

Senate Bill 463

By: Senators Kennedy of the 18th, Dugan of the 30th, Gooch of the 51st, Jones of the 25th and Mullis of the 53rd

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 remove provisions and references regarding direct  
3 recording electronic voting machines; to revise certain duties of the State Election Board; to  
4 provide for the deadline for registering to vote in certain runoffs; to provide for the number  
5 of voting booths or enclosures; to provide for the division of certain precincts under certain  
6 circumstances; to provide for certain reports on time required to vote; to provide for the  
7 acceptance of absentee ballots when certain identification is provided; to provide for related  
8 matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and  
12 elections generally, is amended by repealing paragraph (4.1) of Code Section 21-2-2, relating  
13 to definitions, in its entirety.

14 style="text-align:center">**SECTION 2.**

15 Said chapter is further amended by revising paragraph (1) of Code Section 21-2-31, relating  
16 to duties of the State Election Board, as follows;

17 "(1) To promulgate rules and regulations ~~so as to obtain~~ that promote uniformity in the  
18 practices and proceedings of superintendents, registrars, deputy registrars, poll officers,  
19 and other officials, ~~as well as the legality and purity in the carrying out of state law in all~~  
20 primaries and elections;"

21 style="text-align:center">**SECTION 3.**

22 Said chapter is further amended by revising subsection (c) of Code Section 21-2-152, relating  
23 to conduct of primaries generally and run-off primary, as follows:

24 "(c) A run-off primary shall be a continuation of the primary ~~and only persons who were~~  
 25 ~~entitled to vote in the primary shall be entitled to vote therein~~; and only those votes cast for  
 26 the persons designated for the runoff shall be counted in the tabulation and canvass of the  
 27 votes cast. Any elector who votes in the primary of one party shall not be eligible to vote  
 28 in a primary runoff of any other party other than a primary runoff of the party in whose  
 29 primary such elector voted. The deadline for persons to apply to register to vote before a  
 30 run-off primary or any primary, election, or runoff held in conjunction with such run-off  
 31 primary shall be the close of business on the fifth Monday prior to the date of such run-off  
 32 primary or, if such Monday is a legal holiday, by the close of business on the following  
 33 business day."

34

#### SECTION 4.

35 Said chapter is further amended by revising subsection (d) of Code Section 21-2-218, relating  
 36 to cancellation of registration in former state or county and address changes and corrections,  
 37 as follows:

38 "(d) In the event that an elector moves to a residence within the county or municipality but  
 39 into a different precinct or ~~who~~ moves to a residence in the same precinct but at a different  
 40 address and fails to notify the board of registrars of such fact by the fifth Monday prior to  
 41 an election or primary, such elector shall vote in the precinct of such elector's former  
 42 residence for such election or primary ~~and for any runoffs resulting therefrom~~. The  
 43 superintendent of an election shall make available at each polling place forms furnished by  
 44 the Secretary of State which shall be completed by each such elector to reflect such  
 45 elector's present legal residence. Such forms may also be used to notify the board of  
 46 registrars of a change in an elector's name. The board of registrars shall thereafter place  
 47 the elector in the proper precinct and voting districts and correct the list of electors  
 48 accordingly. If the elector is placed in a precinct other than the one in which such elector  
 49 has previously been voting, such elector shall be notified of the new polling place by  
 50 first-class mail."

51

#### SECTION 5.

52 Said chapter is further amended by revising Code Section 21-2-263, relating to reduction in  
 53 size of, or provision of additional voting equipment or poll workers to, precincts containing  
 54 more than 2,000 electors when voting in such precincts at previous general election not  
 55 completed one hour after closing of polls, as follows:

56 "21-2-263.

57 (a) If, at the previous ~~general primary, election, or runoff~~, a precinct contained more than  
 58 2,000 electors and if all those electors desiring to vote on the day of the primary, election,

59 or runoff had not completed voting one hour following the closing of the polls, the  
 60 superintendent shall either reduce the size of said precinct so that it shall contain not more  
 61 than 2,000 electors in accordance with the procedures prescribed by this chapter for the  
 62 division, alteration, and consolidation of precincts no later than 60 days before the next  
 63 general election or provide additional voting equipment or poll workers or both before the  
 64 next general election. For administering this Code section, the chief manager of a precinct  
 65 ~~which contained more than 2,000 electors at the previous general election~~ shall submit a  
 66 report thereof, under oath, to the superintendent as to the time required for completion of  
 67 voting by all persons in line at the time the polls were closed. Any such change in the  
 68 boundaries of a precinct shall conform with the requirements of subsection (a) of Code  
 69 Section 21-2-261.1.

