

Senate Bill 221

By: Senators Burns of the 23rd, Williams of the 25th, Harbin of the 16th, Anavitarte of the 31st and Gooch of the 51st

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 revise the language that must be used on absentee
3 ballot applications distributed by persons or entities; to revise provisions relating to advance
4 voting on certain Saturdays preceding or following legal holidays; to revise the latest
5 reporting time for required election night reporting; to mandate audits following all
6 state-wide primaries or elections; to penalize the willful neglect or refusal of a county or
7 municipal election superintendent to call an election where required to do so by a local Act
8 of the General Assembly; to provide for related matters; to repeal conflicting laws; and for
9 other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and
13 elections generally, is amended by revising subparagraph (a)(1)(C) of Code
14 Section 21-2-381, relating to making of application for absentee ballot, determination of
15 eligibility by ballot clerk, furnishing of applications to colleges and universities, and persons
16 entitled to make application, as follows:

S. B. 221

17 "(C)(i) Any person applying for an absentee-by-mail ballot shall make application in
18 writing on the form made available by the Secretary of State. In order to confirm the
19 identity of the voter, such form shall require the elector to provide his or her name,
20 date of birth, address as registered, address where the elector wishes the ballot to be
21 mailed, and the number of his or her Georgia driver's license or identification card
22 issued pursuant to Article 5 of Chapter 5 of Title 40. If such elector does not have a
23 Georgia driver's license or identification card issued pursuant to Article 5 of Chapter 5
24 of Title 40, the elector shall affirm this fact in the manner prescribed in the application
25 and the elector shall provide a copy of a form of identification listed in subsection (c)
26 of Code Section 21-2-417. The form made available by the Secretary of State shall
27 include a space to affix a photocopy or electronic image of such identification. The
28 Secretary of State shall develop a method to allow secure electronic transmission of
29 such form. The application shall also include the identity of the primary, election, or
30 runoff in which the elector wishes to vote; the name and relationship of the person
31 requesting the ballot if other than the elector; and an oath for the elector or relative to
32 write his or her usual signature with a pen and ink affirming that the elector is a
33 qualified Georgia elector and the facts presented on the application are true.
34 Submitting false information on an application for an absentee ballot shall be a
35 violation of Code Sections 21-2-560 and 21-2-571.

36 (ii) A blank application for an absentee ballot shall be made available online by the
37 Secretary of State and each election superintendent and registrar, but neither the
38 Secretary of State, election superintendent, board of registrars, other governmental
39 entity, nor employee or agent thereof shall send absentee ballot applications directly
40 to any elector except upon request of such elector or a relative authorized to request
41 an absentee ballot for such elector. No person or entity other than a relative
42 authorized to request an absentee ballot for such elector or a person signing as
43 assisting an illiterate or physically disabled elector shall send any elector an absentee

44 ballot application that is prefilled with the elector's required information set forth in
 45 this subparagraph. No person or entity other than the elector, a relative authorized to
 46 request an absentee ballot for such elector, a person signing as assisting an illiterate
 47 or physically disabled elector with his or her application, a common carrier charged
 48 with returning the ballot application, an absentee ballot clerk, a registrar, or a law
 49 enforcement officer in the course of an investigation shall handle or return an elector's
 50 completed absentee ballot application. Handling a completed absentee ballot
 51 application by any person or entity other than as allowed in this subsection shall be
 52 a misdemeanor. Any application for an absentee ballot sent to any elector by any
 53 person or entity shall utilize the form of the application made available by the
 54 Secretary of State and shall clearly and prominently disclose on the face of the form:

55 ~~'This is NOT an official government publication and was NOT provided to you~~
 56 ~~by any governmental entity and this is NOT a ballot. It is being distributed by~~
 57 ~~[insert name and address of person, organization, or other entity distributing such~~
 58 ~~document or material]~~

59 This application is being distributed by [insert name and address of person,
 60 organization, or other entity distributing such document or material], not by any
 61 government agency or any state or local election office. THIS IS NOT A
 62 BALLOT.'

63 (iii) The disclaimer required by division (ii) of this subparagraph shall be:

64 (I) Of sufficient font size to be clearly readable by the recipient of the
 65 communication;

66 (II) ~~Be contained~~ Contained in a printed box set apart from the other contents of the
 67 communication; and

68 (III) ~~Be printed~~ Printed with a reasonable degree of color contrast between the
 69 background and the printed disclaimer."

70

SECTION 2.

71 Said chapter is further amended by revising paragraph (1) of subsection (d) of Code
 72 Section 21-2-385, relating to procedure for voting by absentee ballot and advance voting, as
 73 follows:

74 "(d)(1) There shall be a period of advance voting that shall commence:

75 (A) On the fourth Monday immediately prior to each primary or election; and

76 (B) As soon as possible prior to a runoff from any general primary or election but no
 77 later than the second Monday immediately prior to such runoff

78 and shall end on the Friday immediately prior to each primary, election, or runoff.

