

House Bill 42 (COMMITTEE SUBSTITUTE)

By: Representatives Lumsden of the 12th, Fleming of the 121st, Caldwell of the 131st, Quick of the 117th, Holcomb of the 81st, 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 elections and primaries generally, so as to authorize election superintendents to correct
3 mistakes and omissions on ballots for a primary or election; to provide for the dates for
4 certain special elections to fill vacancies in county, municipal, and school board offices; to
5 provide for the timing of runoffs from certain special elections under certain circumstances;
6 to provide for related matters; to provide an effective date; to repeal conflicting laws; and for
7 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 elections and
11 primaries generally, is amended by revising Code Section 21-2-293, relating to correction
12 of mistakes and omissions on ballot, as follows:

13 "21-2-293.

14 (a) If the election superintendent discovers that a mistake or omission has occurred in the
15 printing of official ballots or in the programming of the display of the official ballot on
16 DRE voting equipment for any primary or election, the superintendent is authorized on his
17 or her own motion to take such steps as necessary to correct such mistake or omission if
18 the superintendent determines that such correction is feasible and practicable under the
19 circumstances.

20 (b) When it is shown by affidavit that a mistake or omission has occurred in the printing
21 of official ballots or in the programming of the display of the official ballot on DRE voting
22 equipment for any primary or election, the superior court of the proper county may, upon
23 the application of any elector of the county or municipality, require the superintendent to
24 correct the mistake or omission or to show cause why he or she should not do so."

25 **SECTION 2.**

26 Said chapter is further amended by revising paragraph (6) of subsection (a) and
 27 subsection (c) of Code Section 21-2-501, relating to number of votes required for election,
 28 as follows:

29 "(6) In the case of a runoff from a special primary or special election for an office other
 30 than a federal office not held in conjunction with a general primary or general election,
 31 the runoff shall be held on the twenty-eighth day after the day of holding the preceding
 32 special primary or special election; provided, however, that, if such runoff is from a
 33 special primary or special election held in conjunction with a special primary or special
 34 election for a federal office and there is a runoff being conducted for such federal office,
 35 the runoff from the special primary or special election conducted for such other office
 36 may be held in conjunction with the runoff for the federal office."

37 "(c) In instances in which no municipal candidate receives a majority of the votes cast and
 38 the municipal charter or ordinances do not provide for nomination or election by a plurality
 39 vote, a run-off primary or election shall be held between the candidates receiving the two
 40 highest numbers of votes. Such runoff shall be held on the twenty-eighth day after the day
 41 of holding the first primary or election, unless such run-off date is postponed by court
 42 order; provided, however, that, in the case of a runoff from a municipal special election that
 43 is held in conjunction with a special election for a federal office and not in conjunction
 44 with a general primary or general election, the municipality may conduct such runoff from
 45 such municipal special election on the date of the special election runoff for the federal
 46 office. Only the electors entitled to vote in the first primary or election shall be entitled to
 47 vote in any run-off primary or election resulting therefrom; provided, however, that no
 48 elector shall vote in a run-off primary in violation of Code Section 21-2-216. The run-off
 49 primary or election shall be a continuation of the first primary or election, and only those
 50 votes cast for the candidates receiving the two highest numbers of votes in the first primary
 51 or election shall be counted. No write-in votes may be cast in such a primary, run-off
 52 primary, or run-off election. If any candidate eligible to be in a runoff withdraws, dies, or
 53 is found to be ineligible, the remaining candidates receiving the two highest numbers of
 54 votes shall be the candidates in such runoff. The municipal candidate receiving the highest
 55 number of the votes cast in such run-off primary or run-off election to fill the nomination
 56 or public office sought shall be declared the winner. The municipality shall give written
 57 notice to the Secretary of State of such runoff as soon as such municipality certifies the
 58 preceding primary, special primary, election, or special election."

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SECTION 3.

60 Said chapter is further amended by revising paragraph (1) of subsection (c) of Code
61 Section 21-2-540, relating to conduct of special elections generally, as follows:

62 "(c)(1) Notwithstanding any other provision of law to the contrary, a special primary or
63 special election to fill a vacancy in a county or municipal office shall be held only on one
64 of the following dates which is at least 29 days after the date of the call for the special
65 election:

66 (A) In odd-numbered years, any such special election shall only be held on:

- 67 (i) The third Tuesday in March;
- 68 (ii) The third Tuesday in June;
- 69 (iii) The third Tuesday in September; or
- 70 (iv) The Tuesday after the first Monday in November; and

71 (B) In even-numbered years, any such special election shall only be held on:

- 72 (i) The third Tuesday in March; provided, however, that in the event that a special
73 election is to be held under this provision in a year in which a presidential preference
74 primary is to be held, then any such special election shall be held on the date of and
75 in conjunction with the presidential preference primary;
- 76 (ii) The date of the general primary; or
- 77 (iii) The Tuesday after the first Monday in November;

78 provided, however, that, in the event that a special election to fill a federal or state office
79 on a date other than the dates provided in this paragraph has been scheduled and it is
80 possible to hold a special election to fill a vacancy in a county, municipal, or school board
81 office in conjunction with such special election to fill a federal or state office, the special
82 election to fill such county, municipal, or school board office may be held on the date of
83 and in conjunction with such special election to fill such federal or state office provided
84 all other provisions of law regarding such elections are met."

85

SECTION 4.

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

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SECTION 5.

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