

The House Committee on Governmental Affairs offers the following substitute to HB 114:

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 petitions to the superior court to defer the counting of ballots under
5 certain circumstances; to provide for related matters; to repeal conflicting laws; and for other
6 purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

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

12 "(h) The election superintendent shall not close his or her office until all ballots, including
13 absentee ballots, have been counted after the polls close on the day of a primary or election.
14 If it is not possible to count all ballots prior to closing the office of the election
15 superintendent, then the election superintendent shall petition in writing the superior court
16 of the county for an order deferring completion of the counting of ballots. Such petition
17 shall contain information including the reasons ballot counting cannot be concluded, the
18 number of ballots not yet counted, a proposed manner in which to secure all ballots, and
19 the proposed date, time, and location for resuming and completing the counting of ballots.
20 The court's order, if issued, shall specify the conditions under which the counting of ballots
21 shall be completed and the security provisions which shall be made for on counted ballots
22 in the meantime. Such petition and order, if any, shall be filed in the office of the clerk of
23 the superior court of the county as soon as practicable after submission to the court. This
24 subsection shall not apply to provisional ballots under Code Section 21-2-419."

1 primaries, separate tally and return sheets shall be prepared for each party, and separate
2 poll officers shall be designated by the chief manager to count and tally each party's ballot.
3 Where the same ballot box is being used by one or more parties, the ballots and stubs shall
4 first be divided by party before being tallied and counted. The ballots shall then be counted
5 one by one and a record made of the total number. Then the chief manager, together with
6 such assistant managers and other poll officers as the chief manager may designate, under
7 the scrutiny of one of the assistant managers and in the presence of the other poll officers,
8 shall read aloud the names of the candidates marked or written upon each ballot, together
9 with the office for which the person named is a candidate, and the answers contained on
10 the ballots to the questions submitted, if any; and the other assistant manager and clerks
11 shall carefully enter each vote as read and keep account of the same in ink on a sufficient
12 number of tally papers, all of which shall be made at the same time. All ballots, after being
13 removed from the box, shall be kept within the unobstructed view of all persons in the
14 voting room until replaced in the box. No person, while handling the ballots, shall have in
15 his or her hand any pencil, pen, stamp, or other means of marking or spoiling any ballot.
16 The poll officers shall immediately proceed to canvass and compute the votes cast and shall
17 not adjourn or postpone the canvass or computation until it shall have been fully
18 completed, except that, in the discretion of the superintendent, the poll officers may stop
19 the counting after all contested races and questions are counted, provided that the results
20 of these contested races and questions are posted for the information of the public outside
21 the polling place and the ballots are returned to the ballot box and deposited with the
22 superintendent until counting is resumed on the following day. The election superintendent
23 shall not close his or her office until all ballots, including absentee ballots, have been
24 counted after the polls close on the day of a primary or election. If it is not possible to
25 count all ballots prior to closing the office of the election superintendent, then the election
26 superintendent shall petition in writing the superior court of the county for an order
27 deferring completion of the counting of ballots. Such petition shall contain information
28 including the reasons ballot counting cannot be concluded, the number of ballots not yet
29 counted, a proposed manner in which to secure all ballots, and the proposed date, time, and
30 location for resuming and completing the counting of ballots. The court's order, if issued,
31 shall specify the conditions under which the counting of ballots shall be completed and the
32 security provisions which shall be made for on counted ballots in the meantime. Such
33 petition and order, if any, shall be filed in the office of the clerk of the superior court of the
34 county as soon as practicable after submission to the court. This subsection shall not apply
35 to provisional ballots under Code Section 21-2-419."

SECTION 4.

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

"(h) The election superintendent shall not close his or her office until all ballots, including absentee ballots, have been counted after the polls close on the day of a primary or election. If it is not possible to count all ballots prior to closing the office of the election superintendent, then the election superintendent shall petition in writing the superior court of the county for an order deferring completion of the counting of ballots. Such petition shall contain information including the reasons ballot counting cannot be concluded, the number of ballots not yet counted, a proposed manner in which to secure all ballots, and the proposed date, time, and location for resuming and completing the counting of ballots. The court's order, if issued, shall specify the conditions under which the counting of ballots shall be completed and the security provisions which shall be made for on counted ballots in the meantime. Such petition and order, if any, shall be filed in the office of the clerk of the superior court of the county as soon as practicable after submission to the court. This subsection shall not apply to provisional ballots under Code Section 21-2-419."

SECTION 5.

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

"(i) The election superintendent shall not close his or her office until all ballots, including absentee ballots, have been counted after the polls close on the day of a primary or election. If it is not possible to count all ballots prior to closing the office of the election superintendent, then the election superintendent shall petition in writing the superior court of the county for an order deferring completion of the counting of ballots. Such petition shall contain information including the reasons ballot counting cannot be concluded, the number of ballots not yet counted, a proposed manner in which to secure all ballots, and the proposed date, time, and location for resuming and completing the counting of ballots. The court's order, if issued, shall specify the conditions under which the counting of ballots shall be completed and the security provisions which shall be made for on counted ballots in the meantime. Such petition and order, if any, shall be filed in the office of the clerk of the superior court of the county as soon as practicable after submission to the court. This subsection shall not apply to provisional ballots under Code Section 21-2-419."

SECTION 6.

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