

House Bill 262

By: Representatives Bearden of the 68th, Willard of the 49th, and Powell of the 171st

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 add an additional 1 percent qualifying fee for
3 judicial candidates for the purpose of funding the Judicial Qualifications Commission; to
4 provide for the establishment, collection, and remitting of such fees; to provide for related
5 matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and
9 elections generally, is amended by revising Code Section 21-2-131, relating to fixing and
10 publishing of qualification fees, manner of payment, and distribution of fees paid, as follows:

11 "21-2-131.

12 (a) Qualification fees for party and public offices shall be fixed and published as follows:

13 (1)(A) The governing authority of any county or municipality, not later than February 1
14 of any year in which a general primary, nonpartisan election, or general election is to
15 be held, and at least 35 days prior to the special primary or election in the case of a
16 special primary or special election, shall fix and publish a qualifying fee for each
17 county or municipal office to be filled in the upcoming primary or election. Except as
18 otherwise provided in subparagraph (B) of this paragraph, such fee shall be 3 percent
19 of the total gross salary of the office paid in the preceding calendar year including all
20 supplements authorized by law if a salaried office.

21 (B) For the offices of clerk of the superior court, ~~judge of the probate court~~, sheriff, and
22 tax commissioner, ~~and magistrate~~, the qualifying fee shall be 3 percent of the minimum
23 salary specified in subsection (a) of Code Section 15-6-88, ~~paragraph (1) of subsection~~
24 ~~(a) of Code Section 15-9-63, subsection (a) of Code Section 15-10-23,~~ paragraph (1)
25 of subsection (a) of Code Section 15-16-20, and paragraph (1) of subsection (b) of Code
26 Section 48-5-183, exclusive of supplements, cost-of-living increases, and longevity

27 increases. For the office of members of the county governing authority, the qualifying
28 fee shall be 3 percent of the base salary established by local Act of the General
29 Assembly or by Code Section 36-5-25 as adjusted pursuant to Code Section 36-5-24,
30 if applicable, exclusive of compensation supplements for training provided for in Code
31 Section 36-5-27 and cost-of-living adjustments pursuant to Code Section 36-5-28. For
32 the offices of judge of the probate court and chief magistrate, the qualifying fee shall
33 be 4 percent of the minimum salary specified in paragraph (1) of subsection (a) of Code
34 Section 15-9-63 and subsection (a) of Code Section 15-10-23, exclusive of
35 supplements, cost-of-living increases, and longevity increases. For the office of judge
36 of the state court, the qualifying fee shall be 4 percent of the base salary of such office.
37 If not a salaried office, a reasonable fee shall be set by the governing authority of such
38 county or municipality, such fee not to exceed 3 percent of the income derived from
39 such county office by the person holding the office for the preceding year or more than
40 \$35.00 for a municipal office;

41 (2) Within the same time limitation as provided in subparagraph (A) of paragraph (1) of
42 this subsection, the Secretary of State shall fix and publish a qualifying fee for any
43 candidate qualifying by this method with a state political party and for any candidate
44 qualifying with the Secretary of State for a nonpartisan election and for any candidate
45 filing with the Secretary of State his or her notice of candidacy for a general or special
46 election. Such fee shall be 3 percent of the annual salary of the office if a salaried office,
47 except that the fee for members of the General Assembly shall be \$400.00 and the fees
48 for the offices of justice of the Supreme Court, judge of the Court of Appeals, and judge
49 of superior court shall be 4 percent of the annual salary of the office. If not a salaried
50 office, a reasonable fee shall be set by the Secretary of State, such fee not to exceed 3
51 percent of the income derived from such office by the person holding the office for the
52 preceding year;

53 (3) A reasonable qualifying fee may be set according to party rule for each political party
54 office to be filled in a primary. Such fees shall be set and published by the county or state
55 political party not later than February 1 of the year in which the primary is to be held for
56 the filling of such party office.

57 (b) Qualifying fees shall be paid as follows:

58 (1) The qualifying fee for a candidate in a primary shall be paid to the county or state
59 political party at the time the candidate qualifies;

60 (2) The qualifying fee for all other candidates shall be paid to the superintendent or
61 Secretary of State at the time the notice of candidacy is filed by the candidate.

