

House Bill 262

By: Representatives Bearden of the 68<sup>th</sup>, Willard of the 49<sup>th</sup>, and Powell of the 171<sup>st</sup>

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.