

House Bill 262 (AM)

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 provide for effective dates and automatic repeal; to repeal conflicting laws; and  
6 for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 PART I

9 SECTION 1-1.

10 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and  
11 elections generally, is amended by revising Code Section 21-2-131, relating to fixing and  
12 publishing of qualification fees, manner of payment, and distribution of fees paid, as follows:  
13 "21-2-131.

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

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

23 (B) For the offices of clerk of the superior court, ~~judge of the probate court~~, sheriff, and  
24 tax commissioner, ~~and magistrate~~, the qualifying fee shall be 3 percent of the minimum  
25 salary specified in subsection (a) of Code Section 15-6-88, ~~paragraph (1) of subsection~~  
26 ~~(a) of Code Section 15-9-63, subsection (a) of Code Section 15-10-23~~, paragraph (1)

27 of subsection (a) of Code Section 15-16-20, and paragraph (1) of subsection (b) of Code  
 28 Section 48-5-183, exclusive of supplements, cost-of-living increases, and longevity  
 29 increases. For the office of members of the county governing authority, the qualifying  
 30 fee shall be 3 percent of the base salary established by local Act of the General  
 31 Assembly or by Code Section 36-5-25 as adjusted pursuant to Code Section 36-5-24,  
 32 if applicable, exclusive of compensation supplements for training provided for in Code  
 33 Section 36-5-27 and cost-of-living adjustments pursuant to Code Section 36-5-28. For  
 34 the offices of judge of the probate court and chief magistrate, the qualifying fee shall  
 35 be 4 percent of the minimum salary specified in paragraph (1) of subsection (a) of Code  
 36 Section 15-9-63 and subsection (a) of Code Section 15-10-23, exclusive of  
 37 supplements, cost-of-living increases, and longevity increases. For the office of judge  
 38 of the state court, the qualifying fee shall be 4 percent of the base salary of such office.  
 39 If not a salaried office, a reasonable fee shall be set by the governing authority of such  
 40 county or municipality, such fee not to exceed 3 percent of the income derived from  
 41 such county office by the person holding the office for the preceding year or more than  
 42 \$35.00 for a municipal office;

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

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

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

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

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

- 64 (c) Qualifying fees shall be prorated and distributed as follows:
- 65 (1) Fees paid to the county political party: 50 percent to be retained by the county  
 66 political party with which the candidate qualified; 50 percent to be transmitted to the  
 67 superintendent of the county with the party's certified list of candidates not later than  
 68 12:00 Noon of the third day after the deadline for qualifying in the case of a general  
 69 primary and by 12:00 Noon of the day following the closing of qualifications in the case  
 70 of a special primary. Such fees shall be transmitted as soon as practicable by the  
 71 superintendent to the governing authority of the county, to be applied toward the cost of  
 72 the primary and election;
- 73 (2) Fees paid to the state political party: 75 percent to be retained by the state political  
 74 party; 25 percent to be transmitted to the Secretary of State with the party's certified list  
 75 of candidates not later than 12:00 Noon of the third day after the deadline for qualifying  
 76 in the case of a general primary and by 12:00 Noon of the day following the closing of  
 77 qualifications in the case of a special primary. Such fees shall be transmitted as soon as  
 78 practicable by the Secretary of State as follows: one-third to the state treasury and  
 79 two-thirds divided among the governing authorities of the counties in the candidate's  
 80 district in proportion to the population of each such county according to the last United  
 81 States decennial census, such fees to be applied to the cost of holding the election;
- 82 (3) Qualification fees paid to the superintendent of the county:
- 83 (A) If the person qualifies as a candidate of a political body, 50 percent shall be  
 84 transmitted to the state executive committee of the appropriate political body and 50  
 85 percent shall be retained by the superintendent of the county;
- 86 (B) If the person qualifies directly with the election superintendent as a candidate of  
 87 a political party in accordance with subsection (c) of Code Section 21-2-153, 25 percent  
 88 shall be transmitted to the state executive committee of the appropriate political party  
 89 and 75 percent shall be retained by the superintendent of the county; and
- 90 (C) If the person qualifies as an independent or nonpartisan candidate, the  
 91 superintendent of the county shall retain the entire amount of the fees except for the  
 92 fees from candidates for the office of judge of state court, judge of probate court, and  
 93 chief magistrate. The superintendent shall retain 75 percent of the fees from candidates  
 94 for the office of judge of state court, judge of probate court, and chief magistrate and  
 95 remit 25 percent of the fees to the Secretary of State.
- 96 Such fees, except for the portion of the fees from candidates for the office of judge of  
 97 state court, judge of probate court, and chief magistrate that is to be remitted to the  
 98 Secretary of State, shall be transmitted as soon as practicable by the superintendent to the  
 99 governing authority of the county, to be applied toward the cost of holding the election.  
 100 The portion of the fees from candidates for the office of judge of state court, judge of