70 (b) If, at the previous primary. election, or runoff, a precinct contained more than 2,000  
 71 electors and if electors desiring to vote on the day of a primary, election, or runoff had to  
 72 wait in line more than one hour before checking in to vote, the superintendent shall either  
 73 reduce the size of said precinct so that it shall contain not more than 2,000 electors in  
 74 accordance with the procedures prescribed by this chapter for the division, alteration, and  
 75 consolidation of precincts no later than 60 days before the next general election or provide  
 76 additional voting equipment or poll workers or both before the next general election. For  
 77 administering this Code section, the chief manager of a precinct shall submit a report  
 78 thereof, under oath, to the superintendent of the reported time from an elector entering the  
 79 line to checking in to vote. Such wait time shall be measured no fewer than three different  
 80 times throughout the day including morning, midday, and prior to the close of the polls or  
 81 as otherwise designated by the election superintendent or the Secretary of State, and such  
 82 results shall be recorded on a form provided by the Secretary of State. Any such change  
 83 in the boundaries of a precinct shall conform with the requirements of subsection (a) of  
 84 Code Section 21-2-261.1."

85 **SECTION 6.**

86 Said chapter is further amended by revising subsection (a) of Code Section 21-2-267, relating  
 87 to equipment, arrangement, and storage at polling places, as follows:

88 "(a) The governing authority of each county and municipality shall provide and the  
 89 superintendent shall cause all rooms used as polling places to be provided with suitable  
 90 heat and light and, in precincts in which ballots are used, with a sufficient number of voting  
 91 compartments or booths with proper supplies in which the electors may conveniently mark  
 92 their ballots, with a curtain, screen, or door in the upper part of the front of each  
 93 compartment or booth so that in the marking thereof they may be screened from the  
 94 observation of others. A curtain, screen, or door shall not be required, however, for the

95 self-contained units used as voting booths in which ~~direct recording electronic (DRE)~~  
 96 ~~voting units~~ or electronic ballot markers are located if such booths have been designed so  
 97 as to ensure the privacy of the elector. When practicable, every polling place shall consist  
 98 of a single room, every part of which is within the unobstructed view of those present  
 99 therein and shall be furnished with a guardrail or barrier closing the inner portion of such  
 100 room, which guardrail or barrier shall be so constructed and placed that only such persons  
 101 as are inside such rail or barrier can approach within six feet of the ballot box and voting  
 102 compartments, or booths, or voting machines, as the case may be. The ballot box and  
 103 voting compartments or booths shall be so arranged in the voting room within the enclosed  
 104 space as to be in full view of those persons in the room outside the guardrail or barrier.  
 105 The voting machine or machines shall be placed in the voting rooms within the enclosed  
 106 space so that, unless its construction shall otherwise require, the ballot labels on the face  
 107 of the machine can be plainly seen by the poll officers when the machine is not occupied  
 108 by an elector. In the case of ~~direct recording electronic (DRE) voting units~~ or electronic  
 109 ballot markers, the devices shall be arranged in such a manner as to ensure the privacy of  
 110 the elector while voting on such devices, to allow monitoring of the devices by the poll  
 111 officers while the polls are open, and to permit the public to observe the voting without  
 112 affecting the privacy of the electors as they vote."

113

#### SECTION 7.

114 Said chapter is further amended by revising Code Section 21-2-293, relating to correction of  
 115 mistakes and omissions on ballot, as follows:

116 "21-2-293.

117 (a) If the election superintendent discovers that a mistake or omission has occurred in the  
 118 printing of official ballots or in the programming of the display of the official ballot on  
 119 ~~DRE voting equipment~~ or electronic ballot markers for any primary or election, the  
 120 superintendent is authorized on his or her own motion to take such steps as necessary to  
 121 correct such mistake or omission if the superintendent determines that such correction is  
 122 feasible and practicable under the circumstances; provided, however, that the  
 123 superintendent gives at least 24 hours' notice to the Secretary of State and any affected  
 124 candidates of the mistake or omission prior to making such correction.

