

Senate Bill 409

By: Senators Hamrick of the 30th, Smith of the 52nd and Wiles of the 37th

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Article 13 of Chapter 2 of Title 21 of the Official Code of Georgia Annotated,
2 relating to contested elections and primaries, so as to require that the courts determine
3 contested elections and primaries on an expedited basis; to provide for related matters; to
4 repeal conflicting laws; and for other purposes.

5 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

6 **SECTION 1.**

7 Article 13 of Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to
8 contested elections and primaries, is amended by striking Code Section 21-2-525, relating
9 to hearings and powers of the court generally, and inserting in lieu thereof a new Code
10 Section 21-2-525 to read as follows:

11 "21-2-525.

12 (a) Within 20 days after the return day fixed in the notice as provided in subsection (a) of
13 Code Section 21-2-524 to the defendant, the presiding judge shall fix a place and time for
14 the hearing of the contest proceeding. Such judge may fix additional hearings at such other
15 times and places as are necessary. The judge shall set aside or postpone all other business
16 as necessary in order to decide the contest promptly and expeditiously.

17 (b) The court having jurisdiction of the action shall have plenary power, throughout the
18 area in which the contested primary or election was conducted, to make, issue, and enforce
19 all necessary orders, rules, processes, and decrees for a full and proper understanding and
20 final determination and enforcement of the decision of every such case, according to the
21 course of practice in other civil cases under the laws of this state, or which may be
22 necessary and proper to carry out this chapter. The court shall have authority to subpoena
23 and to compel the attendance of any officer of the primary or election complained of and
24 of any person capable of testifying concerning the same; to compel the production of
25 evidence which may be required at such hearing, in like manner and to the same extent as
26 in other civil cases litigated before such court; to take testimony; and to proceed without

1 delay to the hearing and determination of such contest, ~~postponing for the purpose, if~~
 2 ~~necessary, all other business.~~

3 (c) The court may, in its discretion, limit the time to be consumed in taking testimony,
 4 dividing such time equitably among all litigants concerned, with a view therein to the
 5 circumstances of the matter and to the proximity of the next succeeding primary or
 6 election. In any event, the court shall determine the contest prior to the next succeeding
 7 primary or election or prior to the candidate whose election is challenged taking office and
 8 shall take all necessary actions to ensure that such contest is resolved on an expedited
 9 basis."

10 SECTION 2.

11 Said article is further amended by striking Code Section 21-2-528, relating to appeals from
 12 court's determination on contest petition, and inserting in lieu thereof a new Code Section
 13 21-2-528 to read as follows:

14 "21-2-528.

15 An appeal from the final determination of the court may be taken within ten days from the
 16 rendition thereof to the Supreme Court as in other civil cases. The filing of a notice of
 17 appeal shall not act as a stay or supersedeas. The appellant may apply to the Supreme
 18 Court for a stay or supersedeas, and such court shall consider applications for stays or
 19 supersedeas in such cases without regard to whether any notice of appeal has been filed or
 20 the record docketed in such cases. The Supreme Court shall consider such applications and
 21 such appeals on an expedited basis."

22 SECTION 3.

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