

House Bill 1607

By: Representatives Buckner of the 76th and Powell of the 29th

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 it shall be illegal for a candidate to
3 qualify in a primary or election in a district in which he or she is not qualified to run for
4 office; to eliminate the restriction on when a challenge to a candidate's qualifications may
5 be filed by an elector; to provide for related matters; to provide an effective date; to repeal
6 conflicting laws; and for other 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 primaries and
10 elections generally, is amended by striking subsections (b) and (c) of Code Section 21-2-5,
11 relating to qualifications of candidates for federal and state office, and inserting in lieu
12 thereof new subsections (b) and (c) to read as follows:

13 "(b) The Secretary of State upon his or her own motion may challenge the qualifications
14 of any candidate at any time prior to the election of such candidate. ~~Within two weeks~~
15 ~~after the deadline for qualifying~~ In addition, at any time prior to the election of such
16 candidate, any elector who is eligible to vote for a candidate may challenge the
17 qualifications of the candidate by filing a written complaint with the Secretary of State
18 giving the reasons why the elector believes the candidate is not qualified to seek and hold
19 the public office for which he or she is offering. Upon his or her own motion or upon a
20 challenge being filed, the Secretary of State shall notify the candidate in writing that his or
21 her qualifications are being challenged and the reasons therefor and shall advise the
22 candidate that he or she is requesting a hearing on the matter before an administrative law
23 judge of the Office of State Administrative Hearings pursuant to Article 2 of Chapter 13
24 of Title 50 and shall inform the candidate of the date, time, and place of the hearing when
25 such information becomes available. The administrative law judge shall report his or her
26 findings to the Secretary of State.

1 (c) The Secretary of State shall determine if the candidate is qualified to seek and hold the
 2 public office for which such candidate is offering. If the Secretary of State determines that
 3 the candidate is not qualified, the Secretary of State shall withhold the name of the
 4 candidate from the ballot or strike such candidate's name from the ballot if the ballots have
 5 been printed. If there is insufficient time to strike the candidate's name or reprint the
 6 ballots, a prominent notice shall be placed at each affected polling place advising voters
 7 of the disqualification of the candidate and all votes cast for such candidate shall be void
 8 and shall not be counted. In addition to any other penalties that the disqualified candidate
 9 may face, such candidate shall pay a fine of not less than \$50.00 per day and not more than
 10 \$200.00 per day for each day between the date that the candidate qualified for the office
 11 in question and the date such candidate was disqualified under this Code section. The
 12 Secretary of State shall determine the daily amount of the fine, taking into account the cost,
 13 if any, of notifying the electorate of the disqualification of the candidate. In no event shall
 14 such fine exceed \$1,000.00. The imposition or amount of the fine, or both, may be
 15 appealed by the candidate in the same manner as the disqualification itself."

16 SECTION 2.

17 Said chapter is further amended by striking subsections (b) and (c) of Code Section 21-2-6,
 18 relating to qualifications of candidates for county and municipal office, and inserting new
 19 subsections (b) and (c) to read as follows:

20 "(b) The superintendent upon his or her own motion may challenge the qualifications of
 21 any candidate referred to in subsection (a) of this Code section at any time prior to the
 22 election of such candidate. ~~Within two weeks after the deadline for qualifying~~ In addition,
 23 at any time prior to the election of such candidate, any elector who is eligible to vote for
 24 any such candidate may challenge the qualifications of the candidate by filing a written
 25 complaint with the superintendent giving the reasons why the elector believes the candidate
 26 is not qualified to seek and hold the public office for which the candidate is offering. Upon
 27 his or her own motion or upon a challenge being filed, the superintendent shall notify the
 28 candidate in writing that his or her qualifications are being challenged and the reasons
 29 therefor and shall advise the candidate that he or she is setting a hearing on the matter and
 30 shall inform the candidate of the date, time, and place of the hearing.

31 (c) The superintendent shall determine if the candidate is qualified to seek and hold the
 32 public office for which such candidate is offering. If the superintendent determines that
 33 the candidate is not qualified, the superintendent shall withhold the name of the candidate
 34 from the ballot or strike such candidate's name from the ballot if the ballots have been
 35 printed. If there is insufficient time to strike the candidate's name or reprint the ballots, a
 36 prominent notice shall be placed at each affected polling place advising voters of the

1 disqualification of the candidate and all votes cast for such candidate shall be void and shall
2 not be counted. In addition to any other penalties that the disqualified candidate may face,
3 such candidate shall pay a fine of not less than \$50.00 per day and not more than \$200.00
4 per day for each day between the date that the candidate qualified for the office in question
5 and the date such candidate was disqualified under this Code section. The superintendent
6 shall determine the daily amount of the fine, taking into account the cost, if any, of
7 notifying the electorate of the disqualification of the candidate. In no event shall such fine
8 exceed \$1,000.00. The imposition or amount of the fine, or both, may be appealed by the
9 candidate in the same manner as the disqualification itself."

10 **SECTION 3.**

11 This Act shall become effective on January 1, 2007.

12 **SECTION 4.**

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