62 (c) Qualifying fees shall be prorated and distributed as follows:

63 (1) Fees paid to the county political party: 50 percent to be retained by the county
 64 political party with which the candidate qualified; 50 percent to be transmitted to the
 65 superintendent of the county with the party's certified list of candidates not later than
 66 12:00 Noon of the third day after the deadline for qualifying in the case of a general
 67 primary and by 12:00 Noon of the day following the closing of qualifications in the case
 68 of a special primary. Such fees shall be transmitted as soon as practicable by the
 69 superintendent to the governing authority of the county, to be applied toward the cost of
 70 the primary and election;

71 (2) Fees paid to the state political party: 75 percent to be retained by the state political
 72 party; 25 percent to be transmitted to the Secretary of State with the party's certified list
 73 of candidates not later than 12:00 Noon of the third day after the deadline for qualifying
 74 in the case of a general primary and by 12:00 Noon of the day following the closing of
 75 qualifications in the case of a special primary. Such fees shall be transmitted as soon as
 76 practicable by the Secretary of State as follows: one-third to the state treasury and
 77 two-thirds divided among the governing authorities of the counties in the candidate's
 78 district in proportion to the population of each such county according to the last United
 79 States decennial census, such fees to be applied to the cost of holding the election;

80 (3) Qualification fees paid to the superintendent of the county:

81 (A) If the person qualifies as a candidate of a political body, 50 percent shall be
 82 transmitted to the state executive committee of the appropriate political body and 50
 83 percent shall be retained by the superintendent of the county;

84 (B) If the person qualifies directly with the election superintendent as a candidate of
 85 a political party in accordance with subsection (c) of Code Section 21-2-153, 25 percent
 86 shall be transmitted to the state executive committee of the appropriate political party
 87 and 75 percent shall be retained by the superintendent of the county; and

88 (C) If the person qualifies as an independent or nonpartisan candidate, the
 89 superintendent of the county shall retain the entire amount of the fees except for the
 90 fees from candidates for the office of judge of state court, judge of probate court, and
 91 chief magistrate. The superintendent shall retain 75 percent of the fees from candidates
 92 for the office of judge of state court, judge of probate court, and chief magistrate and
 93 remit 25 percent of the fees to the Secretary of State.

94 Such fees, except for the portion of the fees from candidates for the office of judge of
 95 state court, judge of probate court, and chief magistrate that is to be remitted to the
 96 Secretary of State, shall be transmitted as soon as practicable by the superintendent to the
 97 governing authority of the county, to be applied toward the cost of holding the election.
 98 The portion of the fees from candidates for the office of judge of state court, judge of

99 probate court, and chief magistrate that is to be remitted to the Secretary of State shall be
 100 transmitted as soon as practicable to the Secretary of State;

101 (4) Qualification fees paid to the Secretary of State shall be prorated and distributed as
 102 follows:

103 (A) If the person qualifies as the candidate of a political body, 75 percent shall be
 104 transmitted to the appropriate political body and 25 percent shall be retained by the
 105 Secretary of State; and

106 (B) If the person qualifies as an independent or nonpartisan candidate, the Secretary
 107 of State shall retain the entire amount of the fees.

108 Such fees, except for 25 percent of the fees received from candidates for the offices of
 109 justice of the Supreme Court, judge of the Court of Appeals, and judge of superior court,
 110 shall be transmitted as soon as practicable by the Secretary of State as follows: one-third
 111 to the state treasury and two-thirds divided among the governing authorities of the
 112 counties in proportion to the population of each county according to the last United States
 113 decennial census, such fees to be applied to the cost of holding the election. The 25
 114 percent of the fees received from candidates for the offices of justice of the Supreme
 115 Court, judge of the Court of Appeals, and judge of superior court and the portion of the
 116 fees from the county election superintendents from candidates for the offices of judge of
 117 state court, judge of probate court, and chief magistrate shall be transmitted by the
 118 Secretary of State to state treasury as a separate item designated as additional judicial
 119 qualifying fees. As soon as practicable after the end of each fiscal year, the Office of the
 120 State Treasurer shall report the amount of additional judicial qualifying fees received
 121 from the Secretary of State pursuant to this Code section to the Office of Planning and
 122 Budget and the Judicial Qualifications Commission. It is the intent of the General
 123 Assembly that, subject to appropriation, an amount equal to such proceeds received from
 124 such additional judicial qualifying fees shall be made available during the following two
 125 fiscal years to the Judicial Qualifications Commission for its operations;

126 (5) Qualification fees paid to the superintendent of a municipality:

127 (A) If the person qualifies as a candidate of a political body, 50 percent shall be
 128 transmitted to the state executive committee of the appropriate political body and 50
 129 percent shall be retained by the superintendent of the municipality; and

130 (B) If the person qualifies as an independent or nonpartisan candidate, the
 131 superintendent of the municipality shall retain the entire amount of the fees.

132 Such fees shall be transmitted as soon as practicable by the superintendent to the
 133 governing authority of the municipality, to be applied toward the cost of holding the
 134 election."

135

SECTION 2.

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