

The Senate Ethics Committee offered the following substitute to HB 487:

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

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 SECTION 1.

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

18 (22) ~~Reserved~~ 'Plurality' means:

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

1 number of votes cast for eligible candidates in a primary, special primary, election, or
 2 special election among the candidates in such primary, special primary, election, or
 3 special election for the office the candidate is seeking.

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

8 SECTION 2.

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

11 "21-2-191.

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

31 SECTION 3.

32 Said chapter is further amended by revising Code Section 21-2-193, relating to list of names
 33 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; or special
 18 primary runoff, ~~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; or special primary runoff;
 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 runoff ballot in the independent~~
 31 ~~column~~. The run-off primary; or special primary runoff, ~~run-off election, or special~~
 32 ~~election runoff~~ shall be a continuation of the primary; or special primary, ~~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; or
 35 special primary, ~~election, or special election~~ for candidates for that particular office shall
 36 be entitled to vote therein, and only those votes cast for the persons designated as

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

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

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

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

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

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

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

22 SECTION 5.

23 Said chapter is further amended by revising subsection (c) of Code Section 21-2-540,
 24 relating to conduct of special elections generally, as follows:

25 ~~"(c)(1) Notwithstanding any other provision of law to the contrary, a special election to~~
 26 ~~present a question to the voters or a special primary or special election to fill a vacancy~~
 27 in a county or municipal office shall be held only on one of the following dates which is
 28 at least 29 days after the date of the call for the special election:

29 (A) In odd-numbered years, any such special election shall only be held on:

- 30 (i) The third Tuesday in March;
- 31 (ii) The third Tuesday in June;
- 32 (iii) The third Tuesday in September; or
- 33 (iv) The Tuesday after the first Monday in November; and

34 (B) In even-numbered years, any such special election shall only be held on:

- 35 (i) The third Tuesday in March; provided, however, that in the event that a special
 36 election is to be held under this provision in a year in which a presidential preference

1 primary is to be held, then any such special election shall be held on the date of and
 2 in conjunction with the presidential preference primary;

3 (ii) The date of the general primary;

4 (iii) The third Tuesday in September; or

5 (iv) The Tuesday after the first Monday in November.

6 (2) Notwithstanding any other provision of law to the contrary, a special election to
 7 present a question to the voters shall be held only on one of the following dates which is
 8 at least 29 days after the date of the call for the special election:

9 (A) In odd-numbered years, any such special election shall only be held on:

10 (i) The third Tuesday in March; or

11 (ii) The Tuesday after the first Monday in November; and

12 (B) In even-numbered years, any such special election shall only be held on:

13 (i) The date of and in conjunction with the presidential preference primary if one is
 14 held that year;

15 (ii) The date of the general primary; or

16 (iii) The Tuesday after the first Monday in November.

17 ~~(2)~~(3) The provisions of this subsection shall not apply to:

18 (A) Special elections held pursuant to Chapter 4 of this title, the 'Recall Act of 1989,'
 19 to recall a public officer or to fill a vacancy in a public office caused by a recall
 20 election; and

21 (B) Special primaries or special elections to fill vacancies in federal or state public
 22 offices."

23 SECTION 6.

24 Section 5 of this Act shall become effective on January 1, 2009. The remaining parts of this
 25 Act shall become effective on July 1, 2007.

26 SECTION 7.

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