

Senate Bill 82

By: Senators Ligon, Jr. of the 3rd, McKoon of the 29th, Crosby of the 13th, Williams of the 19th and Rogers of the 21st

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 for oaths of election superintendents and
3 election supervisors and designees of boards of election; to provide that appointments of poll
4 officers shall be made available to the public; to clarify who may vote in runoff primaries;
5 to provide that the list of persons who have qualified with the state executive committee of
6 a political party shall be provided to the office of the Secretary of State; to clarify the manner
7 of appointment of registrars; to require registrars to check the data bases of convicted felons
8 and deceased persons maintained by the Secretary of State prior to approving a voter
9 registration application; to provide for the confidentiality of e-mail addresses maintained by
10 registrars; to provide for certain adjustments to precincts which contain more than 2,000
11 electors when all those electors desiring to vote at the last general election were unable to
12 complete voting within one hour following the closing of the polls; to remove the
13 requirement to certify that each election shall be conducted using certain voting equipment;
14 to allow the use of the federal write-in ballot for voting on constitutional amendments and
15 referenda; to clarify that the registrars or absentee ballot clerk may deliver an absentee ballot
16 to an elector who is confined in a hospital; to provide for the time for preparation and
17 transmittal of absentee ballots; to provide for a notice to be included with absentee ballots
18 of all withdrawn, deceased, and disqualified candidates and any substitute candidates; to
19 provide for certain notices with regard to the early processing and tabulation of absentee
20 ballots; to provide for the option to use different primaries and elections for the pilot project
21 for electronic transmission of certain absentee ballots; to change certain provisions regarding
22 the maintenance of sample or facsimile ballots; to provide that the superintendent shall
23 provide at polling places copies of sample or facsimile ballots for such primary or election
24 and a list of the certified write-in candidates; to revise a prohibition concerning the use of
25 cellular telephones and other communications devices in polling places; to remove certain
26 archaic language regarding vote tabulation machines; to provide for additional vote review
27 panels; to change certain provisions regarding the time for certifying election results; to
28 provide for a method for recounts for certain elections regarding constitutional amendments

29 and binding referenda; to provide for the swearing in of certain persons; to provide for the
 30 crime of solicitation of voter fraud; to provide for punishment; to provide for related matters;
 31 to repeal conflicting laws; and for other purposes.

32 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

33 **SECTION 1.**

34 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and
 35 elections generally, is amended by revising paragraph (15) of Code Section 21-2-70, relating
 36 to powers and duties of superintendents, as follows:

37 "(15)(A) In the case of a judge of the probate court serving as the election
 38 superintendent, such person shall take an oath in the following form upon assuming
 39 the duties of election superintendent which shall apply to all primaries and elections
 40 conducted by such person throughout such person's tenure as election superintendent:

41 I, _____, do swear (or affirm) that I will as
 42 superintendent duly attend ~~the~~ all ensuing ~~election (or primary)~~ primaries and
 43 elections during the continuance thereof, that I will to the best of my ability prevent
 44 any fraud, deceit, or abuse in carrying on the same, that I will make a true and perfect
 45 return of ~~the said election (or primary)~~ such primaries and elections, and that I will at
 46 all times truly, impartially, and faithfully perform my duties in accordance with
 47 Georgia laws to the best of my judgment and ability.

48 (B) In the case of a board of elections, each member of the board shall take an oath in
 49 the following form upon becoming a member of the board which shall apply to all
 50 primaries and elections conducted by the board throughout such person's tenure on the
 51 board:

52 I, _____, do swear (or affirm) that I will as a member of
 53 the board of elections duly attend all ensuing primaries and elections during the
 54 continuance thereof, that I will to the best of my ability prevent any fraud, deceit, or
 55 abuse in carrying on the same, that I will make a true and perfect return of such
 56 primaries and elections, and that I will at all times truly, impartially, and faithfully
 57 perform my duties in accordance with Georgia laws to the best of my judgment and
 58 ability.

59 (C) In the case of an election supervisor or designee for a board of elections or board
 60 of elections and registration, the election supervisor or designee shall take an oath in
 61 the following form upon being appointed as an election supervisor or designee of the
 62 board which shall apply to all primaries and elections conducted by the board
 63 throughout such person's tenure:

64 I, _____, do swear (or affirm) that I will duly attend all
 65 ensuing primaries and elections during the continuance thereof, that I will to the best
 66 of my ability prevent any fraud, deceit, or abuse in carrying on the same, that I will
 67 make a true and perfect return of such primaries and elections, and that I will at all
 68 times truly, impartially, and faithfully perform my duties in accordance with Georgia
 69 laws to the best of my judgment and ability."

