

**WITHDRAWN**

The House Committee on Governmental Affairs offers the following substitute to SB 222:

**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 all costs and expenses relating to  
3 election administration are paid for with lawfully appropriate public funds; to provide  
4 definitions; to prohibit certain local governments and persons from soliciting or accepting  
5 donations or other things of value to support the performance of election administration; to  
6 require the return of certain donations; to provide for exceptions; to provide for penalties; to  
7 provide that the State Election Board shall be a distinct budget unit and an independent state  
8 agency attached to the office of the Secretary of State for administrative purposes only; to  
9 provide for an executive director of said board; to provide for venue in any action of said  
10 board and its members; to provide duties for said executive director; to revise provisions  
11 relating to election superintendents and registrars taking or accepting funding, grants, or  
12 gifts; to prohibit county and municipal governments from accepting grants or gifts for the  
13 purpose of administering elections; to provide for related matters; to provide an effective  
14 date; to repeal conflicting laws; and for other purposes.

15 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

**SECTION 1.**

Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to elections and primaries generally, is amended by adding a new Code section to read as follows:

"21-2-18.

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

(1) 'Government employee' means any individual, committee, entity, or group acting in concert who are employed by a county or municipal government. Such term shall include, but not be limited to, election superintendents, registrars, poll workers, and the agents and employees thereof.

(2) 'Person' means any individual, proprietorship, firm, partnership, joint venture, syndicate, labor union, business trust, company, association, committee, corporation, whether operated for profit or not, or any other organization of a group of persons acting in concert, or any other nongovernmental third-party entity.

(b) All costs and expenses related to conducting primaries, elections, runoffs, or other undertakings authorized or required by this chapter shall be paid from lawfully appropriated public funds.

(c) Notwithstanding any other provision of law to the contrary, no county or municipal government, government employee, or election official shall solicit, take, or otherwise accept from any person a contribution, donation, service, or anything else of value for the purpose of conducting primaries or elections or in support of performing his or her duties under this chapter.

(d) Any county or municipal government, government employee, or election official who has taken or otherwise accepted from any person a contribution, donation, service, or anything else of value for the purpose of conducting primaries or elections or in support of performing his or her duties under this chapter on or after January 1, 2023, shall immediately return the same to the entity which provided such thing of value within 14 days of the effective date of this Code section.

43 (e) This Code section shall not apply to the donation or use of locations for voting  
44 purposes, services provided by individuals without remuneration, or goods that have  
45 nominal value of less than \$500.00.

46 (f) Violation of this Code section shall constitute a felony, and upon conviction shall be  
47 punished by imprisonment for not less than one year and by a fine of not less than  
48 \$10,000.00."

49 **SECTION 2.**

50 Said chapter is further amended by revising Code Section 21-2-30, relating to creation,  
51 composition, election of chairperson, terms of service, vacancies, quorum, seal and bylaws,  
52 and meetings of the State Election Board, as follows:

53 "21-2-30.

54 (a) There is created a state board to be known as the State Election Board, to be composed  
55 of a chairperson elected by the General Assembly, an elector to be elected by a majority  
56 vote of the Senate of the General Assembly at its regular session held in each  
57 odd-numbered year, an elector to be elected by a majority vote of the House of  
58 Representatives of the General Assembly at its regular session held in each odd-numbered  
59 year, and a member of each political party to be nominated and appointed in the manner  
60 provided in this Code section. No person while a member of the General Assembly shall  
61 serve as a member of the board.

62 (a.1)(1) The chairperson shall be elected by the General Assembly in the following  
63 manner: A joint resolution which shall fix a definite time for the nomination and election  
64 of the chairperson may be introduced in either branch of the General Assembly. Upon  
65 passage of the resolution by a majority vote of the membership of the Senate and House  
66 of Representatives, it shall be the duty of the Speaker of the House of Representatives to  
67 call for the nomination and election of the chairperson at the time specified in the  
68 resolution, at which time the name of the qualified person receiving a majority vote of the  
69 membership of the House of Representatives shall be transmitted to the Senate for

70 confirmation. Upon the qualified person's receiving a majority vote of the membership  
71 of the Senate, he or she shall be declared the duly elected chairperson; and the Governor  
72 shall be notified of his or her election by the Secretary of the Senate. The Governor is  
73 directed to administer the oath of office to the chairperson and to furnish the chairperson  
74 with a properly executed commission of office certifying his or her election.

75 (2) The chairperson of the board shall be nonpartisan. At no time during his or her  
76 service as chairperson shall the chairperson actively participate in a political party  
77 organization or in the campaign of a candidate for public office, nor shall he or she make  
78 any campaign contributions to a candidate for public office. Furthermore, to qualify for  
79 appointment as chairperson, in the two years immediately preceding his or her  
80 appointment, a person shall not have qualified as a partisan candidate for public office,  
81 participated in a political party organization or the campaign of a partisan candidate for  
82 public office, or made any campaign contributions to a partisan candidate for public  
83 office.

84 (3) The term of office of the chairperson shall continue until a successor is elected as  
85 provided in paragraph (1) of this subsection. In the event of a vacancy in the position of  
86 chairperson at a time when the General Assembly is not in session, it shall be the duty of  
87 the Governor and the Governor is empowered and directed to appoint a chairperson  
88 possessing the qualifications as provided in this subsection who shall serve as chairperson  
89 until the next regular session of the General Assembly, at which time the nomination and  
90 election of a chairperson shall be held by the General Assembly as provided in  
91 paragraph (1) of this subsection.

