

HOUSE SUBSTITUTE TO SENATE BILL 82

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18 of all withdrawn, deceased, and disqualified candidates and any substitute candidates; to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 remove certain archaic language regarding
25 vote tabulation machines; to provide for additional vote review panels; to change certain
26 provisions regarding the time for certifying election results; to provide for a method for
27 recounts for certain elections regarding constitutional amendments and binding referenda;
28 to provide for the swearing in of certain persons; to provide for the crime of solicitation of

29 voter fraud; to provide for punishment; to provide for related matters; to repeal conflicting
30 laws; and for other purposes.

31 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

32 **SECTION 1.**

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

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

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

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

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

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

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

69 (D) Each judge of the probate court serving as an election superintendent, each
 70 member of a board of elections or board of elections and registration, and each election
 71 supervisor or designee for a board of elections or board of elections and registration
 72 serving on July 1, 2011, shall take the appropriate oath as set forth in this Code section
 73 which shall apply to all primaries and elections conducted throughout such person's
 74 tenure in that position.

75 **SECTION 2.**

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

78 "21-2-90.

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

94 **SECTION 3.**

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

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

103 **SECTION 4.**

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

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

117 **SECTION 5.**

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

120 "(a) ~~The~~ Except in the case in which a county has a board of elections and registration, the
 121 judge of the superior court in each county or the senior judge in time of service in those
 122 counties having more than one judge shall appoint in accordance with this Code section,
 123 upon the recommendation of the grand jury of such county, not less than three nor more
 124 than five judicious, intelligent, and upright electors of such county as county registrars.
 125 The grand jury shall submit to the judge the names of a number of electors equal to twice
 126 the number of persons to be appointed and the appointment shall be made therefrom and
 127 shall be entered on the minutes of the court. When making such appointments when
 128 appropriate, the judge will designate one of the registrars as chief registrar who shall serve
 129 as such during such registrar's term of office, and such designation shall likewise be entered
 130 on the minutes of the court. It shall be the duty of the clerk of the superior court to certify
 131 the appointments and designation to the Secretary of State within 30 days after the

132 appointments and designation, and commissions shall be issued as for county officers.
 133 When certifying such names to the Secretary of State, the clerk of the superior court shall
 134 also list the addresses of the registrars. ~~Such~~ Except in the case in which the local Act
 135 creating a county board of elections and registration specifically provides for the
 136 appointment and removal by another authority, such judge will have the right to remove
 137 one or more of such registrars at any time for cause after notice and hearing. In case of the
 138 death, resignation, or removal of a registrar, the judge shall appoint a successor who shall
 139 serve until the next grand jury convenes, at which time the grand jury shall submit to the
 140 judge the names of two judicious, intelligent, and upright electors of such county; and the
 141 judge shall make an appointment from said list, such successor to serve the unexpired term
 142 of such registrar's predecessor in office. In the event the grand jury is in session at the time
 143 of any such death, removal, or resignation, such grand jury shall immediately submit the
 144 names of said electors to the judge for such appointment. Each such appointment or
 145 change in designation shall be entered on the minutes of the court and certified as provided
 146 in this Code section."

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

169 ~~Code section. The first appointments in any such county under this article shall be made~~
 170 ~~in the year 1965, and the persons appointed shall assume office July 1, 1965. The~~
 171 ~~governing authorities of such counties may furnish such employees and facilities as they~~
 172 ~~deem necessary for the operation of the office and affairs of the registrars as set forth in~~
 173 ~~subsection (a) of this Code section.~~"

174 **SECTION 6.**

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

177 "(h) Prior to approving the application of a person to register to vote, the registrars may
 178 check the data bases of persons convicted of felonies and deceased persons maintained by
 179 the Secretary of State."

180 **SECTION 7.**

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

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

198 **SECTION 8.**

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

202 "21-2-263.
 203 If at the previous general election a precinct contained more than 2,000 electors and if all
 204 those electors desiring to vote had not completed voting one hour following the closing of
 205 the polls, the superintendent shall either reduce the size of said precinct so that it shall
 206 contain not more than 2,000 electors in accordance with the procedures prescribed by this
 207 chapter for the division, alteration, and consolidation of precincts no later than 60 days
 208 before the next general election or provide additional voting equipment or poll workers or
 209 both before the next general election. For administering this Code section, the chief
 210 manager of a precinct which contained more than 2,000 electors at the previous general
 211 election shall submit a report thereof, under oath, to the superintendent as to the time
 212 required for completion of voting by all persons in line at the time the polls were closed.
 213 Any such change in the boundaries of a precinct shall conform with the requirements of
 214 subsection (a) of Code Section 21-2-261.1."