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

131

**SECTION 8.**

132 Said chapter is further amended by revising subsection (b) of Code Section 21-2-367, relating  
 133 to installation of systems, number of systems, and good working order, as follows:

134 "(b) In each precinct in which optical scanning voting systems are used in a November  
 135 general election in an even-numbered year, the county or municipal governing authority,  
 136 as appropriate, election superintendent shall provide at least one voting booth or enclosure  
 137 for each 250 electors therein, or fraction thereof. For any other primary, election, or runoff,  
 138 the county or municipal elections superintendent may provide a greater or lesser number  
 139 of voting booths or enclosures if, after a thorough consideration of the type of election,  
 140 expected turnout, the number of electors who have already voted by advance voting or  
 141 absentee ballot, and other relevant factors that inform the appropriate amount of equipment  
 142 needed, the superintendent determines that a different amount of equipment is needed or  
 143 sufficient. Such determination shall be subject to the provisions of Code  
 144 Section 21-2-263."

145

**SECTION 9.**

146 Said chapter is further amended by repealing and reserving Part 5 of Article 9, relating to  
 147 electronic recording voting systems, in its entirety.

148

**SECTION 10.**

149 Said chapter is further amended by revising Code Section 21-2-383, relating to preparation  
 150 and delivery of ballots, form of ballots, casting ballot in person using DRE unit, and casting  
 151 ballot in person or as absentee using electronic ballot markers, as follows:

152 "21-2-383.

153 (a) Ballots for use by absentee electors shall be prepared sufficiently in advance by the  
 154 superintendent and shall be delivered to the board of registrars or absentee ballot clerk as  
 155 provided in Code Section 21-2-384. Such ballots shall be marked 'Official Absentee Ballot'  
 156 and shall be in substantially the form for ballots required by Article 8 of this chapter;  
 157 ~~except that in counties using voting machines or direct recording electronic (DRE) units~~  
 158 ~~the ballots may be in substantially the form for the ballot labels required by Article 9 of this~~  
 159 ~~chapter.~~ Every such ballot shall have printed with other instructions thereon the following:

160 'I understand that the offer or acceptance of money or any other object of value to vote  
 161 for any particular candidate, list of candidates, issue, or list of issues included in this  
 162 election constitutes an act of voter fraud and is a felony under Georgia law.'

163 The form for either ballot shall be determined and prescribed by the Secretary of State,  
 164 except in municipal primaries or elections, in which the form of absentee ballots which  
 165 follows the paper ballot format shall be determined and prescribed by the superintendent.

166 ~~(b) Notwithstanding any other provision of this Code section, in jurisdictions in which~~  
 167 ~~direct recording electronic (DRE) voting systems are used at the polling places on election~~  
 168 ~~day, such direct recording electronic (DRE) voting systems shall be used for casting~~  
 169 ~~absentee ballots in person at a registrar's or absentee ballot clerk's office or in accordance~~  
 170 ~~with Code Section 21-2-382, providing for additional sites.~~

171 ~~(c)~~(b) Notwithstanding any other provision of this Code section to the contrary, in  
 172 jurisdictions in which electronic ballot markers are used in the polling places on election  
 173 day, such electronic ballot markers shall be used for casting absentee ballots in person at  
 174 a registrar's or absentee ballot clerk's office or in accordance with Code Section 21-2-382,  
 175 providing for additional sites."

176

### SECTION 11.

177 Said chapter is further amended by revising subparagraph (a)(1)(C) of Code  
 178 Section 21-2-386, relating to safekeeping, certification, and validation of absentee ballots;  
 179 rejection of ballot; delivery of ballots to manager; duties of managers; precinct returns; and  
 180 notification of challenged elector, as follows:

