

The House Committee on Governmental Affairs offers the following substitute to HB 427:

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 clarify the definition of precinct; to authorize the
3 Secretary of State to develop, program, and build ballots for use by counties and
4 municipalities using direct recording electronic (DRE) voting systems; to require election
5 superintendents to complete a certification program; to provide for content of such program;
6 to change the requirements concerning the electronic filing of election returns by precinct;
7 to provide that governments employing superintendents and chief registrars may be fined by
8 the State Election Board for failing to have such employees complete certain training and
9 certification; to provide for waivers of certification in certain instances; to change the
10 information required on candidate affidavits; to change the qualifications of county registrars
11 and deputy registrars; to revise the rules for determining residence for voter registration and
12 candidate qualifying; to provide that persons shall not vote in a primary runoff held by any
13 other party for offices to be filled in the same election; to require registrars to process
14 promptly voter registration applications; to provide for the electronic transmission of voter
15 registration applications from designated voter registration agencies; to change the time for
16 challenging the right of certain persons to vote; to remove the limitation on how often the
17 Secretary of State can compare the electors list to the change of address data base of the
18 United States Postal Service; to provide for the arrangement of polling places where DRE
19 units are used; to authorize the use of colored stripes or blocks to distinguish primary ballots;
20 to authorize the precinct designation on absentee ballots to be printed or stamped; to
21 authorize counties to contract with municipalities for the use of DRE voting systems; to
22 repeal the provisions of law establishing the Twenty-first Century Voting Commission and
23 the pilot projects for electronic voting; to provide that the ovals appearing on optical
24 scanning ballots may be printed in red ink; to provide that the names of presidential electors
25 shall not appear on the ballot on DRE units and optical scanning ballots; to provide for
26 testing of DRE units prior to a run-off primary or run-off election; to provide for the transfer
27 of the zero tapes, results tapes, and memory cards to the superintendent; to prohibit
28 distribution of absentee ballot applications under certain circumstances; to provide for the
29 use of DRE voting systems for voting by absentee ballot in certain circumstances; to require

1 that absentee ballots returned too late to be counted shall be delivered to the appropriate clerk
 2 for storage as provided by law; to provide for the storage of absentee ballot applications; to
 3 require certain poll officers to be present at least one hour prior to the opening of the polls;
 4 to prohibit certain persons from providing assistance in voting; to prohibit candidates from
 5 going to a polling place except to vote; to provide an exception for probate judges who serve
 6 as the election superintendent; to change the time to request a recount under certain
 7 circumstances; to authorize the Secretary of State to correct election returns when errors are
 8 found in the certified returns or in the tabulation, computation, or canvassing of the returns;
 9 to authorize the extension of deadlines to certify returns under certain circumstances; to
 10 clarify when a runoff is required and when such runoff shall be held; to require that appeals
 11 of election contests be heard by the Supreme Court; to require that DRE memory cards be
 12 returned to the proper officials after an election; to amend Code Section 50-12-101 of the
 13 Official Code of Georgia Annotated, relating to assignment of numbers by board to proposed
 14 constitutional amendments and Constitutions, so as to provide that the Constitutional
 15 Amendments Publication Board shall assign numbers or letters to state-wide referendums
 16 and shall prepare a short title or heading for such referendums; to provide for related matters;
 17 to repeal conflicting laws; and for other purposes.

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

19 **SECTION 1.**

20 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to elections and
 21 primaries generally, is amended by striking paragraph (28) of Code Section 21-2-2, relating
 22 to definitions, and inserting in lieu thereof a new paragraph (28) to read as follows:

23 "(28) 'Precinct' is synonymous with the term 'voting precinct' and means a geographical
 24 area, established in accordance with this chapter, ~~within~~ from which all electors vote at
 25 one polling place."

26 **SECTION 2.**

27 Said chapter is further amended by striking paragraphs (13) and (14) of subsection (a) of
 28 Code Section 21-2-50, relating to the powers and duties of the Secretary of State, and
 29 inserting in lieu thereof new paragraphs (13), (14), and (15) to read as follows:

30 "(13) To prepare and furnish information for citizens on voter registration and voting;
 31 **and**
 32 (14) To maintain the official list of registered voters for this state and the list of inactive
 33 voters required by this chapter; and

1 (15) To develop, program, and build ballots for use by counties and municipalities on
 2 direct recording electronic (DRE) voting systems in use in the state."

3 SECTION 3.

4 Said chapter is further amended by striking paragraphs (13) and (14) of Code Section
 5 21-2-70, relating to powers and duties of election superintendents, and inserting in lieu
 6 thereof new paragraphs (13), (14), and (15) to read as follows:

7 "(13) To conduct all elections in such manner as to guarantee the secrecy of the ballot
 8 and to perform such other duties as may be prescribed by law; and

9 (14) To become certified by satisfactorily completing a certification program approved
 10 by the Secretary of State no later than January 1, 2007. Such program may include
 11 instruction on, and may require the superintendent to demonstrate proficiency in, the
 12 operation of the state's direct recording electronic voting equipment and in state and
 13 federal law and procedures related to elections. In the case of boards of elections or
 14 boards of elections and registration, this requirement may be satisfied either by the
 15 certification of the members of the board or the board's designee; and

16 ~~(14)~~(15) To take an oath in the following form:

17 I, _____, do swear (or affirm) that I will as superintendent
 18 duly attend the ensuing election (or primary) during the continuance thereof, that I will
 19 to the best of my ability prevent any fraud, deceit, or abuse in carrying on the same, that
 20 I will make a true and perfect return of the said election (or primary), and that I will at
 21 all times truly, impartially, and faithfully perform my duties in accordance with Georgia
 22 laws to the best of my judgment and ability."

23 SECTION 4.

24 Said chapter is further amended by adding a new subsection (c) to Code Section 21-2-70.1,
 25 relating to municipal election superintendents, to read as follows:

26 "(c) As prescribed and directed by the Secretary of State, the municipal superintendent or,
 27 in the case of a board of elections or board of elections and registration, its designee shall
 28 satisfactorily complete a certification program approved by the Secretary of State no later
 29 than January 1, 2007. Such program may include instruction on, and may require the
 30 superintendent to demonstrate proficiency in, the operation of the voting equipment used
 31 in such superintendent's municipality and in state and federal law and procedures related
 32 to elections."