215 **SECTION 9.**

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

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

222 **SECTION 10.**

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

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

230 **SECTION 11.**

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

234 "(2) Except as provided in paragraph (3) of this subsection, an elector who is entitled to
 235 vote by absentee ballot under the federal Uniformed and Overseas Citizens Absentee

236 Voting Act, 42 U.S.C. Section 1973ff, et seq., as amended, may vote in any election for
 237 a public office other than for a federal office by using the addendum provided in the
 238 federal write-in absentee ballot and writing in the title of the office and the name of the
 239 candidate for whom the elector is voting. In a general, special, or run-off election, the
 240 elector may alternatively designate a candidate by writing in a party preference for each
 241 office, the names of specific candidates for each office, or the name of the person who
 242 the elector prefers for each office. A written designation of the political party shall be
 243 counted as a vote for the candidate of that party. In addition, such elector may vote on
 244 any constitutional amendment or question presented to the electors in such election by
 245 identifying the constitutional amendment or question with regard to which such elector
 246 desires to vote and specifying the elector's vote on such amendment or question."

247 **SECTION 12.**

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

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

260 (2) The board of registrars or absentee ballot clerk shall, ~~within two days after the receipt~~
 261 ~~of such ballots and supplies, mail or issue official absentee ballots to all eligible~~
 262 ~~applicants at least 45 days, but no earlier than 46 days, prior to any presidential~~
 263 ~~preference primary, general primary, general election other than a municipal general~~
 264 ~~primary or general election, or special election in which there is a candidate for a federal~~
 265 ~~office on the ballot; at least 21 days, but no earlier than 22 days, prior to any municipal~~
 266 ~~general primary or general election; and as soon as possible prior to a runoff. In the case~~
 267 ~~of all other special elections, the board of registrars or absentee ballot clerk shall mail or~~
 268 ~~issue official absentee ballots to all eligible applicants within two days after the receipt~~
 269 ~~of such ballots and supplies, but no earlier than 22 days prior to the election; provided,~~
 270 ~~however, that should any elector of the jurisdiction be permitted to vote beginning 45~~
 271 ~~days prior to a primary or election, all electors of such jurisdiction shall be entitled to~~

272 vote beginning 45 days prior to such primary or election. As additional applicants are
273 determined to be eligible, the board or clerk shall mail or issue official absentee ballots
274 to such additional applicants immediately upon determining their eligibility; provided,
275 however, that no absentee ballot shall be mailed by the registrars or absentee ballot clerk
276 on the day prior to a primary or election and provided, further, that no absentee ballot
277 shall be issued on the day prior to a primary or election. The board of registrars shall, at
278 least 45 days prior to any general primary, or general election other than a municipal
279 general primary or general election, and at least 21 days prior to any municipal general
280 primary or general election, mail or electronically transmit official absentee ballots to all
281 electors who are entitled to vote by absentee ballot under the federal Uniformed and
282 Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff, et seq., as amended.

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

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

289 (5) In the event an absentee ballot which has been mailed by the board of registrars or
290 absentee ballot clerk is not received by the applicant, the applicant may notify the board
291 of registrars or absentee ballot clerk and sign an affidavit stating that the absentee ballot
292 has not been received. The board of registrars or absentee ballot clerk shall then issue a
293 second absentee ballot to the applicant and cancel the original ballot issued. The affidavit
294 shall be attached to the original application. A second application for an absentee ballot
295 shall not be required.

