  
 20 case of a special election;

21 (2) Each candidate for a county office, including those offices for which ~~on July 1, 2001,~~  
 22 ~~were covered by local Acts of the General Assembly which has~~ has provided for election in  
 23 on a nonpartisan election without a prior nonpartisan primary basis except for county  
 24 judicial offices, or ~~his or her~~ the candidate's agent, desiring to have his or her name  
 25 placed on the election ballot shall file notice of his or her candidacy in the office of the  
 26 superintendent of his or her county no earlier than 9:00 A.M. on the fourth Monday in  
 27 June immediately prior to the election and no later than 12:00 Noon on the Friday  
 28 following the fourth Monday in June in the case of a general election and no earlier than  
 29 the date of the call of the election and no later than 25 days prior to the election in the  
 30 case of a special election;

31 (3) Each candidate for municipal office or a designee shall file a notice of candidacy in  
 32 the office of the municipal superintendent of such candidate's municipality during the  
 33 municipality's qualifying period. Each municipal superintendent shall designate the days  
 34 of the qualifying period, which shall be no less than three days and no more than five  
 35 days. The days of the qualifying period shall be consecutive days. Qualifying periods  
 36 shall comply with the following:

1 (A) In the case of a general election held in an odd-numbered year, the municipal  
 2 qualifying period shall commence no earlier than 8:30 A.M. on the second Monday in  
 3 September immediately preceding the general election and shall end no later than 4:30  
 4 P.M. on the following Friday;

5 (B) In the case of a general election held in an even-numbered year, the municipal  
 6 qualifying period shall commence no earlier than 8:30 A.M. on the last Monday in  
 7 August immediately preceding the general election and shall end no later than 4:30  
 8 P.M. on the following Friday; and

9 (C) In the case of a special election, the municipal qualifying period shall commence  
 10 no earlier than the date of the call and shall end no later than 25 days prior to the  
 11 election.

12 The hours of qualifying each day shall be from 8:30 A.M. until 4:30 P.M. with one hour  
 13 allowed for the lunch break; provided, however, that municipalities which have normal  
 14 business hours which cover a lesser period of time shall conduct qualifying during normal  
 15 business hours for each such municipality. Except in the case of a special election, notice  
 16 of the opening and closing dates and the hours for candidates to qualify shall be published  
 17 at least two weeks prior to the opening of the qualifying period."

18 "(i) Notwithstanding any other provision of this chapter to the contrary, for general  
 19 elections held in the even-numbered year immediately following the official release of the  
 20 United States decennial census data to the states for the purpose of redistricting of the  
 21 legislatures and the United States House of Representatives, candidates in such elections  
 22 shall qualify as provided in this subsection:

23 (1) All candidates seeking election to judicial offices in a nonpartisan election shall file  
 24 their notice of candidacy and pay the prescribed qualifying fee by the date prescribed in  
 25 this paragraph in order to be eligible to have their names placed on the nonpartisan  
 26 election ballot by the Secretary of State or election superintendent, as the case may be,  
 27 in the following manner:

28 (A) Each candidate for the office of judge of the superior court, Judge of the Court of  
 29 Appeals, or Justice of the Supreme Court, or the candidate's agent, desiring to have his  
 30 or her name placed on the nonpartisan election ballot shall file a notice of candidacy,  
 31 giving his or her name, residence address, and the office sought, in the office of the  
 32 Secretary of State no earlier than 9:00 A.M. on the third Wednesday in June  
 33 immediately prior to the election and no later than 12:00 Noon on the Friday following  
 34 the third Wednesday in June, notwithstanding the fact that any such days may be legal  
 35 holidays; and

36 (B) Each candidate for a county judicial office, ~~a local school board office, or an office~~  
 37 ~~of a consolidated government, except those offices which on July 1, 2001, were covered~~

1 ~~by local Acts of the General Assembly which provided for election in a nonpartisan~~  
 2 ~~election without a prior nonpartisan primary~~, or the candidate's agent, desiring to have  
 3 his or her name placed on the nonpartisan election ballot shall file notice of candidacy  
 4 in the office of the superintendent no earlier than 9:00 A.M. on the third Wednesday in  
 5 June immediately prior to the election and no later than 12:00 Noon on the Friday  
 6 following the third Wednesday in June, notwithstanding the fact that any such days may  
 7 be legal holidays;