70 **SECTION 2.**

71 Said chapter is further amended by revising Code Section 21-2-90, relating to the
 72 appointment of chief manager and assistant managers, as follows:

73 "21-2-90.

74 All elections and primaries shall be conducted in each polling place by a board consisting
 75 of a chief manager, who shall be chairperson of such board, and two assistant managers
 76 assisted by clerks. The managers of each polling place shall be appointed by the
 77 superintendent or, in the case of municipal elections, by the municipal governing authority.
 78 If the political parties involved elect to do so, they may submit to the superintendent or
 79 municipal governing authority, for consideration in making such appointment, a list of
 80 qualified persons. When such lists are submitted to the appropriate office, the
 81 superintendent or municipal governing authority, insofar as practicable, shall make
 82 appointments so that there shall be equal representation on such boards for the political
 83 parties involved in such elections or primaries. The superintendent or municipal governing
 84 authority shall make each appointment by entering an order which shall remain of record
 85 in the appropriate office and shall ~~transmit a copy of~~ make such order ~~to the appointee~~
 86 available for public inspection upon request. The order shall include the name and address
 87 of the appointee, his or her title, and a designation of the precinct and primary or election
 88 in which he or she is to serve."

89 **SECTION 3.**

90 Said chapter is further amended by revising Code Section 21-2-152, relating to the conduct
 91 of primaries generally, by adding a new subsection to read as follows:

92 "(c) A run-off primary shall be a continuation of the primary and only persons who were
 93 entitled to vote in the primary shall be entitled to vote therein; and only those votes cast for
 94 the persons designated for the runoff shall be counted in the tabulation and canvass of the
 95 votes cast. Any elector who votes in the primary of one party shall not be eligible to vote
 96 in a primary runoff of any other party other than a primary runoff of the party in whose
 97 primary such elector voted."

98

SECTION 4.

99 Said chapter is further amended by revising paragraph (1) of subsection (d) of Code
 100 Section 21-2-153, relating to posting of list of all qualified candidates for party nomination,
 101 as follows:

102 "(d)(1) Within two hours after the qualifications have ceased, the county executive
 103 committee of each political party shall post at the ~~county courthouse~~ office of the county
 104 election superintendent a list of all candidates who have qualified with such executive
 105 committee, and the state executive committee of each political party shall ~~post~~ provide
 106 a list of all candidates who have qualified with such committee ~~at the courthouse of the~~
 107 ~~county in which such executive committee's office is located~~ to the office of the Secretary
 108 of State. If the election superintendent qualifies the candidates for a political party in
 109 accordance with subsection (c) of this Code section, the election superintendent shall post
 110 at ~~the county courthouse~~ his or her office a list of all the candidates who have qualified
 111 with such superintendent for such political party."

112

SECTION 5.

113 Said chapter is further amended by revising subsections (a) and (e) of Code
 114 Section 21-2-212, relating to the appointment of county registrars, as follows:

115 "(a) ~~The~~ Except in the case in which a county has a board of elections and registration, the
 116 judge of the superior court in each county or the senior judge in time of service in those
 117 counties having more than one judge shall appoint in accordance with this Code section,
 118 upon the recommendation of the grand jury of such county, not less than three nor more
 119 than five judicious, intelligent, and upright electors of such county as county registrars.
 120 The grand jury shall submit to the judge the names of a number of electors equal to twice
 121 the number of persons to be appointed and the appointment shall be made therefrom and
 122 shall be entered on the minutes of the court. When making such appointments when
 123 appropriate, the judge will designate one of the registrars as chief registrar who shall serve
 124 as such during such registrar's term of office, and such designation shall likewise be entered
 125 on the minutes of the court. It shall be the duty of the clerk of the superior court to certify
 126 the appointments and designation to the Secretary of State within 30 days after the
 127 appointments and designation, and commissions shall be issued as for county officers.
 128 When certifying such names to the Secretary of State, the clerk of the superior court shall
 129 also list the addresses of the registrars. Such judge will have the right to remove one or
 130 more of such registrars at any time for cause after notice and hearing. In case of the death,
 131 resignation, or removal of a registrar, the judge shall appoint a successor who shall serve
 132 until the next grand jury convenes, at which time the grand jury shall submit to the judge
 133 the names of two judicious, intelligent, and upright electors of such county; and the judge

134 shall make an appointment from said list, such successor to serve the unexpired term of
 135 such registrar's predecessor in office. In the event the grand jury is in session at the time
 136 of any such death, removal, or resignation, such grand jury shall immediately submit the
 137 names of said electors to the judge for such appointment. Each such appointment or
 138 change in designation shall be entered on the minutes of the court and certified as provided
 139 in this Code section."

