

House Bill 158 (AS PASSED HOUSE AND SENATE)

By: Representatives Mills of the 25th, Maxwell of the 17th, and England of the 108th

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 change the date of the nonpartisan election; to
3 provide for qualifying dates; to provide for related matters; to repeal conflicting laws; and
4 for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 SECTION 1.

7 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and
8 elections generally, is amended by revising subsections (c) and (i) of Code Section 21-2-132,
9 relating to filing notice of candidacy, nomination petition, and affidavit, as follows:

10 "(c) Except as provided in subsection (i) of this Code section, all candidates seeking
11 election in a nonpartisan election shall file their notice of candidacy and pay the prescribed
12 qualifying fee by the date prescribed in this subsection in order to be eligible to have their
13 names placed on the nonpartisan election ballot by the Secretary of State or election
14 superintendent, as the case may be, in the following manner:

15 (1) Each candidate for the office of judge of the superior court, Judge of the Court of
16 Appeals, or Justice of the Supreme Court, or the candidate's agent, desiring to have his
17 or her name placed on the nonpartisan election ballot shall file a notice of candidacy,
18 giving his or her name, residence address, and the office sought, in the office of the
19 Secretary of State no earlier than 9:00 A.M. on the fourth Monday in ~~June~~ April
20 immediately prior to the election and no later than 12:00 Noon on the Friday following
21 the fourth Monday in ~~June~~ April, notwithstanding the fact that any such days may be
22 legal holidays; and

23 (2) Each candidate for a county judicial office, a local school board office, or an office
24 of a consolidated government, or the candidate's agent, desiring to have his or her name
25 placed on the nonpartisan election ballot shall file notice of candidacy in the office of the
26 superintendent no earlier than 9:00 A.M. on the fourth Monday in ~~June~~ April immediately

27 prior to the election and no later than 12:00 Noon on the Friday following the fourth
 28 Monday in ~~June~~ April, notwithstanding the fact that any such days may be legal
 29 holidays."

30 "(i) Notwithstanding any other provision of this chapter to the contrary, for general
 31 elections held in the even-numbered year immediately following the official release of the
 32 United States decennial census data to the states for the purpose of redistricting of the
 33 legislatures and the United States House of Representatives, candidates in such elections
 34 shall qualify as provided in this subsection:

35 (1) All candidates seeking election in a nonpartisan election shall file their notice of
 36 candidacy and pay the prescribed qualifying fee by the date prescribed in this paragraph
 37 in order to be eligible to have their names placed on the nonpartisan election ballot by the
 38 Secretary of State or election superintendent, as the case may be, in the following
 39 manner:

40 (A) Each candidate for the office of judge of the superior court, Judge of the Court of
 41 Appeals, or Justice of the Supreme Court, or the candidate's agent, desiring to have his
 42 or her name placed on the nonpartisan election ballot shall file a notice of candidacy,
 43 giving his or her name, residence address, and the office sought, in the office of the
 44 Secretary of State no earlier than 9:00 A.M. on the ~~last Monday in July~~ third
 45 Wednesday in June immediately prior to the election and no later than 12:00 Noon on
 46 the Friday following the ~~last Monday in July~~ third Wednesday in June, notwithstanding
 47 the fact that any such days may be legal holidays; and

48 (B) Each candidate for a county judicial office, a local school board office, or an office
 49 of a consolidated government, or the candidate's agent, desiring to have his or her name
 50 placed on the nonpartisan election ballot shall file a notice of candidacy in the office
 51 of the superintendent no earlier than 9:00 A.M. on the ~~last Monday in July~~ third
 52 Wednesday in June immediately prior to the election and no later than 12:00 Noon on
 53 the Friday following the ~~last Monday in July~~ third Wednesday in June, notwithstanding
 54 the fact that any such days may be legal holidays;

55 (2) All political body and independent candidates shall file their notice of candidacy and
 56 pay the prescribed qualifying fee by the date prescribed in this paragraph in order to be
 57 eligible to have their names placed on the general election ballot by the Secretary of State
 58 or election superintendent, as the case may be, in the following manner:

59 (A) Each candidate for federal or state office, or his or her agent, desiring to have his
 60 or her name placed on the general election ballot shall file a notice of his or her
 61 candidacy, giving his or her name, residence address, and the office he or she is
 62 seeking, in the office of the Secretary of State no earlier than 9:00 A.M. on the last

63 Monday in July immediately prior to the election and no later than 12:00 Noon on the
64 Friday following the last Monday in July; and

65 (B) Each candidate for a county office, or his or her agent, desiring to have his or her
66 name placed on the general election ballot shall file notice of his or her candidacy in the
67 office of the superintendent of his or her county no earlier than 9:00 A.M. on the last
68 Monday in July immediately prior to the election and no later than 12:00 Noon on the
69 Friday following the last Monday in July; and

70 (3) Candidates required to file nomination petitions under subsection (e) of this Code
71 section shall file such petitions not earlier than 9:00 A.M. on the fourth Monday in July
72 immediately prior to the general election and not later than 12:00 Noon on the first
73 Monday in August immediately prior to the general election."