8 (2) All political body and independent candidates and candidates seeking election to  
 9 nonjudicial offices in a nonpartisan election shall file their notice of candidacy and pay  
 10 the prescribed qualifying fee by the date prescribed in this paragraph in order to be  
 11 eligible to have their names placed on the general election ballot by the Secretary of State  
 12 or election superintendent, as the case may be, in the following manner:

13 (A) Each candidate for federal or state office, or ~~his or her~~ the candidate's agent,  
 14 desiring to have his or her name placed on the general election ballot shall file a notice  
 15 of his or her candidacy, giving his or her name, residence address, and the office he or  
 16 she is seeking, in the office of the Secretary of State no earlier than 9:00 A.M. on the  
 17 last Monday in July immediately prior to the election and no later than 12:00 Noon on  
 18 the Friday following the last Monday in July; and

19 (B) Each candidate for a county office, including those offices for which ~~on July 1,~~  
 20 ~~2001, were covered by local Acts of the General Assembly which~~ has provided for  
 21 election in on a nonpartisan election without a prior nonpartisan primary basis except  
 22 county judicial offices, or ~~his or her~~ the candidate's agent, desiring to have his or her  
 23 name placed on the general election ballot shall file notice of his or her candidacy in the  
 24 office of the superintendent of his or her county no earlier than 9:00 A.M. on the last  
 25 Monday in July immediately prior to the election and no later than 12:00 Noon on the  
 26 Friday following the last Monday in July; and

27 (3) Candidates required to file nomination petitions under subsection (e) of this Code  
 28 section shall file such petitions not earlier than 9:00 A.M. on the fourth Monday in July  
 29 immediately prior to the general election and not later than 12:00 Noon on the first  
 30 Monday in August immediately prior to the general election."

## 31 SECTION 2.

32 Said chapter is further amended by striking subsection (a) of Code Section 21-2-133, relating  
 33 to giving notice of intent of write-in candidacy, and inserting in lieu thereof a new subsection  
 34 (a) to read as follows:

35 "(a) No person elected on a write-in vote shall be eligible to hold office unless notice of  
 36 his or her intention of candidacy was filed and published no earlier than January 1 and no

1 later than the Tuesday after the first Monday in September prior to the election for county,  
 2 state, and federal ~~elections~~ offices to be filled in the November general election; no later  
 3 than seven days after the close of the municipal qualifying period for municipal elections  
 4 in the case of a general election; no earlier than January 1 and no later than the Tuesday  
 5 after the first Monday in June in the case of a nonpartisan general election for a state or  
 6 county judicial office ~~which was not covered by a local Act of the General Assembly on~~  
 7 ~~July 1, 2001, which provided for election in a nonpartisan election without a prior~~  
 8 ~~nonpartisan primary~~; no later than the third Monday in July in the case of a nonpartisan  
 9 general election for a state or county judicial office ~~which was not covered by a local Act~~  
 10 ~~of the General Assembly on July 1, 2001, which provided for election in a nonpartisan~~  
 11 ~~election without a prior nonpartisan primary~~ held in the even-numbered year immediately  
 12 following the official release of the United States decennial census data to the states for the  
 13 purpose of redistricting of the legislatures and the United States House of Representatives;  
 14 or at least 20 or more days prior to a special election by the person to be a write-in  
 15 candidate or by some other person or group of persons qualified to vote in the subject  
 16 election, as follows:

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

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

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

### 25 SECTION 3.

26 Said chapter is further amended by striking subsection (a) of Code Section 21-2-139, relating  
 27 to the authorization for nonpartisan elections, and inserting in lieu thereof a new subsection  
 28 (a) to read as follows:

29 "(a) Notwithstanding any other provisions of this chapter to the contrary, the General  
 30 Assembly may provide by local Act for the election in nonpartisan elections of candidates  
 31 to fill county judicial offices, offices of local school boards, and offices of consolidated  
 32 governments which are filled by the vote of the electors of said county or political  
 33 subdivision. Except as otherwise provided in this Code section, the procedures to be  
 34 employed in such nonpartisan elections shall conform as nearly as practicable to the  
 35 procedures governing nonpartisan elections as provided in this chapter. Except as otherwise  
 36 provided in this Code section, the election procedures established by any existing local law