140 ~~"(e) Any other provision of this Code section to the contrary notwithstanding, in any~~
 141 ~~county of this state having a population of more than 600,000 according to the United~~
 142 ~~States decennial census of 1990 or any future such census If, within 90 days of the end of~~
 143 ~~the term or the creation of a vacancy for a county registrar, an appointment is not made in~~
 144 ~~accordance with subsection (a) of this Code section, the governing authority of the county~~
 145 shall appoint the county registrars in lieu of the judge of the superior court. The
 146 appointments shall be entered on the minutes of the county governing authority. The
 147 county governing authority shall designate one of the registrars as chief registrar, who shall
 148 serve as such during such registrar's term of office. Such designation shall likewise be
 149 entered on the minutes of such governing authority. It shall be the duty of the county
 150 governing authority to certify the appointments and designation to the Secretary of State
 151 and the clerk of the superior court within 30 days after such appointments and designation.
 152 In certifying such names to the Secretary of State and the clerk of the superior court, the
 153 county governing authority shall also list the addresses of the registrars. Such registrars
 154 shall serve ~~at the pleasure of the governing authority of the county, and the compensation~~
 155 ~~of the registrars shall be fixed by the governing authority of the county~~ for the term and in
 156 the manner set forth in subsection (a) of this Code section. Any registrar shall have the
 157 right to resign at any time by submitting a resignation to ~~such governing authority~~ the clerk
 158 of the superior court. In the event of the death, resignation, or removal of any registrar,
 159 such registrar's duties and authority as such shall terminate instantly. Successors shall be
 160 appointed ~~by the county governing authority.~~ Each appointment or change in designation
 161 ~~shall be entered on the minutes of such governing authority and certified as provided in this~~
 162 ~~Code section. The first appointments in any such county under this article shall be made~~
 163 ~~in the year 1965, and the persons appointed shall assume office July 1, 1965. The~~
 164 ~~governing authorities of such counties may furnish such employees and facilities as they~~
 165 ~~deem necessary for the operation of the office and affairs of the registrars~~ as set forth in
 166 subsection (a) of this Code section."

167 **SECTION 6.**

168 Said chapter is further amended by revising Code Section 21-2-216, relating to qualifications
 169 of electors generally, by adding a new subsection to read as follows:

170 "(h) Prior to approving the application of a person to register to vote, the registrars shall
 171 check the data bases of persons convicted of felonies and deceased persons maintained by
 172 the Secretary of State."

173 **SECTION 7.**

174 Said chapter is further amended by revising subsection (b) of Code Section 21-2-225, relating
 175 to limitations on registration data available for public inspection, as follows:

176 "(b) Except as provided in Code Section 21-2-225.1, all data collected and maintained on
 177 electors whose names appear on the list of electors maintained by the Secretary of State
 178 pursuant to this article shall be available for public inspection with the exception of bank
 179 statements submitted pursuant to subsection (c) of Code Section 21-2-220 and
 180 subsection (c) of Code Section 21-2-417, the month and day of birth, the social security
 181 numbers, e-mail addresses, and driver's license numbers of the electors, and the locations
 182 at which the electors applied to register to vote, which shall remain confidential and shall
 183 be used only for voter registration purposes; provided, however, that any and all
 184 information relating to the dates of birth, social security numbers, and driver's license
 185 numbers of electors may be made available to other agencies of this state, to agencies of
 186 other states and territories of the United States, and to agencies of the federal government
 187 if the agency is authorized to maintain such information and the information is used only
 188 to identify the elector on the receiving agency's data base and is not disseminated further
 189 and remains confidential. Information regarding an elector's year of birth shall be available
 190 for public inspection."

191 **SECTION 8.**

192 Said chapter is further amended by revising Code Section 21-2-263, relating to reduction in
 193 size of precincts containing more than 2,000 electors when voting in such precincts at
 194 previous general election not completed one hour after closing of polls, as follows:

195 "21-2-263.

196 If at the previous general election a precinct contained more than 2,000 electors and if all
 197 those electors desiring to vote had not completed voting one hour following the closing of
 198 the polls, the superintendent shall either reduce the size of said precinct so that it shall
 199 contain not more than 2,000 electors in accordance with the procedures prescribed by this
 200 chapter for the division, alteration, and consolidation of precincts no later than 60 days
 201 before the next general election or provide additional voting equipment or poll workers or
 202 both before the next general election. For administering this Code section, the chief
 203 manager of a precinct which contained more than 2,000 electors at the previous general
 204 election shall submit a report thereof, under oath, to the superintendent as to the time

205 required for completion of voting by all persons in line at the time the polls were closed.
 206 Any such change in the boundaries of a precinct shall conform with the requirements of
 207 subsection (a) of Code Section 21-2-261.1."

