

House Bill 1098 (AS PASSED HOUSE AND SENATE)

By: Representative Reese of the 98th

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 require election superintendents to provide notice
3 to the Secretary of State of certain primaries and elections; to revise certain duties of election
4 superintendents; to provide that certain returns from primaries and elections shall be provided
5 to the Secretary of State; to provide that county and municipal election superintendents
6 complete, file, and transmit certain returns; to provide for related matters; to repeal
7 conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and
11 elections generally, is amended by revising subsection (b) of Code Section 21-2-9, relating
12 to date of election for offices, as follows:

13 "(b) All general municipal elections to fill municipal offices shall be held on the Tuesday
14 next following the first Monday in November in each odd-numbered year. Public notice
15 of such elections shall be published by the governing authority of the municipality in a
16 newspaper of general circulation in the municipality at least 30 days prior to the elections.
17 In addition, the municipality shall immediately transmit a copy of such notice to the
18 Secretary of State."

19 **SECTION 2.**

20 Said chapter is further amended by revising subsection (b) of Code Section 21-2-45.1,
21 relating to special elections on bonded debt, as follows:

22 "(b) The date of a municipal bond election shall be specified by the governing authority
23 of the municipality. Such date shall not be less than 30 days after call of such bond
24 election. The municipality shall immediately transmit a copy of such notice to the
25 Secretary of State."

SECTION 3.

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Said chapter is further amended by revising Code Section 21-2-70, relating to powers and duties of superintendents, as follows:

"21-2-70.

Each superintendent within his or her county or municipality shall exercise all the powers granted to him or her by this chapter and shall perform all the duties imposed upon him or her by this chapter, which shall include the following:

- (1) To receive and act upon all petitions presented by electors, the board of registrars, or the county executive committee of a political party for the division, redivision, alteration, change, or consolidation of precincts;
- (2) To receive and determine the sufficiency of nomination petitions of candidates filing notice of their candidacy with him or her in accordance with this chapter;
- (3) To prepare and publish, in the manner provided by this chapter, all notices and advertisements, in connection with the conduct of elections, which may be required by law, and to transmit immediately to the Secretary of State a copy of any publication in which a call for a special primary, election, or runoff is issued;
- (4) To select and equip polling places for use in primaries and elections in accordance with this chapter;
- (5) To purchase, except voting machines, preserve, store, and maintain election equipment of all kinds, including voting booths and ballot boxes and to procure ballots and all other supplies for primaries and elections;
- (6) To appoint poll officers and other officers to serve in primaries and elections in accordance with this chapter;
- (7) To make and issue such rules, regulations, and instructions, consistent with law, including the rules and regulations promulgated by the State Election Board, as he or she may deem necessary for the guidance of poll officers, custodians, and electors in primaries and elections;
- (8) To instruct poll officers and others in their duties, calling them together in meetings whenever deemed advisable, and to inspect systematically and thoroughly the conduct of primaries and elections in the several precincts of his or her county to the end that primaries and elections may be honestly, efficiently, and uniformly conducted;
- (9) To receive from poll officers the returns of all primaries and elections, to canvass and compute the same, and to certify, ~~as soon as practicable following the primary and election,~~ the results thereof to such authorities as may be prescribed by law;
- (10) To announce publicly, by posting in his or her office, the results of all primaries and elections held in his or her county or municipality;

1 (11) In any general election at which a proposal to amend the Constitution or to provide
 2 for a new Constitution is submitted to the electors for ratification, the election
 3 superintendent shall provide copies of the summary of such proposal prepared pursuant
 4 to Article X, Section I, Paragraph II of the Constitution as provided in this paragraph. A
 5 reasonable number of copies of such summary shall be conspicuously available in each
 6 polling place;

7 (12) To prepare annually a budget estimate of his or her expenses under this chapter, in
 8 which shall be set forth an itemized list of expenditures for the preceding two years and
 9 an itemized estimate of the amount of money necessary to be appropriated for the ensuing
 10 year and to submit the same at the time and in the manner and form other budget
 11 estimates of his or her county or municipality are now or may hereafter be required to be
 12 filed;

13 (13) To conduct all elections in such manner as to guarantee the secrecy of the ballot and
 14 to perform such other duties as may be prescribed by law;

15 (14) To become certified by satisfactorily completing a certification program ~~approved~~
 16 ~~by the Secretary of State no later than January 1, 2007.~~ Such program may include
 17 ~~instruction on, and may require the superintendent to demonstrate proficiency in, the~~
 18 ~~operation of the state's direct recording electronic voting equipment and in state and~~
 19 ~~federal law and procedures related to elections. In the case of boards of elections or~~
 20 ~~boards of elections and registration, this requirement may be satisfied either by the~~
 21 ~~certification of the members of the board or the board's designee as set forth in Code~~
 22 Section 21-2-101; and

23 (15) To take an oath in the following form:

24 I, _____, do swear (or affirm) that I will as superintendent
 25 duly attend the ensuing election (or primary) during the continuance thereof, that I will
 26 to the best of my ability prevent any fraud, deceit, or abuse in carrying on the same, that
 27 I will make a true and perfect return of the said election (or primary), and that I will at
 28 all times truly, impartially, and faithfully perform my duties in accordance with Georgia
 29 laws to the best of my judgment and ability."

