

House Bill 487 (RULES COMMITTEE SUBSTITUTE)

By: Representatives Scott of the 153rd, Keen of the 179th, Burkhalter of the 50th, and Fleming of the 117th

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 provide that the candidate who receives the most
3 votes in a primary, special primary, or election, other than a municipal primary, municipal
4 special primary, municipal election, or municipal special election shall be nominated or
5 elected, provided that the votes for such candidate exceed 45 percent of the total votes cast
6 in that contest in the primary, special primary, or election; to provide that the candidate who
7 receives a majority of the votes cast in a special election shall be elected; to provide a
8 definition; to change the date of the presidential preference primary in Georgia; to change
9 the date by which the parties must submit names to the Secretary of State for inclusion on
10 the ballot and the date on which the Secretary of State shall publish such list of names; to
11 provide for related matters; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 style="text-align:center">**SECTION 1.**

14 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to elections and
15 primaries generally, is amended by revising paragraph (22) of Code Section 21-2-2, relating
16 to definitions, as follows:

17 (22) Reserved 'Plurality' means:

18 (A) With regard to a primary, special primary, or election, other than a municipal
19 primary, municipal special primary, municipal election, or municipal special election,
20 the receiving by one candidate alone of the highest number of votes cast for eligible
21 candidates in a primary, special primary, or election among the candidates in such
22 primary, special primary, or election for the office such candidate is seeking, provided
23 that such number of votes exceeds 45 percent of the total number of votes cast for
24 eligible candidates in such primary, special primary, or election for such office; or

25 (B) With regard to a municipal primary, municipal special primary, municipal election,
26 or municipal special election, the receiving by one candidate alone of the highest
27 number of votes cast for eligible candidates in a primary, special primary, election, or

1 special election among the candidates in such primary, special primary, election, or
 2 special election for the office the candidate is seeking.

3 In the case where two or more candidates for an office in a primary, special primary, or
 4 election tie in receiving the highest number of votes or no candidate for an office other
 5 than a municipal office receives more than 45 percent of the total number of votes cast
 6 in a primary, special primary, or election for such office, there is no plurality."

7 SECTION 2.

8 Said chapter is further amended by revising Code Section 21-2-191, relating to parties
 9 entitled to hold primaries and the dates for such primaries, as follows:

10 "21-2-191.

11 As provided in this article, a presidential preference primary shall be held in ~~1992~~ 2008 and
 12 every four years thereafter for each political party or body which has cast for its candidates
 13 for President and Vice President in the last presidential election more than 20 percent of
 14 the total vote cast for President and Vice President in the state, so that the electors may
 15 express their preference for one person to be the candidate for nomination by such person's
 16 party or body for the office of President of the United States; provided, however, that no
 17 elector shall vote in the primary of more than one political party or body in the same
 18 presidential preference primary. Such primary shall be held on ~~March 3, 1992~~ February 5,
 19 2008, and on the first Tuesday in ~~March~~ February every four years thereafter. A state
 20 political party or body may by rule choose to elect any portion of its delegates to that
 21 party's or body's presidential nominating convention in the primary; and, if a state political
 22 party or body chooses to elect any portion of its delegates, such state political party or body
 23 shall establish the qualifying period for those candidates for delegate and delegate alternate
 24 positions which are to be elected in the primary and for any party officials to be elected in
 25 the primary and shall also establish the date on which state and county party executive
 26 committees shall certify to the Secretary of State or the superintendent, as the case may be,
 27 the names of any such candidates who are to be elected in the primary; provided, however,
 28 that such dates shall not be later than ~~December 31~~ in November 1 of the year preceding
 29 the year in which the presidential preference primary is to be held."

30 SECTION 3.

31 Said chapter is further amended by revising Code Section 21-2-193, relating to list of names
 32 of candidates to appear on ballot, as follows:

1 "21-2-193.
 2 Not later than ~~December 31~~ in November 1 of the year preceding the year in which a
 3 presidential preference primary is to be held, the state executive committee of each party
 4 which is to conduct a presidential preference primary shall submit to the Secretary of State
 5 a list of the names of the candidates of such party to appear on the presidential preference
 6 primary ballot. Such lists shall be published by the Secretary of State in a newspaper of
 7 general circulation in the state during the first week of ~~January~~ December in the year
 8 immediately preceding the year in which the presidential preference primary is to be held."

9 **SECTION 4.**

10 Said chapter is further amended by revising Code Section 21-2-501, relating to number of
 11 votes required for election, as follows:

12 "21-2-501.