208 **SECTION 9.**

209 Said chapter is further amended by revising subsection (d) of Code Section 21-2-379.2,
 210 relating to written verification and certification prior to election or primary, as follows:

211 ~~"(d) At least ten days prior to any primary or election, including special primaries, special~~
 212 ~~elections, and referendum elections, the election superintendent shall verify and certify in~~
 213 ~~writing to the Secretary of State that all voting will occur on equipment certified by the~~
 214 ~~Secretary of State~~ Reserved."

215 **SECTION 10.**

216 Said chapter is further amended by revising paragraph (2) of subsection (b) of Code
 217 Section 21-2-381, relating to making of application for absentee ballot, as follows:

218 "(2) If found eligible, the registrar or absentee ballot clerk shall certify by signing in the
 219 proper place on the application and shall either mail the ballot as provided in this Code
 220 section or issue the ballot to the elector to be voted within the confines of the registrar's
 221 or absentee ballot clerk's office. The registrar or absentee ballot clerk may ~~or~~ deliver the
 222 ballot in person to the elector if such elector is confined to a hospital."

223 **SECTION 11.**

224 Said chapter is further amended by revising paragraph (2) of subsection (b) of Code
 225 Section 21-2-381.1, relating to procedures for voting with special write-in absentee ballots
 226 by qualified absentee electors, as follows:

227 "(2) Except as provided in paragraph (3) of this subsection, an elector who is entitled to
 228 vote by absentee ballot under the federal Uniformed and Overseas Citizens Absentee
 229 Voting Act, 42 U.S.C. Section 1973ff, et seq., as amended, may vote in any election for
 230 a public office other than for a federal office by using the addendum provided in the
 231 federal write-in absentee ballot and writing in the title of the office and the name of the
 232 candidate for whom the elector is voting. In a general, special, or run-off election, the
 233 elector may alternatively designate a candidate by writing in a party preference for each
 234 office, the names of specific candidates for each office, or the name of the person who
 235 the elector prefers for each office. A written designation of the political party shall be
 236 counted as a vote for the candidate of that party. In addition, such elector may vote on
 237 any constitutional amendment or question presented to the electors in such election by

238 identifying the constitutional amendment or question with regard to which such elector
 239 desires to vote and specifying the elector's vote on such amendment or question."

240 **SECTION 12.**

241 Said chapter is further amended by revising subsections (a) and (b) of Code
 242 Section 21-2-384, relating to preparation and delivery of absentee ballots and supplies, as
 243 follows:

244 ~~"(a)(1) The superintendent must, at least 45 days prior to any general primary or general~~
 245 ~~election other than a municipal general primary or general election, and at least 21 days~~
 246 ~~prior to any municipal general primary or general election, shall, in consultation with the~~
 247 ~~board of registrars or absentee ballot clerk, prepare, obtain, and deliver before the date~~
 248 ~~specified in paragraph (2) of this subsection an adequate supply of official absentee~~
 249 ~~ballots to the board of registrars or absentee ballot clerk for use in the primary or election~~
 250 ~~or as soon as possible prior to a runoff. Envelopes and other supplies as required by this~~
 251 ~~article may be ordered by the superintendent, the board of registrars, or the absentee~~
 252 ~~ballot clerk for use in the primary or election.~~

253 (2) The board of registrars or absentee ballot clerk shall, ~~within two days after the receipt~~
 254 ~~of such ballots and supplies, mail or issue official absentee ballots to all eligible~~
 255 ~~applicants at least 45 days, but no earlier than 46 days, prior to any presidential~~
 256 ~~preference primary, general primary, or general election other than a municipal general~~
 257 ~~primary or general election; at least 21 days, but no earlier than 22 days, prior to any~~
 258 ~~municipal general primary or general election; and as soon as possible prior to a runoff.~~

259 As additional applicants are determined to be eligible, the board or clerk shall mail or
 260 issue official absentee ballots to such additional applicants immediately upon determining
 261 their eligibility; provided, however, that no absentee ballot shall be mailed by the
 262 registrars or absentee ballot clerk on the day prior to a primary or election and provided,
 263 further, that no absentee ballot shall be issued on the day prior to a primary or election.