79 Voting shall be conducted beginning at 9:00 A.M. and ending at 5:00 P.M. on weekdays,

80 other than observed state holidays, during such period and shall be conducted on the

81 second and third Saturdays during the hours of 9:00 A.M. through 5:00 P.M. and, if the

82 registrar or absentee ballot clerk so chooses, the second Sunday, the third Sunday, or both

83 the second and third Sundays prior to a primary, ~~or election,~~ or runoff during hours

84 determined by the registrar or absentee ballot clerk, but no longer than 7:00 A.M. through

85 7:00 P.M.; provided, however, that, if ~~such~~ the first or second Saturday prior to a primary,

86 election, or runoff is a public and legal holiday pursuant to Code Section 1-4-1, if such

87 ~~second~~ Saturday follows a public and legal holiday occurring on the Thursday or Friday

88 immediately preceding such ~~second~~ Saturday, or if such ~~second~~ Saturday immediately

89 precedes a public and legal holiday occurring on the following Sunday or Monday, such

90 advance voting shall not be held on such ~~second~~ Saturday but shall be held on the third

91 Saturday prior to such primary or election, or if possible prior to such runoff, beginning

92 at 9:00 A.M. and ending at 5:00 P.M. Except as otherwise provided in this paragraph,

93 the registrars may extend the hours for voting to permit advance voting from 7:00 A.M.

94 until 7:00 P.M. and may provide for additional voting locations pursuant to Code

95 Section 21-2-382 to suit the needs of the electors of the jurisdiction at their option;

96 provided, however, that voting shall occur only on the days specified in this paragraph

97 and counties and municipalities shall not be authorized to conduct advance voting on any
98 other days."

99

SECTION 3.

100 Said chapter is further amended by revising Code Section 21-2-421, relating to posting of
101 required information after closing of polls and reporting to Secretary of State, as follows:

102 "21-2-421.

103 (a) As soon as possible but not later than ~~10:00~~ 11:59 P.M. following the close of the polls
104 on the day of a primary, election, or runoff, the election superintendent shall report to the
105 Secretary of State and post in a prominent public place the following information:

106 (1) The number of ballots cast at the polls on the day of the primary, election, or runoff,
107 including provisional ballots cast;

108 (2) The number of ballots cast at advance voting locations during the advance voting
109 period for the primary, election, or runoff; and

110 (3) The total number of absentee ballots returned to the board of registrars by the
111 deadline to receive such absentee ballots on the day of the primary, election, or runoff.

112 (b) Upon the completion of the report provided for in subsection (a) of this Code section,
113 the election superintendent shall compare the total number of ballots received as reported
114 in subsection (a) of this Code section and the counting of the ballots in the primary,
115 election, or runoff minus any rejected and uncured absentee ballots, uncounted provisional
116 ballots, and any other uncounted ballots, with the total number of ballots cast in the
117 primary, election, or runoff. The results of such comparison and all explanatory materials
118 shall be reported to the Secretary of State. The reason for any discrepancy shall be fully
119 investigated and reported to the Secretary of State."

120 **SECTION 4.**

121 Said chapter is further amended by revising Code Section 21-2-498, relating to
122 precertification tabulation audits, as follows:

123 "21-2-498.

124 (a) As used in this Code section, the term:

125 (1) 'Incorrect outcome' ~~is when~~ means the winner of a contest or the answer to a
126 proposed constitutional amendment or question would be different from the results found
127 in a manual recount of paper official ballots.

128 (2) 'Risk limit' means the largest statistical probability that an incorrect outcome is not
129 detected or corrected in a risk-limiting audit.

130 (3) 'Risk-limiting audit' means an audit protocol that makes use of statistical methods and
131 is designed to limit to acceptable levels the risk of certifying a preliminary election
132 outcome that constitutes an incorrect outcome.

133 (b) ~~As soon as possible, but no later than the November, 2020, general election, the local~~
134 Local election superintendents shall conduct precertification ~~tabulation~~ risk-limiting audits
135 for any federal or state primary or general election in accordance with requirements set
136 forth by rule or regulation of the State Election Board. Audits performed under this Code
137 section shall be conducted by manual inspection of random samples of the paper official
138 ballots.

139 (c) In conducting each audit, the local election superintendents shall:

140 (1) Complete the audit prior to final certification of the contest;

141 (2) Ensure that all types of ballots are included in the audit, whether cast in person, by
142 absentee ballot, advance voting, provisional ballot, or otherwise;

143 (3) Provide a report of the unofficial final tabulated vote results for the contest to the
144 public prior to conducting the audit;

145 (4) Complete the audit in public view; and

146 (5) Provide details of the audit to the public within 48 hours of completion.

147 (d) The State Election Board shall be authorized to promulgate rules, regulations, and
148 procedures to implement and administer the provisions of this Code section. The
149 procedures prescribed by the State Election Board shall include security procedures to
150 ensure that collection of validly cast ballots is complete, accurate, and trustworthy
151 throughout the audit.

152 ~~(e) The Secretary of State shall conduct a risk-limiting audit pilot program with a risk limit
153 of not greater than 10 percent in one or more counties by December 31, 2021. The
154 Secretary of State shall review the results of the pilot program and, within 90 days
155 following the election in which such pilot program is used, shall provide the members of
156 the General Assembly with a comprehensive report, including a plan on how to implement
157 risk-limiting audits state wide. If such risk-limiting audit is successful in achieving the
158 specified confidence level within five business days following the election for which it was
159 conducted, then all audits performed pursuant to this Code section shall be similarly
160 conducted, beginning not later than November 1, 2024."~~

161 **SECTION 5.**

162 Said chapter is further amended by adding a new Code section to read as follows:

163 "21-2-596.1.

164 Any county or municipal election superintendent on whom a duty to call an election is laid
165 by a local Act of the General Assembly who willfully neglects or refuses to perform his or
166 her duty shall be guilty of a misdemeanor."

167 **SECTION 6.**

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