1 complete such training due to medical disability, providential cause, or other reason
2 deemed sufficient by the Secretary of State.

3 (c) A superintendent and the governing authority which employs the superintendent may
4 be fined by the State Election Board for failure to attain the certification required in this
5 Code section."

6 SECTION 8.

7 Said chapter is further amended by striking subsection (f) of Code Section 21-2-132, relating
8 to filing notice of candidacy, nomination petition, and affidavit, and inserting in lieu thereof
9 a new subsection (f) to read as follows:

10 "(f) Each candidate required by this Code section to file a notice of candidacy shall
11 accompany his or her notice of candidacy with an affidavit stating:

12 (1) His or her full name and the name as the candidate desires it to be listed on the ballot;

13 ~~(1)~~(2) His or her residence, with street and number, if any, and his or her post office
14 address;

15 ~~(2)~~(3) His or her profession, business, or occupation, if any;

16 ~~(3)~~(4) The name of his or her precinct;

17 ~~(4)~~(5) That he or she is an elector of the county or municipality of his or her residence
18 eligible to vote in the election in which he or she is a candidate;

19 ~~(5)~~(6) The name of the office he or she is seeking;

20 ~~(6)~~(7) That he or she is eligible to hold such office;

21 ~~(7)~~(8) That the candidate has never been convicted and sentenced in any court of
22 competent jurisdiction for fraudulent violation of primary or election laws, malfeasance
23 in office, or felony involving moral turpitude or conviction of domestic violence under
24 the laws of this state or any other state or of the United States, or that the candidate's civil
25 rights have been restored and that at least ten years have elapsed from the date of the
26 completion of the sentence without a subsequent conviction of another felony involving
27 moral turpitude; ~~and~~

28 ~~(8)~~(9) That he or she will not knowingly violate this chapter or rules and regulations
29 adopted under this chapter; and

30 (10) Any other information as may be determined by the Secretary of State to be
31 necessary to comply with federal and state law.

32 The affidavit shall contain such other information as may be prescribed by the officer with
33 whom the candidate files his or her notice of candidacy."

SECTION 9.

Said chapter is further amended by striking subsection (e) of Code Section 21-2-153, relating to qualification of candidates for party nomination in a state or county primary, and inserting in lieu thereof a new subsection (e) to read as follows:

"(e) Each candidate for party nomination described in subsection (a) of this Code section shall file an affidavit with the political party at the time of his or her qualifying stating:

(1) His or her full name and the name as the candidate desires it to be listed on the ballot;

~~(1)~~(2) His or her residence, with street and number, if any, and his or her post office address;

~~(2)~~(3) His or her profession, business, or occupation, if any;

~~(3)~~(4) The name of his or her precinct;

~~(4)~~(5) That he or she is an elector of the county of his or her residence eligible to vote in the primary election in which he or she is a candidate for nomination;

~~(5)~~(6) The name of the office he or she is seeking;

~~(6)~~(7) That he or she is eligible to hold such office;

~~(7)~~(8) That the candidate has never been convicted and sentenced in any court of competent jurisdiction for fraudulent violation of primary or election laws, malfeasance in office, or felony involving moral turpitude under the laws of this state or any other state or of the United States, or that the candidate's civil rights have been restored and that at least ten years have elapsed from the date of the completion of the sentence without a subsequent conviction of another felony involving moral turpitude; ~~and~~

~~(8)~~(9) That he or she will not knowingly violate this chapter or rules or regulations adopted under this chapter; and

(10) Any other information as may be determined by the Secretary of State to be necessary to comply with federal and state law."

SECTION 10.

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

"(a) ~~County registrars and deputy registrars~~ Members of the board of registrars shall be electors of the state and county in which they serve, and any deputy registrars shall be electors of the state. All registrars shall be able to read, write, and speak the English language. Municipal registrars shall be registered Georgia voters and shall be able to read, write, and speak the English language. Registrars and deputy registrars shall have never been convicted of a felony or of any crime involving fraud or moral turpitude, and the

1 appointing authority shall be authorized to investigate the applicant's criminal history
2 before making such appointment."

3 **SECTION 11.**

4 Said chapter is further amended by striking Code Section 21-2-217, relating to rules for
5 determining residence, and inserting in lieu thereof a new Code Section 21-2-217 to read as
6 follows:

7 "21-2-217.

8 (a) In determining the residence of a person desiring to register to vote or to qualify to run
9 for elective office, the following rules shall be followed so far as they are applicable:

10 (1) The residence of any person shall be held to be in that place in which such person's
11 habitation is fixed, without any present intention of removing therefrom, ~~and to which,~~
12 ~~whenever such person is absent, such person intends to return;~~

13 (2) A person shall not be considered to have lost such person's residence who leaves
14 such person's home and goes into another state or county or municipality in this state, for
15 temporary purposes only, with the intention of returning, unless such person shall register
16 to vote or perform other acts indicating a desire to change such person's citizenship and
17 residence;

18 (3) A person shall not be considered to have gained a residence in any county or
19 municipality of this state into which such person has come for temporary purposes only
20 without the intention of making such county or municipality such person's permanent
21 place of abode;

22 (4) If a person removes to another state with the intention of making it such person's
23 residence, such person shall be considered to have lost such person's residence in this
24 state;

25 (4.1) If a person removes to another county or municipality in this state with the
26 intention of making it such person's residence, such person shall be considered to have
27 lost such person's residence in the former county or municipality in this state;

28 (5) If a person removes to another state with the intention of remaining there an
29 indefinite time and making such state such person's place of residence, such person shall
30 be considered to have lost such person's residence in this state, notwithstanding that such
31 person may intend to return at some indefinite future period;

32 (6) If a person removes to another county or municipality within this state with the
33 intention of remaining there an indefinite time and making such other county or
34 municipality such person's place of residence, such person shall be considered to have
35 lost such person's residence in the former county or municipality, notwithstanding that
36 such person may intend to return at some indefinite future period;

1 (7) The residence ~~for voting purposes~~ of a person shall not be required to be the same as
 2 the residence ~~for voting purposes~~ of his or her spouse; however, the dwelling place of a
 3 spouse may be considered in determining the residence of a voter or candidate;