264 The board of registrars shall, ~~at least 45 days prior to any general primary, or general~~
 265 ~~election other than a municipal general primary or general election, and at least 21 days~~
 266 ~~prior to any municipal general primary or general election, mail or electronically transmit~~
 267 ~~official absentee ballots at least 45 days, but no earlier than 46 days, prior to any~~
 268 ~~presidential preference primary, general primary, or general election other than a~~
 269 ~~municipal general primary or general election; at least 21 days, but no earlier than 22~~
 270 ~~days, prior to any municipal general primary or general election; and as soon as possible~~
 271 ~~prior to a runoff~~ to all electors who are entitled to vote by absentee ballot under the
 272 federal Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section
 273 1973ff, et seq., as amended.

274 (3) The date a ballot is voted in the registrars' or absentee ballot clerk's office or the date
275 a ballot is mailed to an elector and the date it is returned shall be entered on the
276 application record therefor.

277 (4) The delivery of an absentee ballot to a person confined in a hospital may be made by
278 the registrar or clerk on the day of a primary or election or during a five-day period
279 immediately preceding the day of such primary or election.

280 (5) In the event an absentee ballot which has been mailed by the board of registrars or
281 absentee ballot clerk is not received by the applicant, the applicant may notify the board
282 of registrars or absentee ballot clerk and sign an affidavit stating that the absentee ballot
283 has not been received. The board of registrars or absentee ballot clerk shall then issue a
284 second absentee ballot to the applicant and cancel the original ballot issued. The affidavit
285 shall be attached to the original application. A second application for an absentee ballot
286 shall not be required.

287 (b) In addition to the mailing envelope, the superintendent, board of registrars, or absentee
288 ballot clerk shall provide two envelopes for each official absentee ballot, of such size and
289 shape as shall be determined by the Secretary of State, in order to permit the placing of one
290 within the other and both within the mailing envelope. On the smaller of the two envelopes
291 to be enclosed in the mailing envelope shall be printed the words 'Official Absentee Ballot'
292 and nothing else. On the back of the larger of the two envelopes to be enclosed within the
293 mailing envelope shall be printed the form of oath of the elector and the oath for persons
294 assisting electors, as provided for in Code Section 21-2-409, and the penalties provided for
295 in Code Sections 21-2-568, 21-2-573, 21-2-579, and 21-2-599 for violations of oaths; and
296 on the face of such envelope shall be printed the name and address of the board of
297 registrars or absentee ballot clerk. The mailing envelope addressed to the elector shall
298 contain the two envelopes, the official absentee ballot, and the uniform instructions for the
299 manner of preparing and returning the ballot, in form and substance as provided by the
300 Secretary of State, and a notice in the form provided by the Secretary of State of all
301 withdrawn, deceased, and disqualified candidates and any substitute candidates pursuant
302 to Code Sections 21-2-134 and 21-2-155 and nothing else. The uniform instructions shall
303 include information specific to the voting system used for absentee voting concerning the
304 effect of overvoting or voting for more candidates than one is authorized to vote for a
305 particular office and information concerning how the elector may correct errors in voting
306 the ballot before it is cast including information on how to obtain a replacement ballot if
307 the elector is unable to change the ballot or correct the error."

308

SECTION 13.

309 Said chapter is further amended by revising paragraph (3) of subsection (a) of Code
 310 Section 21-2-386, relating to safekeeping, certification, and validation of absentee ballots,
 311 as follows:

312 "(3) A county election superintendent may, in his or her discretion, after 7:00 A.M. on
 313 the day of the primary, election, or runoff open the inner envelopes in accordance with
 314 the procedures prescribed in this subsection and begin tabulating the absentee ballots. If
 315 the county election superintendent chooses to open the inner envelopes and begin
 316 tabulating such ballots prior to the close of the polls on the day of the primary, election,
 317 or runoff, the superintendent shall notify in writing, at least seven days prior to the
 318 primary, election, or runoff, the ~~county executive committee or, if there is no organized~~
 319 ~~county executive committee, the state executive committee of each political party and~~
 320 ~~political body having candidates whose names appear on the ballot for such election in~~
 321 ~~such county and each independent and nonpartisan candidate whose name appears on the~~
 322 ~~ballot for such primary, election, or runoff in such county~~ Secretary of State of the
 323 superintendent's intent to begin the absentee ballot tabulation prior to the close of the
 324 polls ~~and their right to appoint monitors to observe the tabulation. Such committee~~ The
 325 county executive committee or, if there is no organized county executive committee, the
 326 state executive committee of each political party and political body having candidates
 327 whose names appear on the ballot for such election in such county shall have the right to
 328 designate two persons and each independent and nonpartisan candidate whose name
 329 appears on the ballot for such election in such county shall have the right to designate one
 330 person to act as monitors for such process. In the event that the only issue to be voted
 331 upon in an election is a referendum question, the superintendent shall also notify in
 332 writing the chief judge of the superior court of the county who shall appoint two electors
 333 of the county to monitor such process."

