

House Bill 164

By: Representatives Price of the 48th, Rynders of the 152nd, Duncan of the 26th, Brockway of the 102nd, and Cantrell of the 22nd

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 elections and primaries generally, so as to provide that only persons who are the presently
3 elected holders of the office being sought shall be designated as incumbents; to provide for
4 certain information on qualifying forms; to provide for related matters; to repeal conflicting
5 laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to elections and
9 primaries generally, is amended by revising subsection (f) of Code Section 21-2-132, relating
10 to filing notice of candidacy, nomination petition, and affidavit, payment of qualifying fee,
11 pauper's affidavit and qualifying petition for exemption from qualifying fee, and military
12 service, as follows:

13 "(f) Each candidate required by this Code section to file a notice of candidacy shall
14 accompany his or her notice of candidacy with an affidavit stating:

- 15 (1) His or her full name and the name as the candidate desires it to be listed on the ballot.
16 The surname of the candidate shall be the surname of the candidate as it appears on the
17 candidate's voter registration card unless the candidate provides proof that his or her
18 surname as it appears on the candidate's registration card is incorrect in which event the
19 correct name shall be listed. After such name is submitted to the Secretary of State or the
20 election superintendent, the form of such name shall not be changed during the election
21 for which such notice of candidacy is submitted;
- 22 (2) His or her residence, with street and number, if any, and his or her post office
23 address;
- 24 (3) His or her profession, business, or occupation, if any;
- 25 (4) The name of his or her precinct;

- 26 (5) That he or she is an elector of the county or municipality of his or her residence
 27 eligible to vote in the election in which he or she is a candidate;
- 28 (6) The name of the office he or she is seeking;
- 29 (7) That he or she is eligible to hold such office;
- 30 (8) That the candidate has never been convicted and sentenced in any court of competent
 31 jurisdiction for fraudulent violation of primary or election laws, malfeasance in office,
 32 or felony involving moral turpitude or conviction of domestic violence under the laws of
 33 this state or any other state or of the United States, or that the candidate's civil rights have
 34 been restored and that at least ten years have elapsed from the date of the completion of
 35 the sentence without a subsequent conviction of another felony involving moral turpitude;
- 36 (9) That he or she will not knowingly violate this chapter or rules and regulations
 37 adopted under this chapter; ~~and~~
- 38 (10) Whether he or she is the presently elected holder of the office for which such
 39 individual is qualifying; and
- 40 ~~(10)~~(11) Any other information as may be determined by the Secretary of State to be
 41 necessary to comply with federal and state law.
- 42 The affidavit shall contain such other information as may be prescribed by the officer with
 43 whom the candidate files his or her notice of candidacy."

44

SECTION 2.

45 Said chapter is further amended by revising subsection (e) of Code Section 21-2-153, relating
 46 to qualification of candidates for party nomination in a state or county primary, posting of
 47 list of all qualified candidates, filing of affidavit with political party by each qualifying
 48 candidate, and performance of military service does not create vacancy, as follows:

49 "(e) Each candidate for party nomination described in subsection (a) of this Code section
 50 shall file an affidavit with the political party at the time of his or her qualifying stating:

- 51 (1) His or her full name and the name as the candidate desires it to be listed on the ballot.
 52 The surname of the candidate shall be the surname of the candidate as it appears on the
 53 candidate's voter registration card. After such name is certified by the political party to
 54 the Secretary of State or the election superintendent, the form of such name shall not be
 55 changed during the primary and election for which such affidavit is submitted;
- 56 (2) His or her residence, with street and number, if any, and his or her post office
 57 address;
- 58 (3) His or her profession, business, or occupation, if any;
- 59 (4) The name of his or her precinct;
- 60 (5) That he or she is an elector of the county of his or her residence eligible to vote in the
 61 primary election in which he or she is a candidate for nomination;