4 (8) No person shall be deemed to have gained or lost a residence by reason of such
 5 person's presence or absence while enrolled as a student at any college, university, or
 6 other institution of learning in this state;

7 (9) The mere intention to acquire a new residence, without the fact of removal, shall
 8 avail nothing; neither shall the fact of removal without the intention;

9 (10) No member of the armed forces of the United States shall be deemed to have
 10 acquired a residence in this state by reason of being stationed on duty in this state;

11 (11) If a person removes to the District of Columbia or other federal territory, another
 12 state, or foreign country to engage in government service, such person shall not be
 13 considered to have lost such person's residence in this state during the period of such
 14 service; and the place where the person resided at the time of such person's removal shall
 15 be considered and held to be such person's place of residence;

16 (12) If a person is adjudged mentally ill and is committed to an institution for the
 17 mentally ill, such person shall not be considered to have gained a residence ~~for voting~~
 18 ~~purposes~~ in the county in which the institution to which such person is committed is
 19 located;

20 (13) If a person goes into another state and while there exercises the right of a citizen by
 21 voting, such person shall be considered to have lost such person's residence in this state;
 22 **and**

23 (14) The specific address in the county or municipality in which a person has declared
 24 a homestead exemption, if a homestead exemption has been claimed, shall be deemed the
 25 ~~county or municipality of the person's residence~~ address; and

26 (15) For voter registration purposes, the board of registrars and, for candidacy residency
 27 purposes, the Secretary of State, election superintendent, or hearing officer may consider
 28 evidence of where immediate family members reside, where the person receives
 29 significant mail such as personal bills, and any other evidence that indicates where the
 30 person resides.

31 (b) In determining a voter's qualification to register and vote, the registrars to whom such
 32 application is made shall consider, in addition to the applicant's expressed intent, any
 33 relevant circumstances determining the applicant's residence. The registrars taking such
 34 registration may consider the applicant's financial independence, business pursuits,
 35 employment, income sources, residence for income tax purposes, age, marital status,
 36 residence of parents, spouse, and children, if any, leaseholds, sites of personal and real
 37 property owned by the applicant, motor vehicle and other personal property registration,

1 and other such factors that the registrars may reasonably deem necessary to determine the
 2 qualification of an applicant to vote in a primary or election. The decision of the registrars
 3 to whom such application is made shall be presumptive evidence of a person's residence
 4 for voting purposes. The same factors may be used and considered by the Secretary of
 5 State, the hearing officer, or the election superintendent, as the case may be, in determining
 6 the residence of a candidate for public office."

7 **SECTION 12.**

8 Said chapter is further amended by adding a new subsection (l) to Code Section 21-2-222,
 9 relating to designated voter registration agencies, to read as follows:

10 "(l) The Secretary of State shall have the authority to promulgate rules and regulations to
 11 provide for the transmission of voter registration applications and signatures electronically
 12 from public assistance offices, offices which provide state funded programs primarily
 13 engaged in providing services to persons with disabilities, and recruitment offices of the
 14 armed forces of the United States located within this state. Such electronically transmitted
 15 signatures shall be valid as signatures on the voter registration application and shall be
 16 treated in all respects as a manually written original signature and shall be recognized as
 17 such in any matter concerning the voter registration application."

18 **SECTION 13.**

19 Said chapter is further amended by striking subsection (d) of Code Section 21-2-224, relating
 20 to registration deadlines, and inserting in lieu thereof a new subsection (d) to read as follows:

21 "(d) Each elector who makes timely application for registration, is found eligible by the
 22 board of registrars and placed on the official list of electors, and is not subsequently found
 23 to be disqualified to vote shall be promptly entered on the list of registered electors and
 24 shall be entitled to vote in any primary or election; provided, however, that an elector,
 25 voting in the primary or primaries held by a single party for the nomination of candidates
 26 to seek public offices to be filled in an election, shall not vote in a primary or primary
 27 runoff held by any other party for the nomination of candidates to seek public offices to be
 28 filled in the same such election."

29 **SECTION 14.**

30 Said chapter is further amended by striking subsection (a) of Code Section 21-2-230, relating
 31 to challenge of persons on electors list by other persons, and inserting in lieu thereof a new
 32 subsection (a) to read as follows:

33 "(a) Any elector of the county or municipality may challenge the right of any other elector
 34 of the county or municipality, whose name appears on the list of electors, to vote in an

1 election. Such challenge shall be in writing and specify distinctly the grounds of such
 2 challenge. Such challenge may be made at any time prior to the elector whose right to vote
 3 is being challenged voting at the elector's polling place or, if such elector cast an absentee
 4 ballot, prior to ~~12:00 Noon on~~ the close of business on the day of before the election."

5 **SECTION 15.**

6 Said chapter is further amended by striking subsection (a) of Code Section 21-2-233, relating
 7 to comparison of change of address information supplied by the United States Postal Service
 8 with the electors list, and inserting in lieu thereof a new subsection (a) to read as follows:

9 "(a) The Secretary of State is authorized to cause at his or her discretion the official list of
 10 electors to be compared to the change of address information supplied by the United States
 11 Postal Service through its licensees periodically, ~~but not more often than once each year,~~
 12 for the purpose of identifying those electors whose addresses have changed."

13 **SECTION 16.**

14 Said chapter is further amended by striking subsection (a) of Code Section 21-2-267, relating
 15 to the arrangement of polling places, and inserting in lieu thereof a new subsection (a) to read
 16 as follows:

17 "(a) The governing authority shall provide and the superintendent shall cause all rooms
 18 used as polling places to be provided with suitable heat and light and, in precincts in which
 19 ballots are used, with a sufficient number of voting compartments or booths with proper
 20 supplies in which the electors may conveniently mark their ballots, with a curtain, screen,
 21 or door in the upper part of the front of each compartment or booth so that in the marking
 22 thereof they may be screened from the observation of others. A curtain, screen, or door
 23 shall not be required, however, for the self-contained units used as voting booths in which
 24 vote recorders are located if such booths have been designed so as to ensure the privacy of
 25 the elector. When practicable, every polling place shall consist of a single room, every part
 26 of which is within the unobstructed view of those present therein and shall be furnished
 27 with a guardrail or barrier closing the inner portion of such room, which guardrail or barrier
 28 shall be so constructed and placed that only such persons as are inside such rail or barrier
 29 can approach within six feet of the ballot box and voting compartments, or booths, or
 30 voting machines, as the case may be. The ballot box and voting compartments or booths
 31 shall be so arranged in the voting room within the enclosed space as to be in full view of
 32 those persons in the room outside the guardrail or barrier. The voting machine or machines
 33 shall be placed in the voting rooms within the enclosed space so that, unless its
 34 construction shall otherwise require, the ballot labels on the face of the machine can be
 35 plainly seen by the poll officers when the machine is not occupied by an elector. In the

1 case of direct recording electronic voting units, the units shall be arranged in such a manner
 2 as to ensure the privacy of the elector while voting on such units, to allow monitoring of
 3 the units by the poll officers while the polls are open, and to permit the public to observe
 4 the voting without affecting the privacy of the electors as they vote."