334

SECTION 14.

335 Said chapter is further amended by revising Code Section 21-2-387, relating to pilot program
 336 for electronic handling of absentee ballots, as follows:

337 "21-2-387.

338 (a) The Secretary of State shall develop and implement a pilot program for the electronic
 339 transmission, receipt, and counting of absentee ballots by persons who are entitled to vote
 340 by absentee ballot under the federal Uniformed and Overseas Citizens Absentee Voting
 341 Act, 42 U.S.C. Section 1973ff, et seq., as amended, for use in a primary or a general
 342 ~~election and general election runoff.~~

343 (b) Such pilot program shall provide, at a minimum, for:

- 344 (1) The encryption of information and the transmission of such information over a secure
 345 network;
- 346 (2) The authentication of such information;
- 347 (3) The verification of the identity and eligibility of the elector to vote in the primary,
 348 election, or runoff, as the case may be;
- 349 (4) The protection of the privacy, anonymity, and integrity of the ballots cast;
- 350 (5) The prevention of the casting of multiple ballots by the same elector in ~~an~~ a primary,
 351 election, or runoff;
- 352 (6) The prevention of any tampering, abuse, fraudulent use, or illegal manipulation of
 353 such system;
- 354 (7) The uninterrupted reliability of such system for casting ballots by qualified voters;
- 355 (8) The capability of the elector to determine if the electronic transmission of the ballot
 356 was successful;
- 357 (9) The ability to audit such ballots and to verify that such ballots were properly counted;
 358 and
- 359 (10) The ability to verify that the information transmitted over the secure network was
 360 not viewed or altered by sites that lie between the voting location and the vote counting
 361 destination.
- 362 (c) The Secretary of State shall develop procedures by which persons who are eligible to
 363 utilize the pilot program to vote shall be notified of its availability and the procedures and
 364 methods for its utilization.
- 365 (d) The Secretary of State and the State Election Board are authorized to promulgate such
 366 rules and regulations as necessary to implement the provisions of this Code section.
- 367 (e) The Secretary of State shall review the results of the pilot program and shall provide
 368 the members of the General Assembly with a comprehensive report no later than 90 days
 369 following the primary or general election ~~and general election runoff~~ in which such pilot
 370 program is used on the effectiveness of such pilot program with any recommendations for
 371 its continued use and any needed changes in such program for future primaries and
 372 elections.
- 373 (f) The pilot program shall be used in the first primary or general election ~~and general~~
 374 ~~election runoff~~ following:
- 375 (1) The inclusion in the Appropriations Act of a specific line item appropriation for
 376 funding of such pilot program or a determination by the Secretary of State that there is
 377 adequate funding through public or private funds, or a combination of public and private
 378 funds, to conduct the pilot program; provided, however, that no funds shall be accepted
 379 from registered political parties or political bodies for this purpose; and

380 (2) Certification by the Secretary of State that such pilot program is feasible and can be
 381 implemented for such primary or general election ~~and general election runoff~~.
 382 (g) This Code section shall be repealed by operation of law on July 1 of the year following
 383 the conclusion of the pilot program."

384 SECTION 15.

385 Said chapter is further amended by revising subsection (c) of Code Section 21-2-400, relating
 386 to preparation and distribution of sample or facsimile ballot labels, as follows:

387 "(c) The superintendent shall prepare sample or facsimile ballots or ballot labels, as the
 388 case may be, for each general election which shall contain each question and the candidates
 389 who are offering for election for each office which will be voted upon in the county or
 390 municipality. ~~The superintendent shall maintain such sample or facsimile ballots or ballot~~
 391 ~~labels at the county courthouse~~ for distribution upon request to interested electors. Such
 392 sample or facsimile ballots or ballot labels shall comply with Code Section 21-2-575."

393 SECTION 16.

394 Said chapter is further amended by revising Code Section 21-2-401, relating to delivery of
 395 forms and supplies to precincts, by adding a new subsection to read as follows:

396 "(d) The superintendent shall provide at the polling place copies of the sample or facsimile
 397 ballots for such primary or election as well as a list of the certified write-in candidates for
 398 such election in the form as provided by the Secretary of State or appropriate municipal
 399 official pursuant to Code Section 21-2-133."