74 **SECTION 2.**

75 Said chapter is further amended by revising subsection (a) of Code Section 21-2-133, relating
76 to giving notice of intent of write-in candidacy, as follows:

77 "(a) No person elected on a write-in vote shall be eligible to hold office unless notice of
78 his or her intention of candidacy was filed and published no earlier than January 1 and no
79 later than the Tuesday after the first Monday in September prior to the election for county,
80 state, and federal elections; no later than seven days after the close of the qualifying period
81 for nonpartisan elections in the case of nonpartisan elections for state or county offices; no
82 later than seven days after the close of the municipal qualifying period for municipal
83 elections in the case of a general election; or no later than seven days after the close of the
84 special election qualifying period for a special election by the person to be a write-in
85 candidate or by some other person or group of persons qualified to vote in the subject
86 election, as follows:

87 (1) In a state general or special election, notice shall be filed with the Secretary of State
88 and published in a newspaper of general circulation in the state;

89 (2) In a general or special election of county officers, notice shall be filed with the
90 superintendent of elections in the county in which he or she is to be a candidate and
91 published in the official organ of the same county; or

92 (3) In a municipal general or special election, notice shall be filed with the
93 superintendent and published in the official gazette of the municipality holding the
94 election."

95 **SECTION 3.**

96 Said chapter is further amended by revising Code Section 21-2-138, relating to nonpartisan
97 elections for judicial offices, as follows:

98 "21-2-138.

99 The names of all candidates who have qualified with the Secretary of State for the office
 100 of judge of a superior court, Judge of the Court of Appeals, or Justice of the Supreme Court
 101 of this state and the names of all candidates who have qualified with the election
 102 superintendent for the office of judge of a state court shall be placed on the ballot in a
 103 nonpartisan election to be held and conducted jointly with the general ~~election~~ primary in
 104 each even-numbered year. No candidates for any such office shall be nominated by a
 105 political party or by a petition as a candidate of a political body or as an independent
 106 candidate. Candidates for any such office shall have their names placed on the nonpartisan
 107 portion of each ballot by complying with the requirements prescribed in Code Section
 108 21-2-132 specifically related to such nonpartisan candidates and by paying the requisite
 109 qualifying fees as prescribed in Code Section 21-2-131. Candidates shall be listed on the
 110 official ballot in a nonpartisan election as provided in Code Sections 21-2-284.1 and
 111 21-2-285.1, respectively. Except as otherwise specified in this chapter, the procedures to
 112 be employed in conducting the nonpartisan election of judges of state courts, judges of
 113 superior courts, Judges of the Court of Appeals, and Justices of the Supreme Court shall
 114 conform as nearly as practicable to the procedures governing general elections; and such
 115 general election procedures as are necessary to complete this nonpartisan election process
 116 shall be adopted in a manner consistent with such nonpartisan elections."

117 **SECTION 4.**

118 Said chapter is further amended by revising subsection (a) of Code Section 21-2-139, relating
 119 to nonpartisan elections authorization, as follows:

120 "(a) Notwithstanding any other provisions of this chapter to the contrary, the General
 121 Assembly may provide by local Act for the election in nonpartisan elections of candidates
 122 to fill county judicial offices, offices of local school boards, and offices of consolidated
 123 governments which are filled by the vote of the electors of said county or political
 124 subdivision. Except as otherwise provided in this Code section, the procedures to be
 125 employed in such nonpartisan elections shall conform as nearly as practicable to the
 126 procedures governing nonpartisan elections as provided in this chapter. Except as
 127 otherwise provided in this Code section, the election procedures established by any existing
 128 local law which provides for the nonpartisan election of candidates to fill county offices
 129 shall conform to the general procedures governing nonpartisan elections as provided in this
 130 chapter, and such nonpartisan elections shall be conducted in accordance with the
 131 applicable provisions of this chapter, notwithstanding the provisions of any existing local
 132 law. For those offices for which the General Assembly, pursuant to this Code section,
 133 provided by local Act for election in nonpartisan primaries and elections, such offices shall

134 no longer require nonpartisan primaries. Such officers shall be elected in nonpartisan
 135 elections held and conducted in conjunction with the ~~November general election~~ primary
 136 in even-numbered years in accordance with this chapter without a prior nonpartisan
 137 primary. Nonpartisan elections for municipal offices shall be conducted on the dates
 138 provided in the municipal charter."