5 **SECTION 17.**

6 Said chapter is further amended by striking paragraph (1) of subsection (b) of Code Section
 7 21-2-286, relating to printing specifications, numbering, and binding of ballots, and inserting
 8 a new paragraph (1) to read as follows:

9 "(b)(1) Paper ballots other than those printed for optical scanning voting systems shall
 10 be at least six inches long and four inches wide and shall have a margin extending beyond
 11 any printing thereon. They shall be printed with the same kind of type, which shall not
 12 be smaller than the size known as 'brevier' or 'eight-point body,' upon white paper of
 13 uniform quality, without any impression or mark to distinguish one from another, and
 14 with sufficient thickness to prevent the printed matter from showing through, except that
 15 ballots being used in primaries held by more than one party may be of different colors or
 16 may have colored stripes or blocks to distinguish the ballots if the parties so agree. Each
 17 ballot shall be attached to a name stub, and all the ballots for the same precinct shall be
 18 bound together in books of 25, 50, or 100, in such manner that each ballot may be
 19 detached from its stub and removed separately. The ballots for each party to be used at
 20 a primary shall be bound separately. The name stubs of the ballots shall be consecutively
 21 numbered; and, in the case of primary ballots, the number shall be preceded by an initial
 22 or abbreviation designating the party name. The number and initial or abbreviation which
 23 appears upon the stub shall also be printed in the upper portion of the front of the ballot,
 24 separated from the remainder of the ballot by a horizontal perforated line so as to
 25 constitute a number strip and so prepared that the upper portion of the front of the ballot
 26 containing the number may be detached from the ballot before it is deposited in the ballot
 27 box. The number strip on the ballot shall also have the following words printed thereon:
 28 "Tear off before depositing ballot in ballot box."

29 **SECTION 18.**

30 Said chapter is further amended by striking Code Section 21-2-287, relating to form of
 31 absentee ballots, and inserting in lieu thereof a new Code Section 21-2-287 to read as
 32 follows:

1 "21-2-287.
 2 The form for the absentee ballot shall be in substantially the same form as the official
 3 ballots used in the precincts, except it shall be printed with only the name stub and without
 4 a number strip and may have the precinct designation printed or stamped thereon."

5 **SECTION 19.**

6 Said chapter is further amended by adding a new subsection (e) to Code Section 21-2-300,
 7 relating to provision of new voting equipment by state, to read as follows:

8 "(e)(1) Counties shall be authorized to contract with municipal governments for the use of
 9 such voting equipment in municipal elections under terms and conditions specified by the
 10 Secretary of State to assure that the equipment is properly used and kept secure.

11 (2) Notwithstanding the provisions of Code Section 21-2-45, counties may not levy a fee
 12 for use of state owned voting equipment but may require municipalities to reimburse the
 13 county for the actual expenses related to the election or elections that are subject to the
 14 county and municipal contract."

15 **SECTION 20.**

16 Said chapter is further amended by repealing Code Section 21-2-301, relating to a pilot
 17 program, which reads as follows:

18 "~~21-2-301.~~

19 ~~(a) The Secretary of State is authorized to conduct a pilot project to test and evaluate the~~
 20 ~~use of electronic recording voting systems during the 2001 municipal elections. The~~
 21 ~~Secretary of State in his or her discretion may select a number of municipalities to~~
 22 ~~participate in such pilot program.~~

23 ~~(b) Electronic recording voting systems used in the pilot program shall meet the~~
 24 ~~requirements contained in Part 5 of Article 9 of this chapter and shall have been certified~~
 25 ~~by the Secretary of State as provided in Code Section 21-2-379.2. Such voting systems~~
 26 ~~shall be required to have an independent audit trail for each vote cast.~~

27 ~~(c) The Secretary of State shall furnish the electronic recording voting systems to the~~
 28 ~~selected municipalities for use in the pilot project, provided that the municipalities provide~~
 29 ~~polling places with adequate electrical outlets, telephone lines, and other facilities~~
 30 ~~necessary to operate such electronic recording voting systems.~~

31 ~~(d) The Secretary of State is authorized to use different types of electronic recording~~
 32 ~~voting systems in the pilot project. However, the same type system must be used in all~~
 33 ~~precincts within a municipality and there shall not be any other voting systems used in that~~
 34 ~~municipality for voting at the polling places on election day unless there is an emergency~~
 35 ~~declared by the Secretary of State due to the failure of the system or due to the inability for~~

1 any reason of the electors to be able to cast their ballots on the system. In the event of such
2 declared emergency situation, the Secretary of State may direct the use of any method of
3 voting authorized by this chapter in the municipal election.