- 62 (6) The name of the office he or she is seeking;
- 63 (7) That he or she is eligible to hold such office;
- 64 (8) That the candidate has never been convicted and sentenced in any court of competent
65 jurisdiction for fraudulent violation of primary or election laws, malfeasance in office,
66 or felony involving moral turpitude under the laws of this state or any other state or of the
67 United States, or that the candidate's civil rights have been restored and that at least ten
68 years have elapsed from the date of the completion of the sentence without a subsequent
69 conviction of another felony involving moral turpitude;
- 70 (9) That he or she will not knowingly violate this chapter or rules or regulations adopted
71 under this chapter; ~~and~~
- 72 (10) Whether he or she is the presently elected holder of the office for which such
73 individual is qualifying; and
- 74 ~~(10)~~(11) Any other information as may be determined by the Secretary of State to be
75 necessary to comply with federal and state law."

76 **SECTION 3.**

77 Said chapter is further amended by revising subsection (c) of Code Section 21-2-284, relating
78 to form of official primary ballot and attestation regarding receiving value in exchange for
79 vote, as follows:

80 "(c) Immediately under the directions, the names of all candidates who have qualified with
81 the party in accordance with this chapter and party rules and who have been certified to the
82 superintendent or Secretary of State as having so qualified shall be printed on the ballots,
83 except unopposed candidates in municipal primaries where the municipal charter or
84 ordinance does not prohibit the omission of such candidates' names from the ballot. The
85 names of the candidates shall in all cases be arranged under the title of the office for which
86 they are candidates and be printed thereunder in alphabetical order. The incumbency of
87 a candidate seeking party nomination for the public office he or she then holds and to
88 which such candidate was elected shall be indicated on the ballots. A candidate seeking
89 party nomination for an office which he or she holds by virtue of being appointed to fill a
90 vacancy shall not be designated as an incumbent. Under the title of each office shall be
91 placed a direction as to the number of candidates to be voted for."

92 **SECTION 4.**

93 Said chapter is further amended by revising paragraph (3) of Code Section 21-2-284.1,
94 relating to the form of the ballot for nonpartisan municipal primaries, as follows:

95 "(3) The incumbency of a candidate seeking election for the public office he or she then
96 holds and to which such candidate was elected shall be indicated on the ballot. A

97 candidate seeking election to an office which he or she holds by virtue of being appointed
98 to fill a vacancy shall not be designated as an incumbent."

99 **SECTION 5.**

100 Said chapter is further amended by revising subsection (c) of Code Section 21-2-285, relating
101 to form of official election ballot, attestation on receipt of benefit in exchange for vote, and
102 when an election is not required, as follows:

103 "(c) Immediately under the directions, the names of all candidates who have been
104 nominated in accordance with the requirements of this chapter shall be printed on the ballot
105 and the names of the candidates shall in all cases be arranged under the titles of the
106 respective offices they are seeking. In a primary or special election, said names shall be
107 arranged alphabetically by last name under the title of the office. The incumbency of a
108 candidate seeking election for the public office he or she then holds and to which such
109 candidate was elected shall be indicated on the ballot. A candidate seeking election to an
110 office which he or she holds by virtue of being appointed to fill a vacancy shall not be
111 designated as an incumbent. In a general election, the names of candidates who are
112 nominees of a political party shall be placed under the name of their party. The columns
113 of political parties shall be printed on the ballot, beginning on the left side thereof, and
114 shall be arranged from left to right in the descending order of the totals of votes cast for
115 candidates of the political parties for Governor at the last gubernatorial election. The
116 columns of parties having no candidate for Governor on the ballot at the last gubernatorial
117 election shall be arranged alphabetically according to the party name to the right of the
118 columns of the parties so represented. The columns of political bodies shall be arranged
119 alphabetically according to the body name to the right of the party columns. The names
120 of all independent candidates shall be printed on the ballot in a column or columns under
121 the heading 'Independent,' which shall be placed to the right of the political body columns.
122 In the case of two or more independent candidates seeking the same office, their names
123 shall be arranged under the title of the office in alphabetical order. The names of
124 candidates seeking the same office shall be printed horizontally opposite one another in
125 their respective columns, and such columns shall be of sufficient length to permit such an
126 arrangement. To the right of the independent column or columns shall be printed a blank
127 column sufficient for the insertion of write-in votes."

