

Senate Bill 298

By: Senators Davis of the 22nd, Cowser of the 46th, Staton of the 18th, Stoner of the 6th,
Sims of the 12th and others

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 that nonpartisan elections for consolidated
3 governments shall be held in conjunction with the November general election; to provide that
4 nonpartisan elections for consolidated governments by local law may be conducted in
5 conjunction with the general primary; to provide for qualifying times and procedures for such
6 candidates; to provide for the form of the ballot; to provide for related matters; to provide an
7 effective date; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 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 21-2-9, relating to date of election
12 for offices, as follows:

13 "21-2-9.

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

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

26

SECTION 2.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

161 **SECTION 3.**

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

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

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

189

SECTION 4.

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

193 "21-2-285.1.

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

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

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

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

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

249 **SECTION 5.**

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

252 "(g) The names of all candidates of a party or body shall appear in the same row or
 253 column, and no other names shall appear in the same row or column. The names of
 254 candidates and independent candidates shall be arranged under or opposite the title of the
 255 office for which they are candidates and shall appear in the order prescribed by
 256 subsection (c) and the second sentence of subsection (e) of Code Section 21-2-285. The
 257 rows or columns occupied by the names of the candidates of political parties and bodies
 258 shall be arranged according to the priority prescribed by subsection (c) of Code
 259 Section 21-2-285. When voting machines are used on which the titles of offices are
 260 arranged horizontally, the names of all candidates for the same office shall appear within
 261 the same vertical lines. If a nonpartisan election is being held in conjunction with an
 262 election, each ballot label shall be clearly marked to indicate that the elector may vote in
 263 the nonpartisan election also. In nonpartisan elections, the ballot labels shall include a
 264 separate portion for the names of candidates seeking election in a nonpartisan election and
 265 the heading and arrangement of such candidates shall be as prescribed by Code Section
 266 21-2-285.1 insofar as practicable. At the top of the separate portion shall be printed in
 267 prominent type the words 'OFFICIAL NONPARTISAN ELECTION BALLOT.'"

268 **SECTION 6.**

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

271 **SECTION 7.**

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