4 ~~(e)(1) There is created the Twenty-first Century Voting Commission. The commission
5 shall be composed of two members appointed by the Speaker of the House of
6 Representatives, two members appointed by the Lieutenant Governor, two members
7 appointed by the Governor, the chief information officer for the State of Georgia or his
8 or her designee, eight members appointed by the Secretary of State of which six shall be
9 county or municipal election officials, the director of the Elections Division of the office
10 of the Secretary of State, one member designated by each political body that qualified
11 candidates in the 2000 November general election, and the Secretary of State, who shall
12 be the chairperson of the commission. In appointing members to such commission, the
13 Speaker of the House of Representatives, the President of the Senate, the Governor, and
14 the Secretary of State shall ensure equal representation on the commission by each
15 political party in their respective appointments; provided, however, that nothing
16 contained herein shall prohibit the Secretary of State from appointing election officials
17 to the commission who have no political party affiliation or who are nonpartisan. The
18 commission shall coordinate and oversee the pilot project authorized by this Code
19 section.~~

20 ~~(2) The commission may work with the Board of Regents of the University System of
21 Georgia and the Department of Education in seeking avenues and incentives to encourage
22 student participation as poll workers and in other areas of the election process.~~

23 ~~(3) The commission shall make a report to the Governor and the General Assembly by
24 December 31, 2001, on the results of the pilot project and shall further advise the
25 Secretary of State on the choice of voting equipment to be used state wide in all counties
26 pursuant to Code Section 21-2-300.~~

27 ~~(4) Any members of the General Assembly serving on the commission shall receive the
28 allowances authorized for legislative members of interim legislative committees. The
29 public members of the commission who are not public employees shall receive a daily
30 expense allowance as provided in subsection (b) of Code Section 45-7-21. Any public
31 employee serving on the commission shall receive no compensation but may be
32 reimbursed for expenses.~~

33 ~~(5) The commission shall continue its work through December 31, 2002, after which
34 time it shall stand abolished unless reauthorized and continued by the General Assembly.~~

35 ~~(6) The Commission shall have at least one meeting in North Georgia (outside of
36 Atlanta), one meeting in Central Georgia, and one meeting in South Georgia."~~

SECTION 21.

Said chapter is further amended by striking subsection (a) of Code Section 21-2-369, relating to printing of optical scanning ballots, and inserting in lieu thereof a new subsection (a) to read as follows:

"(a) The ballots shall be printed in black ink upon clear, white, or colored material, of such size and arrangement as will suit the construction of the optical scanner, and in plain, clear type so as to be easily readable by persons with normal vision; provided, however, that red material shall not be used except that all ovals appearing on the ballot to indicate where a voter should mark to cast a vote may be printed in red ink."

SECTION 22.

Said chapter is further amended by striking subsection (e) of Code Section 21-2-379.5, relating to ballot information, and inserting in lieu thereof a new subsection (e) to read as follows:

"(e) When presidential electors are to be elected, the ballot shall not list the individual names of the candidates for presidential electors but shall list the names of each political party and body and the names of the political party or body candidates for the office of President and Vice President. The individual names or the nominees of each political party or body for such offices shall be posted at each polling place with the sample ballots required by subsection (d) of Code Section 21-2-379.7 arranged alphabetically under the names of the candidates of the party or body for President and Vice President of the United States. A vote for the candidates for President and Vice President of a political party or body shall be deemed to be a vote for each of the candidates for presidential electors of such political party or body."

SECTION 23.

Said chapter is further amended by striking subsection (c) of Code Section 21-2-379.6, relating to maintenance of voting systems and supplies, and inserting in lieu thereof a new subsection (c) to read as follows:

"(c) On or before the third day preceding a primary or election, including special primaries, special elections, and referendum elections, the superintendent shall have each DRE unit tested to ascertain that it will correctly count the votes cast for all offices and on all questions in a manner that the State Election Board shall prescribe by rule or regulation. On or before the third day preceding a primary runoff or election runoff, including special primary runoffs and special election runoffs, the superintendent shall test a number of DRE units at random to ascertain that the units will correctly count the votes cast for all offices. If the total number of DRE units in the county is 30 units or less, all of the units shall be

1 tested. If the total number of DRE units in the county is more than 30 but not more than
 2 100, then at least one-half of the units shall be tested at random. If there are more than 100
 3 DRE units in the county, the superintendent shall test at least 15 percent of the units at
 4 random. In no event shall the superintendent test less than one DRE unit per precinct. All
 5 memory cards to be used in the runoff shall be tested. Public notice of the time and place
 6 of the test shall be made at least five days prior thereto. Representatives of political parties
 7 and bodies, news media, and the public shall be permitted to observe such tests."

8 **SECTION 24.**

9 Said chapter is further amended by striking Code Section 21-2-379.11, relating to procedure
 10 for tabulation of votes, and inserting in lieu thereof a new Code Section 21-2-379.11 to read
 11 as follows:

12 "21-2-379.11.

13 (a) In primaries and elections in which direct recording electronic (DRE) voting equipment
 14 is used, the ballots shall be counted at the precinct or tabulating center under the direction
 15 of the superintendent. All persons who perform any duties at the tabulating center shall be
 16 deputized by the superintendent and only persons so deputized shall touch any ballot,
 17 container, paper, or machine utilized in the conduct of the count or be permitted to be in
 18 the immediate area designated for officers deputized to conduct the count.

19 (b) All proceedings at the tabulating center and precincts shall be open to the view of the
 20 public, but no person except one employed and designated for the purpose by the
 21 superintendent or the superintendent's authorized deputy shall touch any ballot, any DRE
 22 unit, or the tabulating equipment.

23 (c) After the polls have closed and all voting in the precinct has ceased, the poll manager
 24 shall shut down the DRE units and extract the election results from each unit as follows:

25 (1) The manager shall obtain the ~~tabulating~~ results tape from each DRE unit and verify
 26 that the number of ballots cast as recorded on the tape matches the public count number
 27 as displayed on the DRE unit;

28 (2) If a system is established by the Secretary of State, the poll manager shall first
 29 transmit the election results extracted from each DRE unit in each precinct via modem
 30 to the central tabulating center of the county; and

31 (3) The manager shall then extract the ~~ballot storage medium~~ memory card from each
 32 DRE unit.

33 (d) Upon completion of shutting down each DRE unit and extracting the election results,
 34 the manager shall cause to be completed and signed a ballot recap form, in sufficient
 35 counterparts, showing:

36 (1) The number of valid ballots;

1 (2) The number of spoiled and invalid ballots;

2 (3) The number of provisional ballots; and

3 (4) The number of unused provisional ballots and any other unused ballots.

4 The manager shall cause to be placed in the ballot supply container one copy of the recap
5 form and any unused, defective, spoiled, and invalid ballots, each enclosed in an envelope.