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

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

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

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

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

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

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

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

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

137 **PART II**

138 **SECTION 2-1.**

139 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and  
 140 elections generally, is amended by revising Code Section 21-2-131, relating to fixing and  
 141 publishing of qualification fees, manner of payment, and distribution of fees paid, as follows:  
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143 (a) Qualification fees for party and public offices shall be fixed and published as follows:

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 145 of any year in which a general primary, nonpartisan election, or general election is to  
 146 be held, and at least 35 days prior to the special primary or election in the case of a  
 147 special primary or special election, shall fix and publish a qualifying fee for each  
 148 county or municipal office to be filled in the upcoming primary or election. Except as  
 149 otherwise provided in subparagraph (B) of this paragraph, such fee shall be 3 percent  
 150 of the total gross salary of the office paid in the preceding calendar year including all  
 151 supplements authorized by law if a salaried office.

152 (B) For the offices of clerk of the superior court, judge of the probate court, sheriff, and  
 153 tax commissioner, and magistrate, the qualifying fee shall be 3 percent of the minimum  
 154 salary specified in subsection (a) of Code Section 15-6-88, paragraph (1) of  
 155 subsection (a) of Code Section 15-9-63, subsection (a) of Code Section 15-10-23,  
 156 paragraph (1) of subsection (a) of Code Section 15-16-20, and paragraph (1) of  
 157 subsection (b) of Code Section 48-5-183, exclusive of supplements, cost-of-living  
 158 increases, and longevity increases. For the office of members of the county governing  
 159 authority, the qualifying fee shall be 3 percent of the base salary established by local  
 160 Act of the General Assembly or by Code Section 36-5-25 as adjusted pursuant to Code  
 161 Section 36-5-24, if applicable, exclusive of compensation supplements for training  
 162 provided for in Code Section 36-5-27 and cost-of-living adjustments pursuant to Code  
 163 Section 36-5-28. For the offices of judge of the probate court and chief magistrate, the  
 164 qualifying fee shall be 4 percent of the minimum salary specified in paragraph (1) of  
 165 subsection (a) of Code Section 15-9-63 and subsection (a) of Code Section 15-10-23,  
 166 exclusive of supplements, cost-of-living increases, and longevity increases. For the  
 167 office of judge of the state court, the qualifying fee shall be 4 percent of the base salary  
 168 of such office. If not a salaried office, a reasonable fee shall be set by the governing  
 169 authority of such county or municipality, such fee not to exceed 3 percent of the income  
 170 derived from such county office by the person holding the office for the preceding year  
 171 or more than \$35.00 for a municipal office;

172 (2) Within the same time limitation as provided in subparagraph (A) of paragraph (1) of  
 173 this subsection, the Secretary of State shall fix and publish a qualifying fee for any