1 which provides for the nonpartisan election of candidates to fill county offices shall  
 2 conform to the general procedures governing nonpartisan elections as provided in this  
 3 chapter, and such nonpartisan elections shall be conducted in accordance with the  
 4 applicable provisions of this chapter, notwithstanding the provisions of any existing local  
 5 law. Judicial offices shall be elected in a nonpartisan election held at the time of the  
 6 general primary without a prior nonpartisan primary. For those nonjudicial offices for  
 7 which the General Assembly as of July 1, 2001, pursuant to this Code section, provided by  
 8 local Act for election in nonpartisan primaries and elections, such offices shall no longer  
 9 require nonpartisan primaries. Such officers shall be elected in nonpartisan elections held  
 10 and conducted in conjunction with the November general primary election in accordance  
 11 with this chapter without a prior nonpartisan primary. For those offices for which the  
 12 General Assembly as of July 1, 2001, provided by local Act for election in a nonpartisan  
 13 election without a prior nonpartisan primary, such offices shall be elected in nonpartisan  
 14 elections held and conducted in conjunction with the November general election without  
 15 a prior nonpartisan primary. Nonpartisan elections for municipal offices shall be conducted  
 16 on the dates provided in the municipal charter."

17 **SECTION 4.**

18 Said chapter is further amended by striking subsection (b) of Code Section 21-2-151, relating  
 19 to authorization for political party primaries, and inserting in lieu thereof a new subsection  
 20 (b) to read as follows:

21 "(b) The primary held for such purposes shall be conducted by the superintendent in the  
 22 same manner as prescribed by law and by rules and regulations of the State Election Board  
 23 and the superintendent for general elections. Primaries of all political parties and all  
 24 nonpartisan elections for nonpartisan judicial offices other than those offices which were  
 25 covered on July 1, 2001, by a local Act of the General Assembly which provided for  
 26 election in a nonpartisan election without a prior nonpartisan primary shall be conducted  
 27 jointly."

28 **SECTION 5.**

29 Said chapter is further amended by striking subsection (a) of Code Section 21-2-284.1,  
 30 relating to form of nonpartisan election ballot, and inserting in lieu thereof a new subsection  
 31 (a) to read as follows:

32 "(a) The names of all candidates seeking election to judicial offices in a nonpartisan  
 33 election conducted in conjunction with a partisan primary shall be printed on the ballot of  
 34 each political party; and insofar as practicable such offices to be filled in a nonpartisan  
 35 election shall be separated from the names of political party candidates by being listed last

1 on each political party ballot, with the top of that portion of the ballot relating to the  
 2 nonpartisan election to have printed in prominent type the words 'OFFICIAL  
 3 NONPARTISAN ELECTION BALLOT.' Directions that explain how to cast a vote, how  
 4 to write in a candidate, and how to obtain a new ballot after one is spoiled shall appear  
 5 immediately under the caption as specified by rules and regulations of the State Election  
 6 Board. Immediately under the directions, the names of the nonpartisan candidates shall in  
 7 all cases be arranged under the title of the office for which they are candidates and be  
 8 printed thereunder in alphabetical order. No party designation or affiliation shall appear  
 9 beside the name of any candidate for nonpartisan office. An appropriate space shall also  
 10 be placed on the ballot for the casting of write-in votes for such offices. The incumbency  
 11 of a nonpartisan candidate seeking election to the public office he or she then holds shall  
 12 be indicated on the ballots by printing the word 'Incumbent' beside his or her name. Under  
 13 the title of each office shall be placed a direction as to the number of nonpartisan  
 14 candidates to be voted for. The votes cast for each nonpartisan candidate listed on all  
 15 political party ballots shall be combined to determine the total number of votes received  
 16 by each candidate in the nonpartisan election. In the event that a candidate in such  
 17 nonpartisan election does not receive a plurality of the total votes cast for such office, there  
 18 shall be a nonpartisan election runoff between the candidates receiving the two highest  
 19 numbers of votes for such office; and the names of such candidates shall be placed on each  
 20 political party ballot at the general primary runoff in the same nonpartisan portion as  
 21 prescribed in this Code section. If no political party runoff is required, the form of the  
 22 ballot for the nonpartisan election runoff shall be prescribed by the Secretary of State or  
 23 election superintendent in essentially the same format prescribed for nonpartisan elections.  
 24 The candidate receiving the highest number of votes cast in the nonpartisan election runoff  
 25 shall be declared duly elected to such office."