128 **SECTION 6.**

129 Said chapter is further amended by revising Code Section 21-2-285.1, relating to form of
130 ballot, run-off election, and declaration of prevailing candidate as duly elected in nonpartisan
131 elections, as follows:

132 "21-2-285.1.
133 The names of all candidates for offices which the General Assembly has by general law or
134 local Act provided for election in a nonpartisan election shall be printed on each official
135 primary ballot; and insofar as practicable such offices to be filled in the nonpartisan
136 election shall be separated from the names of candidates for party nomination to other
137 offices by being listed last on each ballot, with the top of that portion of each official
138 primary ballot relating to the nonpartisan election to have printed in prominent type the
139 words 'OFFICIAL NONPARTISAN ELECTION BALLOT.' In addition, there shall be a
140 ballot that contains just the official nonpartisan election ballot available for electors who
141 choose not to vote in a party primary. Directions that explain how to cast a vote, how to
142 write in a candidate, and how to obtain a new ballot after the elector spoils his or her ballot
143 shall appear immediately under the caption, as specified by rule or regulation of the State
144 Election Board. Immediately under the directions, the name of each such nonpartisan
145 candidate shall be arranged alphabetically by last name under the title of the office for
146 which they are candidates and be printed thereunder. The incumbency of a candidate
147 seeking election for the public office he or she then holds and to which such candidate was
148 elected shall be indicated on the ballot. A candidate seeking election to an office which he
149 or she holds by virtue of being appointed to fill a vacancy shall not be designated as an
150 incumbent. No party designation or affiliation shall appear beside the name of any
151 candidate for nonpartisan office. An appropriate space shall also be placed on the ballot
152 for the casting of write-in votes for such offices. In the event that no candidate in such
153 nonpartisan election receives a majority of the total votes cast for such office, there shall
154 be a nonpartisan election runoff between the candidates receiving the two highest numbers
155 of votes; and the names of such candidates shall be placed on the official ballot at the
156 general primary runoff in the same manner as prescribed in this Code section for the
157 nonpartisan election and there shall be a separate official nonpartisan election runoff ballot
158 for those electors who do not choose or are not eligible to vote in the general primary
159 runoff. In the event that only nonpartisan candidates are to be placed on a run-off ballot,
160 the form of the ballot shall be as prescribed by the Secretary of State or election
161 superintendent in essentially the same format as prescribed for the nonpartisan election.
162 The candidate having a majority of the votes cast in the nonpartisan election or the
163 candidate receiving the highest number of votes cast in the nonpartisan election runoff shall
164 be declared duly elected to such office."

165 **SECTION 7.**

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

168 "(d) The titles of offices may be arranged horizontally or vertically, with the names of
169 candidates for an office arranged transversely under or opposite the title of the office. The
170 incumbency of a candidate seeking election for the public office he or she then holds and
171 to which such candidate was elected shall be indicated on the ballot labels. A candidate
172 seeking election to an office which he or she holds by virtue of being appointed to fill a
173 vacancy shall not be designated as an incumbent."

174 **SECTION 8.**

175 Said chapter is further amended by revising subsection (c) of Code Section 21-2-379.5,
176 relating to ballot information, as follows:

177 "(c) The incumbency of a candidate seeking election for the public office he or she then
178 holds and to which such candidate was elected shall be indicated on the ballot. A candidate
179 seeking election to an office which he or she holds by virtue of being appointed to fill a
180 vacancy shall not be designated as an incumbent."

181 **SECTION 9.**

182 Said chapter is further amended by revising subsection (d) of Code Section 21-2-480, relating
183 to caption for ballots, party designations, and form and arrangement, as follows:

184 "(d) The titles of offices may be arranged horizontally with the names of candidates for an
185 office arranged transversely under the title of the office. The incumbency of a candidate
186 seeking election for the public office he or she then holds and to which such candidate was
187 elected shall be indicated on the ballot. A candidate seeking election to an office which he
188 or she holds by virtue of being appointed to fill a vacancy shall not be designated as an
189 incumbent."

190 **SECTION 10.**

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