400 SECTION 17.

401 Said chapter is further amended by revising subsection (c) of Code Section 21-2-414, relating
 402 to restrictions on activities within the vicinity of a polling place, as follows:

403 "(c) No person shall use a cellular telephone, camera, or other electronic communication
 404 or photographic device once such person ~~has been issued a ballot or, in the case of~~
 405 ~~precincts using voting machines or electronic recording voting systems, once the person~~
 406 ~~has entered the voting machine or voting enclosure or booth~~ polling place. This subsection
 407 shall not prohibit the use of ~~cellular telephones~~ such devices by poll officials."

408 SECTION 18.

409 Said chapter is further amended by revising subsection (g) of Code Section 21-2-483, relating
 410 to counting of ballots, as follows:

411 "~~(g)(1) The precinct tabulator shall be programmed to return to the voter at the time that~~
 412 ~~the voter inserts the ballot any ballot on which an overvote is indicated, along with any~~

413 ~~ballot that cannot be processed by the tabulator for reevaluation or correction or spoiling~~
 414 ~~of the ballot, and a new ballot shall be issued if the voter desires to vote another ballot in~~
 415 ~~order to correct mistakes, overvotes, or other problems.~~

416 (2)(A) The central tabulator shall be programmed to reject any ballot, including
 417 absentee ballots, on which an overvote is detected and any ballot so rejected shall be
 418 manually reviewed by the vote review panel described in this Code section to determine
 419 the voter's intent as described in subsection (c) of Code Section 21-2-438.

420 ~~(B)~~(2)(A) In a partisan election, the vote review panel shall be composed of the
 421 election superintendent or designee thereof and one person appointed by the county
 422 executive committee of each political party and body having candidates whose names
 423 appear on the ballot for such election, provided that, if there is no organized county
 424 executive committee for a political party or body, the person shall be appointed by the
 425 state executive committee of the political party or body. In a nonpartisan election, the
 426 panel shall be composed of the election superintendent or designee thereof and two
 427 electors of the county, in the case of a county election, or the municipality, in the case
 428 of a municipal election, appointed by the chief judge of the superior court of the county
 429 in which the election is held or, in the case of a municipality which is located in more
 430 than one county, of the county in which the city hall of the municipality is located. The
 431 panel shall manually review all ballots rejected by the tabulator under ~~subparagraph (A)~~
 432 paragraph (1) of this paragraph subsection and shall determine by majority vote
 433 whether the elector's intent can be determined as described in subsection (c) of Code
 434 Section 21-2-438 and, if so, said vote shall be counted as the elector intended. In the
 435 event of a tie vote by the vote review panel, the vote of the election superintendent or
 436 designee thereof shall control.

437 (B) The election superintendent may at his or her option create multiple vote review
 438 panels in accordance with subparagraph (A) of this paragraph to handle the processing
 439 of such ballots more efficiently. In such cases, in the event of a disagreement on such
 440 additional panels, the ballot in question shall be reviewed by the panel of which the
 441 election superintendent or his or her designee is a member and decided in accordance
 442 with the procedures contained in subparagraph (A) of this paragraph."

443 SECTION 19.

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

446 "(k) As the returns from each precinct are read, computed, and found to be correct or
 447 corrected as aforesaid, they shall be recorded on the blanks prepared for the purpose until
 448 all the returns from the various precincts which are entitled to be counted shall have been

449 duly recorded; then they shall be added together, announced, and attested by the assistants
 450 who made and computed the entries respectively and shall be signed by the superintendent.
 451 The consolidated returns shall then be certified by the superintendent in the manner
 452 required by this chapter. Such returns shall be certified by the superintendent not later than
 453 5:00 P.M. on the ~~seventh day~~ Monday following the date on which such election was held
 454 and such returns shall be immediately transmitted to the Secretary of State."

