House Bill 33

By: Representatives Williams of the 165th, Mitchell of the 88th, and Williams of the 89th

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 uncounted 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   **SECTION 2.**

2   Said chapter is further amended by striking subsection (c) of Code Section 21-2-386, relating

3   to safekeeping, certification, and validation of absentee ballots, and inserting in lieu thereof

4   a new subsection (c) to read as follows:

5   "(c) Except as otherwise provided in this Code section, after the close of the polls on the

6   day of the primary or election, a manager shall then open the outer envelope in such

7   manner as not to destroy the oath printed thereon and shall deposit the inner envelope

8   marked 'Official Absentee Ballot' in a ballot box reserved for absentee ballots. Such

9   manager with two assistant managers, appointed by the superintendent, with such clerks

10   as the manager deems necessary shall count the absentee ballots following the procedures

11   prescribed by this chapter for other ballots, insofar as practicable, and prepare an election

12   return for the county or municipality showing the results of the absentee ballots cast in such

13   county or municipality. The election superintendent shall not close his or her office until

14   all absentee ballots have been counted after the polls close on the day of a primary or

15   election. If it is not possible to count all absentee ballots prior to closing the office of the

16   election superintendent, then the election superintendent shall petition in writing the

17   superior court of the county for an order deferring completion of the counting of absentee

18   ballots. Such petition shall contain information including the reasons ballot counting cannot

19   be concluded, the number of absentee ballots not yet counted, a proposed manner in which

20   to secure all absentee ballots, and the proposed date, time, and location for resuming and

21   completing the counting of absentee ballots. The court´s order, if issued, shall specify the

22   conditions under which the counting of absentee ballots shall be completed and the security

23   provisions which shall be made for uncounted absentee ballots in the meantime. Such

24   petition and order, if any, shall be filed in the office of the clerk of the superior court of the

25   county as soon as practicable after submission to the court. This subsection shall not apply

26   to provisional ballots under Code Section 21-2-419."

27   **SECTION 3.**

28   Said chapter is further amended by striking subsection (a) of Code Section 21-2-437, relating

29   to count and return of votes generally, and inserting in lieu thereof a new subsection (a) to

30   read as follows:

31   "(a) After the polls close and as soon as all the ballots have been properly accounted for

32   and those outside the ballot box as well as the voter´s certificates, numbered list of voters,

33   and electors list have been sealed, the poll officers shall open the ballot box and take

34   therefrom all ballots contained therein. In primaries in which more than one ballot box is

35   used, any ballots or stubs belonging to another party holding its primary in the same polling

36   place shall be returned to the ballot box for the party for which they were issued. In

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 uncounted 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.

2   Said chapter is further amended by adding a new subsection (i) to Code Section 21-2-483,

3   relating to counting of optical scan ballots, to read as follows:

4   "(i) The election superintendent shall not close his or her office until all ballots, including

5   absentee ballots, have been counted after the polls close on the day of a primary or election.

6   If it is not possible to count all ballots prior to closing the office of the election

7   superintendent, then the election superintendent shall petition in writing the superior court

8   of the county for an order deferring completion of the counting of ballots. Such petition

9   shall contain information including the reasons ballot counting cannot be concluded, the

10   number of ballots not yet counted, a proposed manner in which to secure all ballots, and

11   the proposed date, time, and location for resuming and completing the counting of ballots.

12   The court´s order, if issued, shall specify the conditions under which the counting of ballots

13   shall be completed and the security provisions which shall be made for uncounted ballots

14   in the meantime. Such petition and order, if any, shall be filed in the office of the clerk of

15   the superior court of the county as soon as practicable after submission to the court. This

16   subsection shall not apply to provisional ballots under Code Section 21-2-419."

SECTION 5.

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