296 (b) In addition to the mailing envelope, the superintendent, board of registrars, or absentee
297 ballot clerk shall provide two envelopes for each official absentee ballot, of such size and
298 shape as shall be determined by the Secretary of State, in order to permit the placing of one
299 within the other and both within the mailing envelope. On the smaller of the two envelopes
300 to be enclosed in the mailing envelope shall be printed the words 'Official Absentee Ballot'
301 and nothing else. On the back of the larger of the two envelopes to be enclosed within the
302 mailing envelope shall be printed the form of oath of the elector and the oath for persons
303 assisting electors, as provided for in Code Section 21-2-409, and the penalties provided for
304 in Code Sections 21-2-568, 21-2-573, 21-2-579, and 21-2-599 for violations of oaths; and
305 on the face of such envelope shall be printed the name and address of the board of
306 registrars or absentee ballot clerk. The mailing envelope addressed to the elector shall
307 contain the two envelopes, the official absentee ballot, and the uniform instructions for the
308 manner of preparing and returning the ballot, in form and substance as provided by the

309 Secretary of State, and a notice in the form provided by the Secretary of State of all
 310 withdrawn, deceased, and disqualified candidates and any substitute candidates pursuant
 311 to Code Sections 21-2-134 and 21-2-155 and nothing else. The uniform instructions shall
 312 include information specific to the voting system used for absentee voting concerning the
 313 effect of overvoting or voting for more candidates than one is authorized to vote for a
 314 particular office and information concerning how the elector may correct errors in voting
 315 the ballot before it is cast including information on how to obtain a replacement ballot if
 316 the elector is unable to change the ballot or correct the error."

317 **SECTION 13.**

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

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

343 **SECTION 14.**

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

346 "21-2-387.

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

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

353 (1) The encryption of information and the transmission of such information over a secure
354 network;

355 (2) The authentication of such information;

356 (3) The verification of the identity and eligibility of the elector to vote in the primary,
357 election, or runoff, as the case may be;

358 (4) The protection of the privacy, anonymity, and integrity of the ballots cast;

359 (5) The prevention of the casting of multiple ballots by the same elector in ~~an~~ a primary,
360 election, or runoff;

361 (6) The prevention of any tampering, abuse, fraudulent use, or illegal manipulation of
362 such system;

363 (7) The uninterrupted reliability of such system for casting ballots by qualified voters;

364 (8) The capability of the elector to determine if the electronic transmission of the ballot
365 was successful;

366 (9) The ability to audit such ballots and to verify that such ballots were properly counted;
367 and

368 (10) The ability to verify that the information transmitted over the secure network was
369 not viewed or altered by sites that lie between the voting location and the vote counting
370 destination.

371 (c) The Secretary of State shall develop procedures by which persons who are eligible to
372 utilize the pilot program to vote shall be notified of its availability and the procedures and
373 methods for its utilization.

374 (d) The provisions of this article shall apply to ballots requested, transmitted, voted,
375 received, and counted under this pilot program as nearly as practicable, but the Secretary
376 of State and the State Election Board shall be authorized to vary such provisions by rule
377 or regulation as necessary to accomplish the goals of this pilot program, provided that such
378 variances shall retain and maintain the same degree of security and integrity of such ballots
379 as provided by this article although in different forms or formats as necessitated by the

380 technology utilized in such pilot program. The Secretary of State and the State Election
 381 Board are authorized to promulgate such rules and regulations as necessary to implement
 382 the provisions of this Code section and to provide for such variances to this article as
 383 needed pursuant to this subsection.

384 (e) The Secretary of State shall review the results of the pilot program and shall provide
 385 the members of the General Assembly with a comprehensive report no later than 90 days
 386 following the primary or general election ~~and general election runoff~~ in which such pilot
 387 program is used on the effectiveness of such pilot program with any recommendations for
 388 its continued use and any needed changes in such program for future primaries and
 389 elections.

390 (f) The pilot program shall be used in the first primary or general election ~~and general~~
 391 ~~election runoff~~ following:

392 (1) The inclusion in the Appropriations Act of a specific line item appropriation for
 393 funding of such pilot program or a determination by the Secretary of State that there is
 394 adequate funding through public or private funds, or a combination of public and private
 395 funds, to conduct the pilot program; provided, however, that no funds shall be accepted
 396 from registered political parties or political bodies for this purpose; and

397 (2) Certification by the Secretary of State that such pilot program is feasible and can be
 398 implemented for such primary or general election ~~and general election runoff~~.

399 (g) This Code section shall be repealed by operation of law on July 1 of the year following
 400 the conclusion of the pilot program."