455 **SECTION 20.**

456 Said chapter is further amended by revising subsection (c) of Code Section 21-2-495, relating
 457 to procedure for recount or recanvass of votes, as follows:

458 "(c)(1) Whenever the difference between the number of votes received by a candidate
 459 who has been declared nominated for an office in a primary election or who has been
 460 declared elected to an office in an election or who has been declared eligible for a run-off
 461 primary or election and the number of votes received by any other candidate or
 462 candidates not declared so nominated or elected or eligible for a runoff shall be not more
 463 than 1 percent of the total votes which were cast for such office therein, any such
 464 candidate or candidates receiving a sufficient number of votes so that the difference
 465 between his or her vote and that of a candidate declared nominated, elected, or eligible
 466 for a runoff is not more than 1 percent of the total votes cast, within a period of two
 467 business days following the certification of the election results, shall have the right to a
 468 recount of the votes cast, if such request is made in writing by the losing candidate. If the
 469 office sought is a federal or state office voted upon by the electors of more than one
 470 county, the request shall be made to the Secretary of State who shall direct that the
 471 recount be performed in all counties in which electors voted for such office and notify the
 472 superintendents of the several counties involved of the request. In all other cases, the
 473 request shall be made to the superintendent. The superintendent or superintendents shall
 474 order a recount of such votes to be made immediately. If, upon such recount, it is
 475 determined that the original count was incorrect, the returns and all papers prepared by
 476 the superintendent, the superintendents, or the Secretary of State shall be corrected
 477 accordingly and the results recertified.

478 (2) Whenever the difference between the number of votes for approval or rejection of a
 479 constitutional amendment or binding referendum question shall be not more than 1
 480 percent of the total votes which were cast on such amendment or question therein, within
 481 a period of two business days following the certification of the election results, the
 482 Constitutional Amendments Publication Board shall be authorized in its discretion to call
 483 for a recount of the votes cast with regard to such amendment or question. In the case of
 484 a constitutional amendment or state-wide referendum question or a question voted upon

485 by the electors of more than one county, the board shall direct the Secretary of State to
 486 cause a recount to be performed with regard to such amendment or question in all
 487 counties involved and notify the superintendents of the recount. In the case of questions
 488 voted upon by the electors of only one county or municipality, the board shall direct the
 489 Secretary of State to cause a recount to be conducted by the county or municipality
 490 involved and the Secretary of State shall notify the superintendent involved of the
 491 recount. Upon notification, the superintendent or superintendents shall order a recount
 492 of such votes to be made immediately. If, upon such recount, it is determined that the
 493 original count was incorrect, the returns and all papers prepared by the superintendent,
 494 the superintendents, or the Secretary of State shall be corrected accordingly and the
 495 results recertified."

496 **SECTION 21.**

497 Said chapter is further amended by revising subsection (b) of Code Section 21-2-503, relating
 498 to issuance of commission to person whose election is contested, and by adding a new
 499 subsection to read as follows:

500 "(b) Upon the certification of the results of the election, a ~~A~~ person elected to a municipal
 501 office may be sworn into office notwithstanding that the election of such person may be
 502 contested in the manner provided by this chapter. Upon the final judgment of the proper
 503 tribunal having jurisdiction of a contested election which orders a second election or
 504 declares that another person was legally elected to the office, the person sworn into
 505 municipal office shall cease to hold the office and shall cease to exercise the powers,
 506 duties, and privileges of the office immediately.

507 (c) Upon the certification of the results of the election, a person elected to a federal, state,
 508 or county office may be sworn into office notwithstanding that the election of such person
 509 may be contested in the manner provided by this chapter. Upon the final judgment of the
 510 proper tribunal having jurisdiction of a contested election which orders a second election
 511 or declares that another person was legally elected to the office, the person sworn into such
 512 office shall cease to hold the office and shall cease to exercise the powers, duties, and
 513 privileges of the office immediately."

514 **SECTION 22.**

515 Said chapter is further amended by adding a new Code section to Article 15, relating to
 516 miscellaneous offenses, to read as follows:

517 "21-2-604.

518 (a)(1) A person commits the offense of criminal solicitation to commit election fraud in
 519 the first degree when, with intent that another person engage in conduct constituting a

520 felony under this article, he or she solicits, requests, commands, importunes, or otherwise
521 attempts to cause the other person to engage in such conduct.

522 (2) A person commits the offense of criminal solicitation to commit election fraud in the
523 second degree when, with intent that another person engage in conduct constituting a
524 misdemeanor under this article, he or she solicits, requests, commands, importunes, or
525 otherwise attempts to cause the other person to engage in such conduct.

526 (b)(1) A person convicted of the offense of criminal solicitation to commit election fraud
527 in the first degree shall be punished by imprisonment for not less than one nor more than
528 three years.

529 (2) A person convicted of the offense of criminal solicitation to commit election fraud
530 in the second degree shall be punished as for a misdemeanor.

531 (c) It is no defense to a prosecution for criminal solicitation to commit election fraud that
532 the person solicited could not be guilty of the crime solicited.

533 (d) The provisions of subsections (a) through (c) of this Code section are cumulative and
534 shall not supersede any other penal law of this state."

535 **SECTION 23.**

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