

House Bill 426

By: Representatives Blackmon of the 146th, Taylor of the 173rd, Jones of the 47th, Jasperse of the 11th, and Ballinger of the 23rd

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 revise provisions related to the retention and
3 preservation of ballots and other election documents; to remove provisions for keeping such
4 ballots and documents under seal; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

7 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to elections and
8 primaries generally, is amended by revising Code Section 21-2-496, relating to preparation
9 and filing by superintendent of four copies of consolidated return of primary, electronic
10 filing, and superintendent to furnish final copy of each ballot used for primary, as follows:

11 "21-2-496.

12 (a) Each county and municipal superintendent shall prepare four copies of the consolidated
13 return of the primary to be certified by the superintendent on forms furnished by the
14 Secretary of State, such consolidated returns to be filed immediately upon certification as
15 follows:

- 16 (1) One copy to be posted at the office of the election superintendent for the information
17 of the public;
- 18 (2) One copy to be filed in the superintendent's office;
- 19 (3) One copy to be forwarded to the Secretary of State together with a copy of each
20 precinct return, the numbered list of voters of each precinct, and the returns and the
21 numbered list of voters for absentee electors; and
- 22 (4) One copy to be ~~sealed and~~ filed with the clerk of the superior court, in the case of a
23 county election, or with the city clerk, in the case of a municipal election, as required by
24 Code Section 21-2-500.
- 25 (b) The Secretary of State is authorized to provide a method by which the election
26 superintendent can file the results of primaries and elections electronically. Once the
27 Secretary of State provides such a method of filing, the election superintendent shall file
28 a copy of the election returns electronically in the manner prescribed by the Secretary of
29 State in addition to the filing provided in subsection (a) of this Code section. The Secretary
30 of State is authorized to promulgate such rules and regulations as necessary to provide for
31 such an electronic filing.
- 32 (c) Each county and municipal superintendent shall, upon certification, furnish to the
33 Secretary of State in a manner determined by the Secretary of State a final copy of each
34 ballot used for such primary."

35

SECTION 2.

36 Said chapter is further amended by revising Code Section 21-2-497, relating to preparation
37 and filing by superintendent of four copies of consolidated return of elections, and
38 superintendent to furnish final copy of each ballot used for election, as follows:

39 "21-2-497.

40 (a) Each county and municipal superintendent shall prepare four copies of the consolidated
41 return of the election to be certified by the superintendent on forms furnished by the
42 Secretary of State, such consolidated returns to be filed immediately upon certification as
43 follows:

44 (1) One copy to be posted at the office of the election superintendent for the information
45 of the public;

46 (2) One copy to be filed and recorded as a permanent record in the minutes of the
47 superintendent's office;

48 (3) One copy to be ~~sealed~~ and filed with the clerk of the superior court, in the case of a
49 county election, or with the city clerk, in the case of a municipal election, as required by
50 Code Section 21-2-500; and

51 (4) One copy to be returned immediately to the Secretary of State unless required as
52 follows:

53 (A) In the case of election of federal and state officers, a separate return showing totals
54 of the votes cast for each of such officers respectively shall be forwarded by the
55 superintendent to the Secretary of State on forms furnished by the Secretary of State;

56 (B) In the case of referendum elections provided for by an Act of the General
57 Assembly, the returns shall immediately be certified by the authority holding such
58 election to the Secretary of State, along with the precinct returns and numbered list of
59 voters for each precinct. In addition thereto, the official citation of the Act involved
60 and the purpose of such election shall be sent to the Secretary of State at the same time.
61 The Secretary of State shall maintain a permanent record of such certifications;

62 (C) In the case of elections on constitutional amendments, the returns shall be certified
63 immediately to the Secretary of State. Upon receiving the certified returns from the
64 various superintendents, the Secretary of State shall immediately proceed to canvass

65 and tabulate the votes cast on such amendments and certify the results to the Governor;
66 and

67 (D) In the case of election for presidential electors, a separate return shall be prepared
68 by each superintendent and certified immediately to the Secretary of State.

69 (b) Each county and municipal superintendent shall, upon certification, furnish to the
70 Secretary of State in a manner determined by the Secretary of State a final copy of each
71 ballot used for such election."

72 **SECTION 3.**

73 Said chapter is further amended by revising Code Section 21-2-500, relating to delivery of
74 voting materials, presentation to grand jury in certain cases, preservation and destruction, and
75 destruction of unused ballots, as follows:

76 "21-2-500.

77 (a) Immediately upon completing the returns required by this article, in the case of
78 elections other than municipal elections, the superintendent shall deliver in sealed
79 containers to the clerk of the superior court or, if designated by the clerk of the superior
80 court, to the county records manager or other office or officer under the jurisdiction of a
81 county governing authority which maintains or is responsible for records, as provided in
82 Code Section 50-18-99, the used and void ballots and the stubs of all ballots used; one copy
83 of the oaths of poll officers; and one copy of each numbered list of voters, tally paper,
84 voting machine paper proof sheet, and return sheet involved in the primary or election. In
85 addition, the superintendent shall deliver copies of the voting machine ballot labels,
86 computer chips containing ballot tabulation programs, copies of computer records of ballot
87 design, and similar items or an electronic record of the program by which votes are to be
88 recorded or tabulated, which is captured prior to the election, and which is stored on some
89 alternative medium such as a CD-ROM or floppy disk simultaneously with the
90 programming of the PROM or other memory storage device. The clerk, county records

91 manager, or the office or officer designated by the clerk shall ~~hold~~ retain and preserve such
92 ballots and other documents for at least 24 months ~~under seal, unless otherwise directed by~~
93 ~~the superior court,~~ in a manner so as to prevent such ballots or other documents from being
94 altered, amended, damaged, modified, or mutilated, after which time they shall be
95 presented to the grand jury for inspection at its next meeting. Such ballots and other
96 documents shall be retained and preserved in the office of the clerk, county records
97 manager, or officer designated by the clerk until the adjournment of such grand jury, and
98 then they may be destroyed, unless otherwise provided by order of the superior court.

99 (b) The superintendent shall retain all unused ballots for 30 days after the election or
100 primary and, if no challenge or contest is filed prior to or during that period that could
101 require future use of such ballots, may thereafter destroy such unused ballots. If a
102 challenge or contest is filed during that period that could require the use of such ballots,
103 they shall be retained until the final disposition of the challenge or contest and, if remaining
104 unused, may thereafter be destroyed.

105 (c) Immediately upon completing the returns required by this article, the municipal
106 superintendent shall deliver in sealed containers to the city clerk the used and void ballots
107 and the stubs of all ballots used; one copy of the oaths of poll officers; and one copy of
108 each numbered list of voters, tally paper, voting machine paper proof sheet, and return
109 sheet involved in the primary or election. In addition, the municipal superintendent shall
110 deliver copies of the voting machine ballot labels, computer chips containing ballot
111 tabulation programs, copies of computer records of ballot design, and similar items or an
112 electronic record of the program by which votes are to be recorded or tabulated, which is
113 captured prior to the election, and which is stored on some alternative medium such as a
114 CD-ROM or floppy disk simultaneously with the programming of the PROM or other
115 memory storage device. Such ballots and other documents shall be retained and preserved
116 ~~under seal~~ in the office of the city clerk for at least 24 months; and then they may be
117 destroyed unless otherwise provided by order of the mayor and council if a contest has

118 been filed or by court order, provided that the electors list, voter's certificates, and duplicate
119 oaths of assisted electors shall be immediately returned by the superintendent to the county
120 registrar."

121 **SECTION 4.**

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