401 **SECTION 15.**

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

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

410 **SECTION 16.**

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

413 "(d) The superintendent shall provide at the polling place copies of the sample or facsimile
 414 ballots for such primary or election as well as a list of the certified write-in candidates for

415 such election in the form as provided by the Secretary of State or appropriate municipal
 416 official pursuant to Code Section 21-2-133."

417 **SECTION 17.**

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

420 ~~"(g)(1) The precinct tabulator shall be programmed to return to the voter at the time that~~
 421 ~~the voter inserts the ballot any ballot on which an overvote is indicated, along with any~~
 422 ~~ballot that cannot be processed by the tabulator for reevaluation or correction or spoiling~~
 423 ~~of the ballot, and a new ballot shall be issued if the voter desires to vote another ballot in~~
 424 ~~order to correct mistakes, overvotes, or other problems.~~

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

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

446 (B) The election superintendent may create multiple vote review panels in accordance
 447 with subparagraph (A) of this paragraph to handle the processing of such ballots more
 448 efficiently. Upon the creation of such panels, the election superintendent shall
 449 designate one of the panels as the chief vote review panel. In the event of a
 450 disagreement on such additional panels, the ballots in question shall be reviewed by the

451 chief vote review panel and decided in accordance with the procedures contained in
 452 subparagraph (A) of this paragraph."

453 **SECTION 18.**

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

456 "(k) As the returns from each precinct are read, computed, and found to be correct or
 457 corrected as aforesaid, they shall be recorded on the blanks prepared for the purpose until
 458 all the returns from the various precincts which are entitled to be counted shall have been
 459 duly recorded; then they shall be added together, announced, and attested by the assistants
 460 who made and computed the entries respectively and shall be signed by the superintendent.
 461 The consolidated returns shall then be certified by the superintendent in the manner
 462 required by this chapter. Such returns shall be certified by the superintendent not later than
 463 5:00 P.M. on the ~~seventh day~~ Monday following the date on which such election was held
 464 and such returns shall be immediately transmitted to the Secretary of State."

465 **SECTION 19.**

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

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

486 the superintendent, the superintendents, or the Secretary of State shall be corrected
487 accordingly and the results recertified.

488 (2) Whenever the difference between the number of votes for approval or rejection of a
489 constitutional amendment or binding referendum question shall be not more than 1
490 percent of the total votes which were cast on such amendment or question therein, within
491 a period of two business days following the certification of the election results, the
492 Constitutional Amendments Publication Board shall be authorized in its discretion to call
493 for a recount of the votes cast with regard to such amendment or question. In the case of
494 a constitutional amendment or state-wide referendum question or a question voted upon
495 by the electors of more than one county, the board shall direct the Secretary of State to
496 cause a recount to be performed with regard to such amendment or question in all
497 counties involved and notify the superintendents of the recount. In the case of questions
498 voted upon by the electors of only one county or municipality, the board shall direct the
499 Secretary of State to cause a recount to be conducted by the county or municipality
500 involved and the Secretary of State shall notify the superintendent involved of the
501 recount. Upon notification, the superintendent or superintendents shall order a recount
502 of such votes to be made immediately. If, upon such recount, it is determined that the
503 original count was incorrect, the returns and all papers prepared by the superintendent,
504 the superintendents, or the Secretary of State shall be corrected accordingly and the
505 results recertified."

506 **SECTION 20.**

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

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

517 (c) Upon the certification of the results of the election, a person elected to a federal, state,
518 or county office may be sworn into office notwithstanding that the election of such person
519 may be contested in the manner provided by this chapter. Upon the final judgment of the
520 proper tribunal having jurisdiction of a contested election which orders a second election
521 or declares that another person was legally elected to the office, the person sworn into such

522 office shall cease to hold the office and shall cease to exercise the powers, duties, and
 523 privileges of the office immediately."

524 **SECTION 21.**

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

527 "21-2-604.

528 (a)(1) A person commits the offense of criminal solicitation to commit election fraud in
 529 the first degree when, with intent that another person engage in conduct constituting a
 530 felony under this article, he or she solicits, requests, commands, importunes, or otherwise
 531 attempts to cause the other person to engage in such conduct.

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

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

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

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

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

545 **SECTION 22.**

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