13 (a)(1) Except as otherwise provided in this Code section, no candidate shall be
 14 nominated for public office in any primary or special primary or elected to public office
 15 in any election ~~or special election~~ unless such candidate shall have received a ~~majority~~
 16 plurality of the votes cast to fill such nomination or public office. In instances where no
 17 candidate receives a ~~majority~~ plurality of the votes cast, a run-off primary, special
 18 primary runoff, or run-off election, ~~or special election runoff~~ between the candidates
 19 receiving the two highest numbers of votes shall be held. Unless such date is postponed
 20 by a court order, such run-off primary or special primary runoff shall be held on the
 21 twenty-first day after the day of holding the preceding primary or special primary,
 22 provided that, unless postponed by court order, a runoff in the case of an election ~~or~~
 23 ~~special election~~ shall be held on the twenty-eighth day after the day of holding the
 24 preceding election ~~or special election~~. If any candidate eligible to be in a runoff
 25 withdraws, dies, or is found to be ineligible, the remaining candidates receiving the two
 26 highest numbers of votes shall be the candidates in the runoff. The candidate receiving
 27 the highest number of the votes cast in such run-off primary, special primary runoff, or
 28 run-off election, ~~or special election runoff~~ to fill the nomination or public office sought
 29 shall be declared the winner. The name of a write-in candidate eligible for election in a
 30 runoff shall be printed on the election ~~or special election~~ run-off ballot in the independent
 31 column. The run-off primary, special primary runoff, or run-off election, ~~or special~~
 32 ~~election runoff~~ shall be a continuation of the primary, special primary, or election, ~~or~~
 33 ~~special election~~ for the particular office concerned. Only the electors who were duly
 34 registered to vote and not subsequently deemed disqualified to vote in the primary,
 35 special primary, or election, ~~or special election~~ for candidates for that particular office
 36 shall be entitled to vote therein, and only those votes cast for the persons designated as

1 candidates in such run-off primary, special primary runoff, or run-off election, ~~or special~~
 2 ~~election runoff~~ shall be counted in the tabulation and canvass of the votes cast. No
 3 elector shall vote in a run-off primary or special primary runoff in violation of Code
 4 Section 21-2-224.

5 (2) Except as otherwise provided in this Code section, no candidate shall be elected to
 6 public office in any special election unless such candidate shall have received a majority
 7 of the votes cast to fill such public office. In instances where no candidate receives a
 8 majority of the votes cast, a special election runoff between the candidates receiving the
 9 two highest numbers of votes shall be held. Unless such date is postponed by a court
 10 order, such runoff shall be held on the twenty-eighth day after the day of holding the
 11 preceding special election. If any candidate eligible to be in a runoff withdraws, dies, or
 12 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
 14 of the votes cast in such special election runoff to fill the public office sought shall be
 15 declared the winner. The name of a write-in candidate eligible for election in a runoff
 16 shall be printed on the special election run-off ballot in the independent column. The
 17 special election runoff shall be a continuation of the special election for the particular
 18 office concerned. Only the electors who were duly registered to vote and not
 19 subsequently deemed disqualified to vote in the special election for candidates for that
 20 particular office shall be entitled to vote therein, and only those votes cast for the persons
 21 designated as candidates in such special election runoff shall be counted in the tabulation
 22 and canvass of the votes cast.

23 (b) ~~For the purposes of this subsection, the word 'plurality' shall mean the receiving by one~~
 24 ~~candidate alone of the highest number of votes cast.~~ If the municipal charter or ordinances
 25 of a municipality as now existing or as amended subsequent to September 1, 1968, provide
 26 that a candidate may be nominated or elected by a plurality of the votes cast to fill such
 27 nomination or public office, such provision shall prevail. Otherwise, no municipal
 28 candidate shall be nominated for public office in any primary or elected to public office in
 29 any election unless such candidate shall have received a majority of the votes cast to fill
 30 such nomination or public office.

31 (c) In instances in which no municipal candidate receives a majority of the votes cast and
 32 the municipal charter or ordinances do not provide for nomination or election by a plurality
 33 vote, a run-off primary or election shall be held between the candidates receiving the two
 34 highest numbers of votes. Such runoff shall be held on the twenty-eighth day after the day
 35 of holding the first primary or election, unless such run-off date is postponed by court
 36 order. Only the electors entitled to vote in the first primary or election shall be entitled to
 37 vote in any run-off primary or election resulting therefrom; provided, however, that no

1 elector shall vote in a run-off primary in violation of Code Section 21-2-216. The run-off
2 primary or election shall be a continuation of the first primary or election, and only those
3 votes cast for the candidates receiving the two highest numbers of votes in the first primary
4 or election shall be counted. No write-in votes may be cast in such a primary, run-off
5 primary, or run-off election. If any candidate eligible to be in a runoff withdraws, dies, or
6 is found to be ineligible, the remaining candidates receiving the two highest numbers of
7 votes shall be the candidates in such runoff. The municipal candidate receiving the highest
8 number of the votes cast in such run-off primary or run-off election to fill the nomination
9 or public office sought shall be declared the winner.

10 (d) The name of a municipal write-in candidate eligible for election in a municipal runoff
11 shall be printed on the municipal run-off election ballot in the independent column.

12 (e) In all cities having a population in excess of 100,000 according to the United States
13 decennial census of 1980 or any future such census, in order for a municipal candidate to
14 be nominated for public office in any primary or elected to public office in any municipal
15 election, he or she must receive a majority of the votes cast.

16 (f) ~~Except for presidential electors, to be elected to public office in a general election, a~~
17 ~~candidate must receive a majority of the votes cast in an election to fill such public office.~~
18 To be elected to the office of presidential electors, ~~no slate of candidates shall be required~~
19 ~~to receive a majority of the votes cast, but~~ that slate of candidates shall be elected to such
20 office which receives the highest number of votes cast."

21 SECTION 5.

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