

Senate Bill 298 - Prefile

By: Senator Davis of the 22nd

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and elections generally, so as to provide that nonpartisan elections for consolidated governments shall be held in conjunction with the November general election; to provide that nonpartisan elections for consolidated governments by local law may be conducted in conjunction with the general primary; to provide for qualifying times and procedures for such candidates; to provide for the form of the ballot; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and elections generally, is amended by revising Code Section 21-2-9, relating to date of election for offices, as follows:

"21-2-9.

(a) ~~The~~ Except as may otherwise be provided by law, the Governor, Lieutenant Governor, Secretary of State, Attorney General, State School Superintendent, Commissioner of Insurance, Commissioner of Agriculture, Commissioner of Labor, members of Congress, Justices of the Supreme Court, Judges of the Court of Appeals, judges of the superior courts, district attorneys, members of the General Assembly, and county officers shall be elected in the November election next preceding the expiration of the term of office.

(b) All general municipal elections to fill municipal offices shall be held on the Tuesday next following the first Monday in November in each odd-numbered year. Public notice of such elections shall be published by the governing authority of the municipality in a newspaper of general circulation in the municipality at least 30 days prior to the elections. In addition, the municipality shall immediately transmit a copy of such notice to the Secretary of State."

SECTION 2.

Said chapter is further amended by revising subsections (b), (c), (d), and (i) of Code Section 21-2-132, relating to filing notice of candidacy, nomination petition, and affidavit, payment of qualifying fee, pauper's affidavit and qualifying petition for exemption from qualifying fee, and military service, as follows:

"(b) ~~Candidates~~ Except for candidates for consolidated government offices for which there has been no local Act providing for election in conjunction with the general primary, candidates seeking election in a nonpartisan election shall comply with the requirements of subsections (c) and (f) of this Code section, as modified by subsection (g) of this Code section, by the date prescribed and shall by the same date pay to the proper authority the qualifying fee prescribed by Code Section 21-2-131 in order to be eligible to have their names placed on the nonpartisan election ballots.

(c) Except as provided in subsection (i) of this Code section, all candidates seeking election in a nonpartisan election, except for candidates for consolidated government offices for which there has been no local Act providing for election in conjunction with the general primary, shall file their notice of candidacy and pay the prescribed qualifying fee by the date prescribed in this subsection in order to be eligible to have their names placed on the nonpartisan election ballot by the Secretary of State or election superintendent, as the case may be, in the following manner:

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

(2) Each candidate for a county judicial office, a local school board office, or an office of a consolidated government for which a local Act providing for election in conjunction with the general primary has been enacted, or the candidate's agent, desiring to have his or her name placed on the nonpartisan election ballot shall file notice of candidacy in the office of the superintendent no earlier than 9:00 A.M. on the fourth Monday in April immediately prior to the election and no later than 12:00 Noon on the Friday following the fourth Monday in April, notwithstanding the fact that any such days may be legal holidays.

(d) Except as provided in subsection (i) of this Code section, all political body and independent candidates and nonpartisan candidates for an office of a consolidated government for which a local Act providing for election in conjunction with the general

primary has not been enacted shall file their notice of candidacy and pay the prescribed qualifying fee by the date prescribed in this subsection in order to be eligible to have their names placed on the election ballot by the Secretary of State or election superintendent, as the case may be, in the following manner:

(1) Each candidate for federal or state office, or his or her agent, desiring to have his or her name placed on the election ballot shall file a notice of his or her candidacy, giving his or her name, residence address, and the office he or she is seeking, in the office of the Secretary of State no earlier than 9:00 A.M. on the fourth Monday in June immediately prior to the election and no later than 12:00 Noon on the Friday following the fourth Monday in June in the case of a general election and no earlier than the date of the call of the election and no later than 25 days prior to the election in the case of a special election;

(2) Each candidate for a county office or an office of a consolidated government for which a local Act providing for election in conjunction with the general primary has not been enacted, or his or her agent, desiring to have his or her name placed on the election ballot shall file notice of his or her candidacy in the office of the superintendent of his or her county no earlier than 9:00 A.M. on the fourth Monday in June immediately prior to the election and no later than 12:00 Noon on the Friday following the fourth Monday in June in the case of a general election and no earlier than the date of the call of the election and no later than 25 days prior to the election in the case of a special election;

(3) Each candidate for municipal office or a designee shall file a notice of candidacy in the office of the municipal superintendent of such candidate's municipality during the municipality's qualifying period. Each municipal superintendent shall designate the days of the qualifying period, which shall be no less than three days and no more than five days. The days of the qualifying period shall be consecutive days. Qualifying periods shall commence no earlier than 8:30 A.M. on the last Monday in August immediately preceding the general election and shall end no later than 4:30 P.M. on the following Friday; and, in the case of a special election, the municipal qualifying period shall commence no earlier than the date of the call and shall end no later than 25 days prior to the election; and

(4)(A) In extraordinary circumstances as described in Code Section 21-2-543.1, each candidate, or his or her agent, desiring to have his or her name placed on the election ballot shall file a notice of his or her candidacy, giving his or her name, residence address, and the office he or she is seeking, with the Office of the Secretary of State no earlier than the date of the call of the special election and not later than ten days after the announcement of such extraordinary circumstances.

