

The Senate State and Local Governmental Operations Committee offered the following substitute to SB 457:

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 all offices in this state shall be elected  
3 on a partisan basis; to provide for exceptions; to provide for certain referendums and  
4 procedures; to provide for related matters; to repeal conflicting laws; and 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 Code Section 21-2-139, relating to the  
9 authorization for and conduct of nonpartisan elections, as follows:

10 "21-2-139.

11 ~~(a) Notwithstanding any other provisions of this chapter to the contrary, the General~~  
12 ~~Assembly may provide by local Act for the election in nonpartisan elections of candidates~~  
13 ~~to fill county judicial offices, offices of local school boards, and offices of consolidated~~  
14 ~~governments which are filled by the vote of the electors of said county or political~~  
15 ~~subdivision~~ Except as otherwise provided in Code Section 21-2-138 and this Code section  
16 and notwithstanding any local Act to the contrary, on and after January 1, 2013, all  
17 elections for congressional, state, and county offices in this state shall be conducted on a  
18 partisan basis.

19 (b) Elections for any county judicial office, local school board office, or consolidated  
20 government office for which a local Act was in effect as of June 30, 2012, to allow such  
21 office to be voted upon on a nonpartisan basis may continue to be conducted on a  
22 nonpartisan basis provided that such jurisdiction complies with subsection (c) of this Code  
23 section.

24 (c)(1) A jurisdiction in which there was a local Act in effect as of June 30, 2012, to allow  
25 elections for a county judicial office, local school board office, or consolidated  
26 government office to be elected on a nonpartisan basis that wishes to continue to elect

27 such offices on a nonpartisan basis shall conduct a referendum in conjunction with the  
 28 2012 November general election to submit to the electors of the jurisdiction the question  
 29 of whether such offices should be elected in partisan elections.

30 (2) For county judicial offices, a resolution shall be passed by the county governing  
 31 authority authorizing the conduct of such referendum and delivered to the county election  
 32 superintendent at least 90 days prior to the 2012 November general election. The election  
 33 superintendent shall then issue the call for the referendum and conduct the referendum  
 34 in accordance with the provisions of this chapter and shall advertise the date and purpose  
 35 of the referendum once a week for two weeks immediately preceding the election in the  
 36 legal organ of the county. The ballot shall have written or printed thereon the words:

37 "( ) YES Shall the office of (Insert name of office) be elected in partisan elections?"

38 ( ) NO

39 All persons desiring to vote in favor of electing such office in partisan elections shall vote  
 40 "Yes," and all persons desiring to vote against electing such office in partisan elections  
 41 shall vote "No." If more than one-half of the votes cast on such question are for electing  
 42 such office in partisan elections or there is a tie in the number of votes cast for and  
 43 against such question or if the election is not conducted as provided in this paragraph, the  
 44 provisions of the local Act authorizing the election of such office on a nonpartisan basis  
 45 shall be repealed by operation of law on January 1, 2013, and such office shall thereafter  
 46 be elected on a partisan basis. If more than one-half of the votes cast on such question  
 47 are against electing such office in partisan elections, the provision of the local Act  
 48 authorizing such office to be elected on a nonpartisan basis shall continue in force and  
 49 effect and such office shall continue to be elected on a nonpartisan basis. The expense  
 50 of such election shall be borne by the county. It shall be the election superintendent's  
 51 duty to certify the result thereof to the Secretary of State. Each county judicial office  
 52 shall be voted upon separately.

53 (3) For local school board offices, a resolution shall be passed by the local school board  
 54 authorizing the conduct of such referendum and delivered to the county election  
 55 superintendent at least 90 days prior to the 2012 November general election. The election  
 56 superintendent shall then issue the call for the referendum and conduct the referendum  
 57 in accordance with the provisions of this chapter and shall advertise the date and purpose  
 58 of the referendum once a week for two weeks immediately preceding the election in the  
 59 legal organ of the county. The ballot shall have written or printed thereon the words:

60 "( ) YES Shall the board of education of (Insert name of school district) be elected in

61 ( ) NO partisan elections?"