30 SECTION 4.

31 Said chapter is further amended by revising subsection (k) of Code Section 21-2-493, relating
 32 to computation, canvassing, and tabulation of returns, as follows:

33 "(k) As the returns from each precinct are read, computed, and found to be correct or
 34 corrected as aforesaid, they shall be recorded on the blanks prepared for the purpose until
 35 all the returns from the various precincts which are entitled to be counted shall have been
 36 duly recorded; then they shall be added together, announced, and attested by the assistants

1 who made and computed the entries respectively and shall be signed by the superintendent.
 2 The consolidated returns shall then be certified by the superintendent in the manner
 3 required by this chapter. Such returns shall be certified by the superintendent not later than
 4 5:00 P.M. on the seventh day following the date on which such election was held and such
 5 returns shall be immediately transmitted to the Secretary of State."

6 **SECTION 5.**

7 Said chapter is further amended by revising subsection (a) of Code Section 21-2-496, relating
 8 to preparation and filing by superintendent of four copies of consolidated return of primary,
 9 as follows:

10 "(a) Each county and municipal superintendent shall prepare four copies of the
 11 consolidated return of the primary to be certified by the superintendent on forms furnished
 12 by the Secretary of State, such consolidated returns to be filed immediately upon
 13 certification as follows:

- 14 (1) One copy to be posted at the county courthouse or, in the case of a municipal
 15 election, at the city hall for the information of the public;
 16 (2) One copy to be filed in the superintendent's office;
 17 (3) One copy to be forwarded to the Secretary of State together with a copy of each
 18 precinct return, the numbered list of voters of each precinct, and the returns and the
 19 numbered list of voters for absentee electors; and
 20 (4) One copy to be sealed and filed with the clerk of the superior court, in the case of a
 21 county election, or with the city clerk, in the case of a municipal election, as required by
 22 Code Section 21-2-500."

23 **SECTION 6.**

24 Said chapter is further amended by revising Code Section 21-2-497, relating to preparation
 25 and filing by superintendent of four copies of consolidated return of elections, as follows:
 26 "21-2-497.

27 Each county and municipal superintendent shall prepare four copies of the consolidated
 28 return of the election to be certified by the superintendent on forms furnished by the
 29 Secretary of State, such consolidated returns to be filed immediately upon certification as
 30 follows:

- 31 (1) One copy to be posted at the county courthouse or, in the case of a municipal
 32 election, at the city hall for the information of the public;
 33 (2) One copy to be filed and recorded as a permanent record in the minutes of the
 34 superintendent's office;

1 (3) One copy to be sealed and filed with the clerk of the superior court, in the case of a
 2 county election, or with the city clerk, in the case of a municipal election, as required by
 3 Code Section 21-2-500; and

4 (4) One copy to be returned as follows immediately to the Secretary of State unless
 5 required as follows:

6 (A) In the case of election of federal and state officers, a separate return showing totals
 7 of the votes cast for each of such officers respectively shall be forwarded by the
 8 superintendent to the Secretary of State on forms furnished by the Secretary of State;

9 ~~(B) In the case of elections for any county officer or other officer required by law to~~
 10 ~~be commissioned by the Governor in any of the several counties of this state, it shall~~
 11 ~~be the duty of the superintendent to transmit immediately to the Secretary of State a~~
 12 ~~certified copy of the returns of all such offices;~~

13 ~~(C)~~ (B) In the case of referendum elections provided for by an Act of the General
 14 Assembly, the returns shall immediately be certified by the authority holding such
 15 election to the Secretary of State, along with the precinct returns and numbered list of
 16 voters for each precinct. In addition thereto, the official citation of the Act involved
 17 and the purpose of such election shall be sent to the Secretary of State at the same time.
 18 The Secretary of State shall maintain a permanent record of such certifications;

19 ~~(D)~~ (C) In the case of elections on constitutional amendments, the returns shall be
 20 certified immediately to the Secretary of State. Upon receiving the certified returns
 21 from the various superintendents, the Secretary of State shall immediately proceed to
 22 canvass and tabulate the votes cast on such amendments and certify the results to the
 23 Governor; ~~or~~ and

24 ~~(E)~~ (D) In the case of election for presidential electors, a separate return shall be
 25 prepared by each superintendent and certified immediately to the Secretary of State."

26 SECTION 7.

27 Said chapter is further amended by revising subsection (c) of Code Section 21-2-501, relating
 28 to number of votes required for election, as follows:

29 "(c) In instances in which no municipal candidate receives a majority of the votes cast and
 30 the municipal charter or ordinances do not provide for nomination or election by a plurality
 31 vote, a run-off primary or election shall be held between the candidates receiving the two
 32 highest numbers of votes. Such runoff shall be held on the twenty-eighth day after the day
 33 of holding the first primary or election, unless such run-off date is postponed by court
 34 order. Only the electors entitled to vote in the first primary or election shall be entitled to
 35 vote in any run-off primary or election resulting therefrom; provided, however, that no
 36 elector shall vote in a run-off primary in violation of Code Section 21-2-216. The run-off

1 primary or election shall be a continuation of the first primary or election, and only those
2 votes cast for the candidates receiving the two highest numbers of votes in the first primary
3 or election shall be counted. No write-in votes may be cast in such a primary, run-off
4 primary, or run-off election. If any candidate eligible to be in a runoff withdraws, dies, or
5 is found to be ineligible, the remaining candidates receiving the two highest numbers of
6 votes shall be the candidates in such runoff. The municipal candidate receiving the highest
7 number of the votes cast in such run-off primary or run-off election to fill the nomination
8 or public office sought shall be declared the winner. The municipality shall give written
9 notice to the Secretary of State of such runoff as soon as such municipality certifies the
10 preceding primary, special primary, election, or special election."

11 **SECTION 8.**

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