6 (e) The manager shall ~~wrap~~ collect and retain the zero tape and the tabulating results tape
7 for each DRE unit ~~around the ballot storage medium and place such tapes with the memory~~
8 card for ~~that~~ each unit and enclose all such items for all of the DRE units used in the
9 precinct in an one envelope which shall be sealed and initialed by the manager so that it
10 cannot be opened without breaking the seal. ~~One envelope shall be used for the~~
11 ~~documentation for each DRE unit and all envelopes from the polling place shall be placed~~
12 ~~in an envelope container which shall also be sealed so that it cannot be opened without~~
13 ~~breaking the seal.~~

14 (f) The manager and one poll worker shall then deliver the envelope ~~container~~ to the
15 tabulating center for the county or municipality or to such other place designated by the
16 superintendent and shall receive a receipt therefor. The copies of the recap forms, unused
17 ballots, records, and other materials shall be returned to the designated location and
18 retained as provided by law.

19 (g) Upon receipt of the sealed ~~envelopes~~ envelope containing the zero tapes, ~~tabulating~~
20 results tapes, and ~~ballot storage media~~ memory cards, the election superintendent shall
21 verify the signatures on the envelope. Once verified, the superintendent shall break the seal
22 of the envelope and remove its contents. The superintendent shall then download the
23 results stored on the ~~ballot storage medium~~ memory card from each DRE unit into the
24 election management system located at the central tabulation point of the county in order
25 to obtain election results for certification."

26 SECTION 25.

27 Said chapter is further amended by striking paragraph (3) of subsection (a) of Code Section
28 21-2-381, relating to making of application for absentee ballot, and inserting in lieu thereof
29 a new paragraph (3) to read as follows:

30 "(3) All applications for an official absentee ballot that are distributed by a person, entity,
31 or organization shall list thereon all of the legally acceptable categories of absentee
32 electors contained in Code Section 21-2-380 and shall require the elector to select the
33 category which qualifies the elector to vote by absentee ballot. No application for an
34 official absentee ballot that is physically attached to a publication that advocates for or
35 against a particular candidate, issue, political party, or political body shall be distributed
36 by any person, entity, or organization."

1 compare the signature or mark on the oath with the signature or mark on the absentee
2 elector's application for absentee ballot or a facsimile of said signature or mark taken
3 from said application, and shall, if the information and signature appear to be valid, so
4 certify by signing or initialing his or her name below the voter's oath. Each elector's
5 name so certified shall be listed by the registrar or clerk on the numbered list of absentee
6 voters prepared for his or her precinct. If the elector has failed to sign the oath, or if the
7 signature does not appear to be valid, or if the elector has failed to furnish required
8 information or information so furnished does not conform with that on file in the
9 registrar's or clerk's office, or if the elector is otherwise found disqualified to vote, the
10 registrar or clerk shall write across the face of the envelope 'Rejected,' giving the reason
11 therefor. The board of registrars or absentee ballot clerk shall promptly notify the elector
12 of such rejection, a copy of which notification shall be retained in the files of the board
13 of registrars or absentee ballot clerk for at least one year. Three copies of the numbered
14 list of voters shall also be prepared for such rejected absentee electors, giving the name
15 of the elector and the reason for the rejection in each case. Three copies of the numbered
16 list of certified absentee voters and three copies of the numbered list of rejected absentee
17 voters for each precinct shall be turned over to the poll manager in charge of counting the
18 absentee ballots and shall be distributed as required by law for numbered lists of voters.
19 All absentee ballots returned to the board or absentee ballot clerk after the closing of the
20 polls on the day of the primary or election shall be safely kept unopened by the board or
21 absentee ballot clerk and then transferred to the appropriate clerk for storage for the
22 period of time required for the preservation of ballots used at the primary or election and
23 shall then, without being opened, be destroyed in like manner as the used ballots of the
24 primary or election. The board of registrars or absentee ballot clerk shall promptly notify
25 the elector by first-class mail that the elector's ballot was returned too late to be counted
26 and that the elector will not receive credit for voting in the primary or election. All such
27 late absentee ballots shall be delivered to the appropriate clerk and stored as provided in
28 Code Section 21-2-390."

29 "(e) If an absentee elector's right to vote has been challenged for cause, a poll officer shall
30 open the envelopes and write 'Challenged,' the elector's name, and the alleged cause of
31 challenge on the back of the ballot, without disclosing the markings on the face thereof, and
32 shall deposit the ballot in the box; and it shall be counted as other challenged ballots are
33 counted. In the case of absentee votes cast on direct recording electronic voting systems,
34 the ballots shall be coded in such a way that the ballot of a challenged voter can be
35 separated from other valid ballots at the time of tabulation and the challenged ballots shall
36 be counted or rejected in accordance with Code Section 21-2-230. The board of registrars
37 or absentee ballot clerk shall promptly notify the elector of such challenge."

SECTION 28.

Said chapter is further amended by striking Code Section 21-2-390, relating to delivery of election materials to clerk of superior court or city clerk after primary or election, and inserting in lieu thereof a new Code Section 21-2-390 to read as follows:

"21-2-390.

All official absentee ballots, ~~applications for such ballots~~, and envelopes on which the forms of affidavits and jurats appear shall be delivered to the clerk of the superior court or the city clerk upon the conclusion of the primary or election and shall be safely kept by him or her for the period required by law and then shall be destroyed. The applications for such ballots shall be retained by the board of registrars or the municipal absentee ballot clerk for at least 24 months and then may be destroyed. On the day following the primary or election, the board of registrars or the municipal absentee ballot clerk shall transmit all canceled, spoiled, and rejected absentee ballots and copies of requests for cancellation of absentee ballots to the clerk of the superior court or the city clerk to be held with other election materials as provided in Code Section 21-2-500. The registrars or the municipal absentee ballot clerk shall also transmit an accounting of all absentee ballots, including the number furnished by the registrars or the municipal absentee ballot clerk, the number issued to electors, the number spoiled, and the number rejected."

SECTION 29.

Said chapter is further amended by striking subsection (a) of Code Section 21-2-405, relating to meeting of poll officers at place of primary or election, an inserting in lieu thereof a new subsection (a) and adding a new subsection (e) to read as follows:

"(a) The chief manager and two assistant managers shall meet in the respective places appointed for holding the primary or election in each precinct at least one hour before the hour for opening the polls on the day of each primary or election. The other required poll officers shall meet in the respective places appointed for holding the primary or election in each precinct at least 30 minutes before the hour for opening the polls on the day of each primary or election. Before entering upon their duties at any primary or election, all poll officers shall take and subscribe in duplicate to the oaths required by this chapter."