174 candidate qualifying by this method with a state political party and for any candidate  
 175 qualifying with the Secretary of State for a nonpartisan election and for any candidate  
 176 filing with the Secretary of State his or her notice of candidacy for a general or special  
 177 election. Such fee shall be 3 percent of the annual salary of the office if a salaried office,  
 178 except that the fee for members of the General Assembly shall be \$400.00 ~~and the fees~~  
 179 ~~for the offices of justice of the Supreme Court, judge of the Court of Appeals, and judge~~  
 180 ~~of superior court shall be 4 percent of the annual salary of the office.~~ If not a salaried  
 181 office, a reasonable fee shall be set by the Secretary of State, such fee not to exceed 3  
 182 percent of the income derived from such office by the person holding the office for the  
 183 preceding year;

184 (3) A reasonable qualifying fee may be set according to party rule for each political party  
 185 office to be filled in a primary. Such fees shall be set and published by the county or state  
 186 political party not later than February 1 of the year in which the primary is to be held for  
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 192 Secretary of State at the time the notice of candidacy is filed by the candidate.

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 196 superintendent of the county with the party's certified list of candidates not later than  
 197 12:00 Noon of the third day after the deadline for qualifying in the case of a general  
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 200 superintendent to the governing authority of the county, to be applied toward the cost of  
 201 the primary and election;

202 (2) Fees paid to the state political party: 75 percent to be retained by the state political  
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 207 practicable by the Secretary of State as follows: one-third to the state treasury and  
 208 two-thirds divided among the governing authorities of the counties in the candidate's  
 209 district in proportion to the population of each such county according to the last United  
 210 States decennial census, such fees to be applied to the cost of holding the election;

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

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213 transmitted to the state executive committee of the appropriate political body and 50  
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216 a political party in accordance with subsection (c) of Code Section 21-2-153, 25 percent  
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219 (C) If the person qualifies as an independent or nonpartisan candidate, the  
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223 ~~for the office of judge of state court, judge of probate court, and chief magistrate and~~  
224 ~~remit 25 percent of the fees to the Secretary of State.~~

225 Such fees, ~~except for the portion of the fees from candidates for the office of judge of~~  
226 ~~state court, judge of probate court, and chief magistrate that is to be remitted to the~~  
227 ~~Secretary of State,~~ shall be transmitted as soon as practicable by the superintendent to the  
228 governing authority of the county, to be applied toward the cost of holding the election.  
229 ~~The portion of the fees from candidates for the office of judge of state court, judge of~~  
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237 (B) If the person qualifies as an independent or nonpartisan candidate, the Secretary  
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239 Such fees, ~~except for 25 percent of the fees received from candidates for the offices of~~  
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241 shall be transmitted as soon as practicable by the Secretary of State as follows: one-third  
242 to the state treasury and two-thirds divided among the governing authorities of the  
243 counties in proportion to the population of each county according to the last United States  
244 decennial census, such fees to be applied to the cost of holding the election. ~~The 25~~  
245 ~~percent of the fees received from candidates for the offices of justice of the Supreme~~  
246 ~~Court, judge of the Court of Appeals, and judge of superior court and the portion of the~~  
247 ~~fees from the county election superintendents from candidates for the offices of judge of~~

248 ~~state court, judge of probate court, and chief magistrate shall be transmitted by the~~  
 249 ~~Secretary of State to state treasury as a separate item designated as additional judicial~~  
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 251 ~~State Treasurer shall report the amount of additional judicial qualifying fees received~~  
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 254 ~~Assembly that, subject to appropriation, an amount equal to such proceeds received from~~  
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261 (B) If the person qualifies as an independent or nonpartisan candidate, the  
 262 superintendent of the municipality shall retain the entire amount of the fees.

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

266

### **PART III**

267

#### **SECTION 3-1.**

268 Part I of this Act shall become effective on July 1, 2011. Part II of this Act shall become  
 269 effective on January 1, 2015. The remainder of this Act shall become effective upon its  
 270 approval by the Governor or its becoming law without such approval.

271

#### **SECTION 3-2.**

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