62 All persons desiring to vote in favor of electing such offices in partisan elections shall  
 63 vote "Yes," and all persons desiring to vote against electing such offices in partisan  
 64 elections shall vote "No." If more than one-half of the votes cast on such question are for  
 65 electing such offices in partisan elections or there is a tie in the number of votes cast for  
 66 and against such question or if the election is not conducted as provided in this paragraph,  
 67 the provisions of the local Act authorizing the election of such offices on a nonpartisan  
 68 basis shall be repealed by operation of law on January 1, 2013, and such offices shall  
 69 thereafter be elected on a partisan basis. If more than one-half of the votes cast on such  
 70 question are against electing such offices in partisan elections, the provision of the local  
 71 Act authorizing such offices to be elected on a nonpartisan basis shall continue in force  
 72 and effect and such offices shall continue to be elected on a nonpartisan basis. The  
 73 expense of such election shall be borne by the local school board. It shall be the election  
 74 superintendent's duty to certify the result thereof to the Secretary of State.

75 (4) For consolidated government offices, a resolution shall be passed by the consolidated  
 76 government authorizing the conduct of such referendum and delivered to the county  
 77 election superintendent at least 90 days prior to the 2012 November general election. The  
 78 election superintendent shall then issue the call for the referendum and conduct the  
 79 referendum in accordance with the provisions of this chapter and shall advertise the date  
 80 and purpose of the referendum once a week for two weeks immediately preceding the  
 81 election in the legal organ of the county. The ballot shall have written or printed thereon  
 82 the words:

83 "( ) YES Shall the members of the consolidated government of (Insert name of  
 84 ( ) NO jurisdiction) be elected in partisan elections?"

85 All persons desiring to vote in favor of electing such offices in partisan elections shall  
 86 vote "Yes," and all persons desiring to vote against electing such offices in partisan  
 87 elections shall vote "No." If more than one-half of the votes cast on such question are for  
 88 electing such offices in partisan elections or there is a tie in the number of votes cast for  
 89 and against such question or if the election is not conducted as provided in this paragraph,  
 90 the provisions of the local Act authorizing the election of such offices on a nonpartisan  
 91 basis shall be repealed by operation of law on January 1, 2013, and such offices shall  
 92 thereafter be elected on a partisan basis. If more than one-half of the votes cast on such  
 93 question are against electing such offices in partisan elections, the provision of the local  
 94 Act authorizing such offices to be elected on a nonpartisan basis shall continue in force  
 95 and effect and such offices shall continue to be elected on a nonpartisan basis. The  
 96 expense of such election shall be borne by the consolidated government. It shall be the  
 97 election superintendent's duty to certify the result thereof to the Secretary of State.

98 (d) For those offices which continue to be elected on a nonpartisan basis, except Except  
 99 as otherwise provided in this Code section, the procedures to be employed in such  
 100 nonpartisan elections shall conform as nearly as practicable to the procedures governing  
 101 nonpartisan elections as provided in this chapter. Except as otherwise provided in this  
 102 Code section, the election procedures established by any existing local law which provides  
 103 for the nonpartisan election of candidates to fill county offices shall conform to the general  
 104 procedures governing nonpartisan elections as provided in this chapter, and such  
 105 nonpartisan elections shall be conducted in accordance with the applicable provisions of  
 106 this chapter, notwithstanding the provisions of any existing local law. For those offices for  
 107 which the General Assembly, ~~pursuant to this Code section,~~ provided by local Act for  
 108 election in nonpartisan primaries and elections and which were continued as nonpartisan  
 109 offices in accordance with the provisions of this Code section, such offices shall no longer  
 110 require nonpartisan primaries. Such officers shall be elected in nonpartisan elections held  
 111 and conducted in conjunction with the general primary in even-numbered years in  
 112 accordance with this chapter without a prior nonpartisan primary. Nonpartisan elections  
 113 for municipal offices shall be conducted on the dates provided in the municipal charter.

114 ~~(b)~~(e) ~~Either a~~ Except as otherwise provided in this Code section, a political party, as  
 115 defined in this chapter, or a nonpartisan municipal executive committee duly registered  
 116 with the city clerk may conduct a municipal primary for the purpose of electing its own  
 117 officials or nominating candidates for municipal elections. Every primary held for such  
 118 purpose shall be presided over and conducted in the manner prescribed by the rules and  
 119 regulations of such party or nonpartisan municipal executive committee, not inconsistent  
 120 with the law and the rules and regulations of the State Election Board; provided, however,  
 121 that all such primaries must be conducted in such manner as to guarantee the secrecy of the  
 122 ballot.

123 ~~(e)~~(f) Municipalities may provide by their charter or by ordinance that no political party  
 124 shall conduct primaries for the purpose of nominating candidates for municipal elections;  
 125 provided, however, that the existing provisions of any charter or ordinance prohibiting  
 126 primaries by political parties shall not be repealed by this subsection."

127

## SECTION 2.

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