(B) The provisions of this subsection shall not apply where, during the 75 day period beginning on the date of the announcement of the vacancy:

(i) A regularly scheduled general election for the vacant office is to be held; or

(ii) Another special election for the vacant office is to be held pursuant to a writ for a special election issued by the Governor prior to the date of the announcement of the vacancy.

The hours of qualifying each day shall be from 8:30 A.M. until 4:30 P.M. with one hour allowed for the lunch break; provided, however, that municipalities which have normal business hours which cover a lesser period of time shall conduct qualifying during normal business hours for each such municipality. Except in the case of a special election, notice of the opening and closing dates and the hours for candidates to qualify shall be published at least two weeks prior to the opening of the qualifying period."

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

(1) All candidates seeking election in a nonpartisan election, except for candidates for consolidated government offices for which there has been no local Act providing for election in conjunction with the general primary, shall file their notice of candidacy and pay the prescribed qualifying fee by the date prescribed in this paragraph in order to be eligible to have their names placed on the nonpartisan election ballot by the Secretary of State or election superintendent, as the case may be, in the following manner:

(A) Each candidate for the office of judge of the superior court, Judge of the Court of Appeals, or Justice of the Supreme Court, or the candidate's agent, desiring to have his or her name placed on the nonpartisan election ballot shall file a notice of candidacy, giving his or her name, residence address, and the office sought, in the office of the Secretary of State at the same time as candidates for party nomination in the general primary as provided in paragraph (1) of subsection (c) of Code Section 21-2-153, notwithstanding the fact that any such days may be legal holidays; and

(B) Each candidate for a county judicial office, a local school board office, or an office of a consolidated government for which a local Act providing for election in conjunction with the general primary has been enacted, or the candidate's agent, desiring to have his or her name placed on the nonpartisan election ballot shall file a notice of candidacy in the office of the superintendent at the same time as candidates for party nomination in the general primary as provided in paragraph (1) of subsection

(c) of Code Section 21-2-153, notwithstanding the fact that any such days may be legal holidays;

(2) All political body and independent candidates and nonpartisan candidates for an office of a consolidated government for which a local Act providing for election in conjunction with the general primary has not been enacted shall file their notice of candidacy and pay the prescribed qualifying fee by the date prescribed in this paragraph in order to be eligible to have their names placed on the general election ballot by the Secretary of State or election superintendent, as the case may be, in the following manner:

(A) Each candidate for federal or state office, or his or her agent, desiring to have his or her name placed on the general election ballot shall file a notice of his or her candidacy, giving his or her name, residence address, and the office he or she is seeking, in the office of the Secretary of State no earlier than 9:00 A.M. on the last Monday in July immediately prior to the election and no later than 12:00 Noon on the Friday following the last Monday in July; and

(B) Each candidate for a county office or an office of a consolidated government for which a local Act providing for election in conjunction with the general primary has not been enacted, or his or her agent, desiring to have his or her name placed on the general election ballot shall file notice of his or her candidacy in the office of the superintendent of his or her county no earlier than 9:00 A.M. on the last Monday in July immediately prior to the election and no later than 12:00 Noon on the Friday following the last Monday in July; and

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

SECTION 3.

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

"(a) Notwithstanding any other provisions of this chapter to the contrary, the General Assembly may provide by local Act for the election in nonpartisan elections of candidates to fill county judicial offices, offices of local school boards, and offices of consolidated governments which are filled by the vote of the electors of said county or political subdivision. Except as otherwise provided in this Code section, the procedures to be employed in such nonpartisan elections shall conform as nearly as practicable to the procedures governing nonpartisan elections as provided in this chapter. Except as

otherwise provided in this Code section, the election procedures established by any existing local law which provides for the nonpartisan election of candidates to fill county offices shall conform to the general procedures governing nonpartisan elections as provided in this chapter, and such nonpartisan elections shall be conducted in accordance with the applicable provisions of this chapter, notwithstanding the provisions of any existing local law. For those offices for which the General Assembly, pursuant to this Code section, provided by local Act for election in nonpartisan primaries and elections, such offices shall no longer require nonpartisan primaries. Such Except for officers of consolidated governments for which the General Assembly has not provided by local law for such elections to be held in conjunction with the general primary, such officers shall be elected in nonpartisan elections held and conducted in conjunction with the general primary in even-numbered years in accordance with this chapter without a prior nonpartisan primary. For officers of consolidated governments for which the General Assembly has not provided by local law for such elections to be held in conjunction with the general primary, such officers shall be elected in nonpartisan elections held and conducted in conjunction with the November general election in even-numbered years in accordance with this chapter without a prior nonpartisan primary. Nonpartisan elections for municipal offices shall be conducted on the dates provided in the municipal charter."