26

#### SECTION 6.

27 Said chapter is further amended by striking Code Section 21-2-285.1, relating to the form of  
 28 nonpartisan election ballots, and inserting in lieu thereof a new Code Section 21-2-285.1 to  
 29 read as follows:

30 "21-2-285.1.

31 The names of all candidates for nonjudicial nonpartisan offices or offices which were  
 32 covered on July 1, 2001, by a local Act of the General Assembly which provided for  
 33 election in a nonpartisan election without a prior nonpartisan primary shall be printed on  
 34 each official election ballot; and insofar as practicable such offices to be filled in the  
 35 nonpartisan election shall be separated from the names of candidates for other offices by  
 36 being listed last on each ballot, with the top of that portion of each official election ballot

1 relating to the nonpartisan election to have printed in prominent type the words 'OFFICIAL  
 2 NONPARTISAN ELECTION BALLOT.' Directions that explain how to cast a vote, how  
 3 to write in a candidate, and how to obtain a new ballot after the elector spoils his or her  
 4 ballot shall appear immediately under the caption, as specified by rule or regulation of the  
 5 State Election Board. Immediately under the directions, the name of each such nonpartisan  
 6 candidate shall be arranged alphabetically by last name under the title of the office for  
 7 which they are candidates and be printed thereunder. The incumbency of a candidate  
 8 seeking election for the public office he or she then holds shall be indicated on the ballot.  
 9 No party designation or affiliation shall appear beside the name of any candidate for  
 10 nonpartisan office. An appropriate space shall also be placed on the ballot for the casting  
 11 of write-in votes for such offices. In the event that no candidate in such nonpartisan  
 12 election receives a plurality of the total votes cast for such office, there shall be a  
 13 nonpartisan election runoff between the candidates receiving the two highest numbers of  
 14 votes; and the names of such candidates shall be placed on the official ballot at the general  
 15 election runoff in the same manner as prescribed in this Code section for the nonpartisan  
 16 election. In the event that only nonpartisan candidates are to be placed on a run-off ballot,  
 17 the form of the ballot shall be as prescribed by the Secretary of State or election  
 18 superintendent in essentially the same format as prescribed for the nonpartisan election.  
 19 The candidate having a plurality of the votes cast in the nonpartisan election or the  
 20 candidate receiving the highest number of votes cast in the nonpartisan election runoff shall  
 21 be declared duly elected to such office."

22 **SECTION 7.**

23 Said chapter is further amended by striking subsections (h) and (i) of Code Section 21-2-325,  
 24 relating to form of ballot labels generally, and inserting in lieu thereof new subsections (h)  
 25 and (i) to read as follows:

26 "(h) In primaries, the ballot labels containing the names of candidates seeking nomination  
 27 by a political party shall be segregated on the face of the machine in adjacent rows or  
 28 columns by parties, the priority of such political parties on the ballot labels to be  
 29 determined in the order prescribed by subsection (c) of Code Section 21-2-285. If a  
 30 nonpartisan election for judicial offices is being held in conjunction with a partisan  
 31 primary, each partisan ballot label shall be clearly marked to indicate that the elector may  
 32 vote in the nonpartisan election also. In nonpartisan elections, the ballot labels shall include  
 33 a separate portion for the names of candidates seeking election in a nonpartisan election  
 34 and the heading and arrangement of such candidates shall be as prescribed by Code Section  
 35 21-2-284.1 insofar as practicable. At the top of the separate portion shall be printed in  
 36 prominent type the words 'OFFICIAL NONPARTISAN ELECTION BALLOT.'

1 (i) In primaries, if it shall be impracticable to place on the ballot labels of one machine the  
2 names of all candidates seeking nomination in all political parties and the names of all  
3 candidates seeking election to judicial offices in a nonpartisan election, the superintendent  
4 may arrange for the names of all the candidates seeking nomination in any one political  
5 party to be placed on separate voting machines; provided, however, that the names of all  
6 candidates seeking election in a nonpartisan election shall appear on all machines."

7 **SECTION 8.**

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