181 "(C) If the elector has failed to sign the oath, or if the signature does not appear to be  
 182 valid and the elector did not provide additional forms of identification as set forth in  
 183 this subparagraph, or if the elector has failed to furnish required information or  
 184 information so furnished does not conform with that on file in the registrar's or clerk's  
 185 office, or if the elector is otherwise found disqualified to vote, the registrar or clerk  
 186 shall write across the face of the envelope 'Rejected,' giving the reason therefor. No  
 187 absentee ballot shall be rejected pursuant to this subparagraph on the grounds that the  
 188 signature does not appear to be valid if the elector provided a photocopy of one of the  
 189 forms of identification listed in subsection (a) of Code Section 21-2-417 with the  
 190 absentee ballot. The board of registrars or absentee ballot clerk shall promptly notify  
 191 the elector of such rejection, a copy of which notification shall be retained in the files  
 192 of the board of registrars or absentee ballot clerk for at least two years. Such elector  
 193 shall have until the end of the period for verifying provisional ballots contained in  
 194 subsection (c) of Code Section 21-2-419 to cure the problem resulting in the rejection  
 195 of the ballot. The elector may cure a failure to sign the oath, an invalid signature, or  
 196 missing information by submitting an affidavit to the board of registrars or absentee  
 197 ballot clerk along with a copy of one of the forms of identification enumerated in  
 198 subsection (c) of Code Section 21-2-417 before the close of such period. The affidavit  
 199 shall affirm that the ballot was submitted by the elector, is the elector's ballot, and that  
 200 the elector is registered and qualified to vote in the primary, election, or runoff in

201 question. If the board of registrars or absentee ballot clerk finds the affidavit and  
 202 identification to be sufficient, the absentee ballot shall be counted."

203 **SECTION 12.**

204 Said chapter is further amended by revising subsection (c) of Code Section 21-2-408, relating  
 205 to poll watchers, designation, duties, removal for interference with election, reports by poll  
 206 watchers of infractions or irregularities, and ineligibility of candidates to serve as poll  
 207 watchers, as follows:

208 "(c) In counties or municipalities using ~~direct recording electronic (DRE) voting systems~~  
 209 ~~or~~ optical scanning voting systems, each political party may appoint two poll watchers in  
 210 each primary or election, each political body may appoint two poll watchers in each  
 211 election, each nonpartisan candidate may appoint one poll watcher in each nonpartisan  
 212 election, and each independent candidate may appoint one poll watcher in each election to  
 213 serve in the locations designated by the superintendent within the tabulating center. Such  
 214 designated locations shall include the check-in area, the computer room, the duplication  
 215 area, and such other areas as the superintendent may deem necessary to the assurance of  
 216 fair and honest procedures in the tabulating center. The poll watchers provided for in this  
 217 subsection shall be appointed and serve in the same manner as other poll watchers."

218 **SECTION 13.**

219 Said chapter is further amended by revising subsection (e) of Code Section 21-2-413, relating  
 220 to conduct of voters, campaigners, and others at polling places generally, as follows:

221 "(e) No person shall use photographic or other electronic monitoring or recording devices,  
 222 cameras, or cellular telephones while such person is in a polling place while voting is  
 223 taking place; provided, however, that a poll manager, in his or her discretion, may allow  
 224 the use of photographic devices in the polling place under such conditions and limitations  
 225 as the election superintendent finds appropriate, and provided, further, that no photography  
 226 shall be allowed of a ballot or the face of a voting machine or ~~DRE unit~~ or electronic ballot  
 227 marker while an elector is voting such ballot or machine ~~or DRE unit~~ or using such  
 228 electronic ballot marker, and no photography shall be allowed of an electors list, electronic  
 229 electors list, or the use of an electors list or electronic electors list. This subsection shall  
 230 not prohibit the use of photographic or other electronic monitoring or recording devices,  
 231 cameras, or cellular telephones by poll officials for official purposes."

232

**SECTION 14.**

233 Said chapter is further amended by revising subsection (h) of Code Section 21-2-418, relating  
234 to provisional ballots, as follows:

235 "(h) Notwithstanding any other provision of this chapter to the contrary, in the event that  
236 the voting machines ~~or DRE units~~ at a polling place malfunction and cannot be used to cast  
237 ballots or some other emergency situation exists which prevents the use of such equipment  
238 to cast votes, provisional ballots may be used by the electors at the polling place to cast  
239 their ballots. In such event, the ballots cast by electors whose names appear on the electors  
240 list for such polling place shall not be considered provisional ballots and shall not require  
241 verification as provided by Code Section 21-2-419; provided, however, that persons whose  
242 names do not appear on the electors list for such polling place shall vote provisional ballots  
243 which shall be subject to verification under Code Section 21-2-419."

244

**SECTION 15.**

245 Said chapter is further amended by revising Code Section 21-2-482, relating to absentee  
246 ballots for precincts using optical scanning voting equipment, as follows:

247 "21-2-482.