SECTION 4.

Said chapter is further amended by revising Code Section 21-2-285.1, relating to form of nonpartisan election ballot, runoff election, and declaration of prevailing candidate as duly elected, as follows:

"21-2-285.1.

(a) The names of all candidates for offices which the General Assembly has by general law or local Act provided for election in a nonpartisan election held in conjunction with the general primary shall be printed on each official primary ballot; and insofar as practicable such offices to be filled in the nonpartisan election shall be separated from the names of candidates for party nomination to other offices by being listed last on each ballot, with the top of that portion of each official primary ballot relating to the nonpartisan election to have printed in prominent type the words 'OFFICIAL NONPARTISAN ELECTION BALLOT.' In addition, there shall be a ballot that contains just the official nonpartisan election ballot available for electors who choose not to vote in a party primary. Directions that explain how to cast a vote, how to write in a candidate, and how to obtain a new ballot after the elector spoils his or her ballot shall appear immediately under the caption, as specified by rule or regulation of the State Election Board. Immediately under the directions, the name of each such nonpartisan candidate shall be arranged alphabetically

by last name under the title of the office for which they are candidates and be printed thereunder. In the event that no candidate in such nonpartisan election receives a majority of the total votes cast for such office, there shall be a nonpartisan election runoff between the candidates receiving the two highest numbers of votes; and the names of such candidates shall be placed on the official ballot at the general primary runoff in the same manner as prescribed in this Code section for the nonpartisan election, and there shall be a separate official nonpartisan election runoff ballot for those electors who do not choose or are not eligible to vote in the general primary runoff.

(b) The names of all candidates for offices of consolidated governments for which the General Assembly has not by local Act provided for election in a nonpartisan election held in conjunction with the general primary shall be printed on each official general election ballot; and insofar as practicable such offices to be filled in the nonpartisan election shall be separated from the names of candidates for election to other offices by being listed last on each ballot, with the top of that portion of each official general election ballot relating to the nonpartisan election to have printed in prominent type the words 'OFFICIAL NONPARTISAN ELECTION BALLOT.' Directions that explain how to cast a vote, how to write in a candidate, and how to obtain a new ballot after the elector spoils his or her ballot shall appear immediately under the caption, as specified by rule or regulation of the State Election Board. Immediately under the directions, the names of all such nonpartisan candidates shall be arranged alphabetically by last name under the title of the office for which they are candidates and be printed thereunder. In the event that no candidate in such nonpartisan election receives a majority of the total votes cast for such office, there shall be a nonpartisan election runoff between the candidates receiving the two highest numbers of votes, and the names of such candidates shall be placed on the official ballot at the general election runoff in the same manner as prescribed in this Code section for the nonpartisan election.

(c) The incumbency of a candidate seeking election for the public office he or she then holds shall be indicated on the ballot. No party designation or affiliation shall appear beside the name of any candidate for nonpartisan office. An appropriate space shall also be placed on the ballot for the casting of write-in votes for such offices. ~~In the event that no candidate in such nonpartisan election receives a majority of the total votes cast for such office, there shall be a nonpartisan election runoff between the candidates receiving the two highest numbers of votes; and the names of such candidates shall be placed on the official ballot at the general primary runoff in the same manner as prescribed in this Code section for the nonpartisan election and there shall be a separate official nonpartisan election runoff ballot for those electors who do not choose or are not eligible to vote in the general primary runoff.~~ In the event that only nonpartisan candidates are to be placed on a run-off ballot,

the form of the ballot shall be as prescribed by the Secretary of State or election superintendent in essentially the same format as prescribed for the nonpartisan election. The candidate having a majority of the votes cast in the nonpartisan election or the candidate receiving the highest number of votes cast in the nonpartisan election runoff shall be declared duly elected to such office."

SECTION 5.

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

"(g) The names of all candidates of a party or body shall appear in the same row or column, and no other names shall appear in the same row or column. The names of candidates and independent candidates shall be arranged under or opposite the title of the office for which they are candidates and shall appear in the order prescribed by subsection (c) and the second sentence of subsection (e) of Code Section 21-2-285. The rows or columns occupied by the names of the candidates of political parties and bodies shall be arranged according to the priority prescribed by subsection (c) of Code Section 21-2-285. When voting machines are used on which the titles of offices are arranged horizontally, the names of all candidates for the same office shall appear within the same vertical lines. If a nonpartisan election is being held in conjunction with an election, each ballot label shall be clearly marked to indicate that the elector may vote in the nonpartisan election also. In nonpartisan elections, the ballot labels shall include a separate portion for the names of candidates seeking election in a nonpartisan election and the heading and arrangement of such candidates shall be as prescribed by Code Section 21-2-285.1 insofar as practicable. At the top of the separate portion shall be printed in prominent type the words 'OFFICIAL NONPARTISAN ELECTION BALLOT.'"

SECTION 6.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 7.

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