"(e) Nothing in this Code section shall prohibit a county or municipality from offering poll officers, other than the chief manager and assistant managers, the option of working part of an election day, rather than the entire day from the opening of the polls to the closing of the polls and completion of the required duties following the closing of the polls. In such cases, any poll officer who begins a shift of work after the opening of the polls shall take and subscribe the same oath as required of poll officers in subsection (a) of this Code section and shall handle such duties as assigned by the chief manager."

SECTION 30.

Said chapter is further amended by striking paragraph (2) of subsection (b) of Code Section 21-2-409, relating to assisting electors who cannot read English or who have physical disabilities, and inserting in lieu thereof a new paragraph (2) to read as follows:

"(2) In all other elections, any elector who is entitled to receive assistance in voting under this Code section shall be permitted by the managers to select (1) any elector, except a poll officer or poll watcher, who is a resident of the precinct in which the elector requiring assistance is attempting to vote; or (2) the mother, father, sister, brother, spouse, or child of the elector entitled to receive assistance, to enter the voting compartment or booth with him or her to assist in voting, such assistance to be rendered inside the voting compartment or booth. No person shall assist more than ten such electors in any primary, election, or runoff covered by this paragraph. No person whose name appears on the ballot as a candidate at a particular election nor the mother, father, grandparent, aunt, uncle, sister, brother, spouse, son, daughter, niece, nephew, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, or sister-in-law of that candidate may offer assistance during that particular election under the provisions of this Code section to any voter who is not related to such candidate. For the purposes of this paragraph, 'related to such candidate' shall mean the candidate's mother, father, grandparent, aunt, uncle, sister, brother, spouse, son, daughter, niece, nephew, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, or sister-in-law."

SECTION 31.

Said chapter is further amended by striking subsections (f) and (g) of Code Section 21-2-414, relating to restrictions on campaign activities and public opinion polling within the vicinity of a polling place, and inserting in lieu thereof new subsections (f), (g), and (h) to read as follows:

"(f) No person whose name appears as a candidate on the ballot being voted upon at a primary, election, special primary, or special election, except a judge of the probate court serving as the election superintendent, shall physically enter any polling place other than the polling place at which that person is authorized to cast his or her ballot for that primary, election, special primary, or special election and, after casting his or her ballot, the candidate shall not return to such polling place until after the poll has closed and voting has ceased. Judges of the probate court serving as election superintendents shall enter polling places only as necessary to fulfill their duties as election superintendents and shall not engage in any practice prohibited by this Code section.

1 (g) This Code section shall not be construed to prohibit a poll officer from distributing
 2 materials, as required by law, which are necessary for the purpose of instructing electors
 3 or from distributing materials prepared by the Secretary of State which are designed solely
 4 for the purpose of encouraging voter participation in the election being conducted.

5 ~~(g)~~ (h) Any person who violates this Code section shall be guilty of a misdemeanor."

6 SECTION 32.

7 Said chapter is further amended by striking subsection (g) of Code Section 21-2-480, relating
 8 to form and arrangement of optical scanning voting equipment, and inserting in lieu thereof
 9 a new subsection (g) to read as follows:

10 "(g) When presidential electors are to be elected, the ballot shall not list the individual
 11 names of the candidates for presidential electors but shall list the names of each political
 12 party and body and the names of the political party or body candidates for the office of
 13 President and Vice President. The individual names or the nominees of each political party
 14 or body for such offices shall be posted at each polling place with the sample ballots
 15 required by subsection (c) of Code Section 21-2-375 arranged alphabetically under the
 16 names of the candidates of the party or body for President and Vice President of the United
 17 States. A vote for the candidates for President and Vice President of a political party or
 18 body shall be deemed to be a vote for each of the candidates for presidential electors of
 19 such political party or body."

20 SECTION 33.

21 Said chapter is further amended by striking subsection (c) of Code Section 21-2-495, relating
 22 to procedure for recount or recanvass of vote, and inserting in lieu thereof a new subsection
 23 (c) to read as follows:

24 "(c) Whenever the difference between the number of votes received by a candidate who
 25 has been declared nominated for an office in a primary election or who has been declared
 26 elected to an office in an election or who has been declared eligible for a run-off primary
 27 or election and the number of votes received by any other candidate or candidates not
 28 declared so nominated or elected or eligible for a runoff shall be not more than 1 percent
 29 of the total votes which were cast for such office therein, any such candidate or candidates
 30 receiving a sufficient number of votes so that the difference between his or her vote and
 31 that of a candidate declared nominated, elected, or eligible for a runoff is not more than 1
 32 percent of the total votes cast, within a period of ~~five~~ two business days following the
 33 certification of the election results, shall have the right to a recount of the votes cast, if such
 34 request is made in writing by the losing candidate. If the office sought is a federal or state
 35 office voted upon by the electors of more than one county, the request shall be made to the

1 Secretary of State who shall direct that the recount be performed in all counties in which
 2 electors voted for such office and notify the superintendents of the several counties
 3 involved of the request. In all other cases, the request shall be made to the superintendent.
 4 The superintendent or superintendents shall order a recount of such votes to be made
 5 immediately. If, upon such recount, it is determined that the original count was incorrect,
 6 the returns and all papers prepared by the superintendent, the superintendents, or the
 7 Secretary of State shall be corrected accordingly and the results recertified."

8 **SECTION 34.**

9 Said chapter is further amended by striking Code Section 21-2-499, relating to duty of
 10 Secretary of State as to tabulation, computation, and canvassing of votes for state and federal
 11 officers, in its entirety and inserting in lieu thereof a new Code Section 21-2-499 to read as
 12 follows:

13 "21-2-499.

14 (a) Upon receiving the certified returns of any election from the various superintendents,
 15 the Secretary of State shall immediately proceed to tabulate, compute, and canvass the
 16 votes cast for all candidates described in subparagraph (A) of paragraph (4) of Code
 17 Section 21-2-497 and upon all questions voted for by the electors of more than one county
 18 and shall thereupon certify and file in his or her office the tabulation thereof. In the event
 19 an error is found in the certified returns presented to the Secretary of State or in the
 20 tabulation, computation, or canvassing of votes as described in this Code section, the
 21 Secretary of State shall notify the county submitting the incorrect returns and direct the
 22 county to correct and recertify such returns. Upon receipt by the Secretary of State of the
 23 corrected certified returns of the county, the Secretary of State shall issue a new
 24 certification of the results and shall file the same in his or her office.