248 Ballots in a precinct using optical scanning voting equipment for voting by absentee  
249 electors shall be prepared sufficiently in advance by the superintendent and shall be  
250 delivered to the board of registrars as provided in Code Section 21-2-384. Such ballots  
251 shall be marked 'Official Absentee Ballot' and shall be in substantially the form for ballots  
252 required by Article 8 of this chapter, except that in counties or municipalities using voting  
253 machines, ~~direct recording electronic (DRE) units~~, or ballot scanners, the ballots may be  
254 in substantially the form for the ballot labels required by Article 9 of this chapter or in such  
255 form as will allow the ballot to be machine tabulated. Every such ballot shall have printed  
256 on the face thereof the following:

257 'I understand that the offer or acceptance of money or any other object of value to vote  
258 for any particular candidate, list of candidates, issue, or list of issues included in this  
259 election constitutes an act of voter fraud and is a felony under Georgia law.'

260 The form for either ballot shall be determined and prescribed by the Secretary of State."

261

**SECTION 16.**

262 Said chapter is further amended by revising paragraph (10) of subsection (a) and  
263 subsection (c) of Code Section 21-2-501, relating to number of votes required for election,  
264 as follows:

265 "(10) The ~~run-off primary, special primary runoff~~, run-off election; or special election  
266 runoff shall be a continuation of the ~~primary, special primary~~, election; or special election

267 for the particular office concerned. ~~Only~~ Except as provided in subsection (c) of Code  
 268 Section 21-2-152, only the electors who were duly registered to vote and not  
 269 subsequently deemed disqualified to vote in the ~~primary, special primary,~~ election; or  
 270 special election for candidates for that particular office shall be entitled to vote therein,  
 271 and only those votes cast for the persons designated as candidates in such ~~run-off~~  
 272 ~~primary, special primary runoff, run-off election, or special election runoff~~ shall be  
 273 counted in the tabulation and canvass of the votes cast. No elector shall vote in a run-off  
 274 primary or special primary runoff in violation of Code Section 21-2-224."

275 "(c) In instances in which no municipal candidate receives a majority of the votes cast and  
 276 the municipal charter or ordinances do not provide for nomination or election by a plurality  
 277 vote, a run-off primary or election shall be held between the candidates receiving the two  
 278 highest numbers of votes. Such runoff shall be held on the twenty-eighth day after the day  
 279 of holding the first primary or election, unless such run-off date is postponed by court  
 280 order; provided, however, that, in the case of a runoff from a municipal special election that  
 281 is held in conjunction with a special election for a federal office and not in conjunction  
 282 with a general primary or general election, the municipality may conduct such runoff from  
 283 such municipal special election on the date of the special election runoff for the federal  
 284 office. ~~Only~~ Except as provided in subsection (c) of Code Section 21-2-152, only the  
 285 electors entitled to vote in the first primary or election shall be entitled to vote in any  
 286 run-off ~~primary or~~ election resulting therefrom; provided, however, that no elector shall  
 287 vote in a run-off primary in violation of Code Section 21-2-216. The run-off ~~primary or~~  
 288 election shall be a continuation of the first primary or election, and only those votes cast  
 289 for the candidates receiving the two highest numbers of votes in the first primary or  
 290 election shall be counted. No write-in votes may be cast in such a primary, run-off  
 291 primary, or run-off election. If any candidate eligible to be in a runoff withdraws, dies, or  
 292 is found to be ineligible, the remaining candidates receiving the two highest numbers of  
 293 votes shall be the candidates in such runoff. The municipal candidate receiving the highest  
 294 number of the votes cast in such run-off primary or run-off election to fill the nomination  
 295 or public office sought shall be declared the winner. The municipality shall give written  
 296 notice to the Secretary of State of such runoff as soon as such municipality certifies the  
 297 preceding primary, special primary, election, or special election."

298 **SECTION 17.**

299 Said chapter is further amended by revising paragraph (3) of Code Section 21-2-579, relating  
 300 to fraudulently allowing ballot or voting machine to be seen, casting unofficial ballot, and  
 301 receiving unauthorized assistance in voting, as follows:

302 "(3) Without having made the affirmation under oath or declaration required by Code  
303 Section 21-2-409, or when the disability which he or she declared at the time of  
304 registration no longer exists, permits another to accompany him or her into the voting  
305 compartment or voting machine booth or to mark his or her ballot or to register his or her  
306 vote on the voting machine ~~or direct recording electronic (DRE) equipment~~ or use an  
307 electronic ballot marker; or"

308 **SECTION 18.**

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

311 **SECTION 19.**

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