139 **SECTION 5.**

140 Said chapter is further amended by revising Code Section 21-2-285.1, relating to form of
 141 nonpartisan election ballot, as follows:

142 "21-2-285.1.

143 The names of all candidates for offices which the General Assembly has by general law or
 144 local Act provided for election in a nonpartisan election shall be printed on each official
 145 ~~election primary~~ ballot; and insofar as practicable such offices to be filled in the
 146 nonpartisan election shall be separated from the names of candidates for party nomination
 147 to other offices by being listed last on each ballot, with the top of that portion of each
 148 official ~~election primary~~ ballot relating to the nonpartisan election to have printed in
 149 prominent type the words 'OFFICIAL NONPARTISAN ELECTION BALLOT.' In
 150 addition, there shall be a ballot that contains just the official nonpartisan election ballot
 151 available for electors who choose not to vote in a party primary. Directions that explain
 152 how to cast a vote, how to write in a candidate, and how to obtain a new ballot after the
 153 elector spoils his or her ballot shall appear immediately under the caption, as specified by
 154 rule or regulation of the State Election Board. Immediately under the directions, the name
 155 of each such nonpartisan candidate shall be arranged alphabetically by last name under the
 156 title of the office for which they are candidates and be printed thereunder. The incumbency
 157 of a candidate seeking election for the public office he or she then holds shall be indicated
 158 on the ballot. No party designation or affiliation shall appear beside the name of any
 159 candidate for nonpartisan office. An appropriate space shall also be placed on the ballot
 160 for the casting of write-in votes for such offices. In the event that no candidate in such
 161 nonpartisan election receives a majority of the total votes cast for such office, there shall
 162 be a nonpartisan election runoff between the candidates receiving the two highest numbers
 163 of votes; and the names of such candidates shall be placed on the official ballot at the
 164 general ~~election primary~~ runoff in the same manner as prescribed in this Code section for
 165 the nonpartisan election and there shall be a separate official nonpartisan election runoff
 166 ballot for those electors who do not choose or are not eligible to vote in the general primary
 167 runoff. In the event that only nonpartisan candidates are to be placed on a run-off ballot,
 168 the form of the ballot shall be as prescribed by the Secretary of State or election
 169 superintendent in essentially the same format as prescribed for the nonpartisan election.

170 The candidate having a majority of the votes cast in the nonpartisan election or the
 171 candidate receiving the highest number of votes cast in the nonpartisan election runoff shall
 172 be declared duly elected to such office."

173 **SECTION 6.**

174 Said chapter is further amended by revising subsections (g) and (h) of Code
 175 Section 21-2-325, relating to form of ballot labels generally, as follows:

176 "(g) The names of all candidates of a party or body shall appear in the same row or
 177 column, and no other names shall appear in the same row or column. The names of
 178 candidates and independent candidates shall be arranged under or opposite the title of the
 179 office for which they are candidates and shall appear in the order prescribed by
 180 subsection (c) and the second sentence of subsection (e) of Code Section 21-2-285. The
 181 rows or columns occupied by the names of the candidates of political parties and bodies
 182 shall be arranged according to the priority prescribed by subsection (c) of Code Section
 183 21-2-285. When voting machines are used on which the titles of offices are arranged
 184 horizontally, the names of all candidates for the same office shall appear within the same
 185 vertical lines. ~~The names of all candidates in a nonpartisan election held in conjunction~~
 186 ~~with a general election shall appear on a separate portion of the voting machine in the form~~
 187 ~~and arrangement prescribed in Code Section 21-2-285.1 insofar as practicable. At the top~~
 188 ~~of the separate portion shall be printed in prominent type the words 'OFFICIAL~~
 189 ~~NONPARTISAN ELECTION BALLOT.'~~

190 (h) In primaries, the ballot labels containing the names of candidates seeking nomination
 191 by a political party shall be segregated on the face of the machine in adjacent rows or
 192 columns by parties, the priority of such political parties on the ballot labels to be
 193 determined in the order prescribed by subsection (c) of Code Section 21-2-285. If a
 194 nonpartisan election is being held in conjunction with a partisan primary, each partisan
 195 ballot label shall be clearly marked to indicate that the elector may vote in the nonpartisan
 196 election also. In nonpartisan elections, the ballot labels shall include a separate portion for
 197 the names of candidates seeking election in a nonpartisan election and the heading and
 198 arrangement of such candidates shall be as prescribed by Code Section ~~21-2-284.1~~
 199 21-2-285.1 insofar as practicable. At the top of the separate portion shall be printed in
 200 prominent type the words 'OFFICIAL NONPARTISAN ELECTION BALLOT.'"

201 **SECTION 7.**

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