25 (b) The Secretary of State shall also, upon receiving the certified returns for presidential
 26 electors, proceed to tabulate, compute, and canvass the votes cast for each slate of
 27 presidential electors and shall immediately lay them before the Governor. Not later than
 28 5:00 P.M. on the fourteenth day following the date on which such election was conducted,
 29 the Secretary of State shall certify the votes cast for all candidates described in
 30 subparagraph (A) of paragraph (4) of Code Section 21-2-497 and upon all questions voted
 31 for by the electors of more than one county and shall no later than that same time lay the
 32 returns for presidential electors before the Governor. The Governor shall enumerate and
 33 ascertain the number of votes for each person so voted and shall certify the slates of
 34 presidential electors receiving the highest number of votes. The Governor shall certify the
 35 slates of presidential electors no later than 5:00 P.M. on the fifteenth day following the date
 36 on which such election was conducted. Notwithstanding the deadlines specified in this

1 Code section, such times may be altered for just cause by an order of a judge of superior
 2 court of this state.

3 ~~(b)~~(c) The Secretary of State shall not count, tabulate, or publish the names of any write-in
 4 candidates for whom the notice of intention of candidacy has not been provided in
 5 compliance with Code Section 21-2-133."

6 SECTION 35.

7 Said chapter is further amended by striking subsections (a) and (g) of Code Section 21-2-501,
 8 relating to number of votes required for election, and inserting in lieu thereof new
 9 subsections (a) and (g) to read as follows:

10 "(a) Except as otherwise provided in this Code section, no candidate shall be nominated
 11 for public office in any primary or special primary or elected to public office in any special
 12 election unless such candidate shall have received a majority of the votes cast to fill such
 13 nomination or public office. In instances where no candidate receives a majority of the
 14 votes cast, a run-off primary, special primary runoff, or special election runoff between the
 15 candidates receiving the two highest numbers of votes shall be held. Unless such date is
 16 postponed by a court order, such run-off primary, special primary runoff, or special
 17 election runoff shall be held on the twenty-first day after the day of holding the preceding
 18 primary or special election, provided that, unless postponed by court order, a runoff in the
 19 case of a special primary or special election shall be held no sooner than the fourteenth day
 20 and no later than the twenty-first day after the day of holding the preceding special primary
 21 or special election, which run-off day shall be determined by the Secretary of State in a
 22 runoff to fill a federal or state office or by the superintendent in a runoff to fill a county or
 23 militia district office. If any candidate eligible to be in a runoff withdraws, dies, or is found
 24 to be ineligible, the remaining candidates receiving the two highest numbers of votes shall
 25 be the candidates in the runoff. The candidate receiving the highest number of the votes
 26 cast in such run-off primary, special primary runoff, or special election runoff to fill the
 27 nomination or public office sought shall be declared the winner. The name of a write-in
 28 candidate eligible for election in a runoff shall be printed on the special election run-off
 29 ballot in the independent column. The run-off primary, special primary runoff, or special
 30 election runoff shall be a continuation of the primary, special primary, or special election
 31 for the particular office concerned. Only the electors who were ~~entitled~~ duly registered to
 32 vote and not subsequently deemed disqualified to vote in the primary, special primary, or
 33 special election for candidates for that particular office shall be entitled to vote therein, and
 34 only those votes cast for the persons designated as candidates in such run-off primary,
 35 special primary runoff, or special election runoff shall be counted in the tabulation and

1 canvass of the votes cast. No elector shall vote in a run-off primary or special primary
 2 runoff in violation of Code Section 21-2-224."

3 "(g) In the event that no candidate receives a plurality of the votes cast in a general election
 4 ~~or more than one candidate in a general election, special election runoff, or run-off primary~~
 5 ~~receives the highest number of votes cast~~, a runoff of the general election, ~~special election~~
 6 ~~runoff, or run-off primary~~ between the candidates receiving the two highest numbers of
 7 votes shall be held. If more than one candidate in a general election receives a plurality of
 8 the votes cast, the candidate receiving the highest number of votes cast shall be declared
 9 the winner. Unless such date is postponed by a court order, such runoff shall be held on
 10 the twenty-first day after the day of holding the preceding general election, ~~special election~~
 11 ~~runoff, or run-off primary~~. If any candidate eligible to be in such runoff withdraws, dies,
 12 or is found to be ineligible, the remaining candidates receiving the two highest numbers of
 13 votes shall be the candidates in the runoff. The candidate receiving the highest number of
 14 the votes cast in such runoff to fill the ~~nomination~~ or public office such candidate seeks
 15 shall be declared the winner. The name of a write-in candidate eligible for election in a
 16 runoff shall be printed on the run-off election ballot in the independent column. The ~~runoff~~
 17 ~~of a run-off primary or special election runoff shall be a continuation of the primary or~~
 18 ~~special election for the particular office concerned, and the run-off election of a general~~
 19 election shall be a continuation of the general election for the particular office concerned.
 20 Only the electors who were ~~entitled~~ duly registered to vote and not subsequently deemed
 21 disqualified to vote for that particular office in such ~~primary or special election or general~~
 22 election, ~~respectively~~, shall be entitled to vote therein, and only those votes cast for the
 23 persons designated as candidates in such runoff shall be counted in the tabulation and
 24 canvass of the votes cast. ~~No elector shall vote in a run-off primary in violation of Code~~
 25 ~~Section 21-2-224."~~

26 SECTION 36.

27 Said chapter is further amended by striking Code Section 21-2-528, relating to appeals from
 28 court's determination on contest petition, in its entirety and inserting in lieu thereof a new
 29 Code Section 21-2-528 to read as follows:

30 "21-2-528.

31 An appeal from the final determination of the court may be taken within ten days from the
 32 rendition thereof to the Supreme Court ~~or the Court of Appeals~~ as in other civil cases. The
 33 filing of a notice of appeal shall not act as a stay or supersedeas. The appellant may apply
 34 to the Supreme Court ~~or the Court of Appeals, as appropriate~~, for a stay or supersedeas, and
 35 such ~~courts~~ court shall consider applications for stays or supersedeas in such cases without
 36 regard to whether any notice of appeal has been filed or the record docketed in such cases."