92 (b) A member elected by a house of the General Assembly shall take office on the day  
93 following the adjournment of the regular session in which elected and shall serve for a term  
94 of two years and until his or her successor is elected and qualified, unless sooner removed.  
95 An elected member of the board may be removed at any time by a majority vote of the  
96 house which elected him or her. In the event a vacancy should occur in the office of such

97 a member of the board at a time when the General Assembly is not in session, then the  
98 President of the Senate shall thereupon appoint an elector to fill the vacancy if the prior  
99 incumbent of such office was elected by the Senate or appointed by the President of the  
100 Senate; and the Speaker of the House of Representatives shall thereupon appoint an elector  
101 to fill the vacancy if the prior incumbent of such office was elected by the House of  
102 Representatives or appointed by the Speaker of the House of Representatives. A member  
103 appointed to fill a vacancy may be removed at any time by a majority vote of the house  
104 whose presiding officer appointed him or her.

105 (c) Within 30 days after April 3, 1968, the state executive committee of each political  
106 party shall nominate a member of its party to serve as a member of the State Election Board  
107 and, thereupon, the Governor shall appoint such nominee as a member of the board to serve  
108 for a term of two years from the date of the appointment and until his or her successor is  
109 elected and qualified, unless sooner removed. Thereafter, such state executive committee  
110 shall select a nominee for such office on the board within 30 days after a vacancy occurs  
111 in such office and shall also select a nominee at least 30 days prior to the expiration of the  
112 term of each incumbent nominated by it; and each such nominee shall be immediately  
113 appointed by the Governor as a member of the board to serve for the unexpired term in the  
114 case of a vacancy, and for a term of two years in the case of an expired term. Each  
115 successor, other than one appointed to serve an unexpired term, shall serve for a term of  
116 two years; and the terms shall run consecutively from the date of the initial gubernatorial  
117 appointment. No person shall be eligible for nomination by such state executive committee  
118 unless he or she is an elector and a member in good standing of the political party of the  
119 committee. Such a member shall cease to serve on the board and his or her office shall be  
120 abolished if and when his or her political organization shall cease to be a 'political party'  
121 as defined in Code Section 21-2-2.

122 (d) The Secretary of State shall be an ex officio nonvoting member of the board. Three  
123 voting members of the board shall constitute a quorum, and no vacancy on the board shall

124 impair the right of the quorum to exercise all the powers and perform all the duties of the  
125 board. The board shall adopt a seal for its use and bylaws for its own government and  
126 procedure.

127 (e) Meetings shall be held whenever necessary for the performance of the duties of the  
128 board on call of the chairperson or whenever any two of its members so request. Minutes  
129 shall be kept of all meetings of the board and a record kept of the vote of each member on  
130 all questions coming before the board. The chairperson shall give to each member of the  
131 board prior notice of the time and place of each meeting of the board.

132 (f) If any member of the board, other than the Secretary of State, shall qualify as a  
133 candidate for any public office which is to be voted upon in any primary or election  
134 regulated by the board, that member's position on the board shall be immediately vacated  
135 and such vacancy shall be filled in the manner provided for filling other vacancies on the  
136 board.

137 (g) On and after July 1, 2023, the board shall be a separate and distinct budget unit as  
138 defined in Part 1 of Article 4 of Chapter 12 of Title 45, the 'Budget Act'; provided,  
139 however, that the board shall be attached for administrative purposes only to the office of  
140 the Secretary of State as provided for in Code Section 50-4-3. The board shall neither be  
141 under the jurisdiction of the Secretary of State nor shall it be considered a division of the  
142 office of the Secretary of State.

143 (h) The board shall have the power to appoint an executive director who shall be a  
144 full-time employee of the board. The executive director shall serve at the pleasure of the  
145 board, and the board shall in its discretion appoint and fix the compensation of the  
146 executive director. The executive director shall be charged with such duties and powers  
147 as provided in this Code section or as delegated by the board. The executive director shall  
148 serve as the secretary of the board ex officio but shall not be a voting member of the board  
149 or a member for the purposes of constituting a quorum.

150 (i) The executive director and other employees of the board shall be reimbursed for travel  
151 and other expenses incurred in the performance of their duties in the same manner as  
152 officers and employees of the office of the Secretary of State.

153 (j) Venue of any action involving members of the board shall be the county in which is  
154 found the primary office of the board. Any notice or legal process necessary to be served  
155 upon the board may be served upon the executive director, but the executive director shall  
156 not be considered a member of the board in determining the venue of any such action, and  
157 no court shall have jurisdiction over any such action solely by virtue of the executive  
158 director residing or maintaining a residence within its jurisdiction.

159 (k) The executive director shall:

160 (1) Keep all records of the board and its proceedings;

161 (2) With the approval of the board, employ and fix the compensation of personnel as  
162 determined necessary to assist the executive director in his or her duties;

163 (3) With the consent of the board, schedule the time and location of all meetings and  
164 hearings, as well as maintain a schedule of all meetings and hearings available for public  
165 review;

166 (4) With the approval of the board, enter into such contracts, leases, agreements, or other  
167 transactions with any person or agency as are deemed necessary to carry out the  
168 provisions of this chapter or to provide the services required by the board; and

169 (5) On or before the second Tuesday in January of each year, prepare and deliver a  
170 written annual report to the Governor and the chairpersons of the House and Senate  
171 Appropriations Committees describing the activities of the board for the previous  
172 calendar year. Such report shall be made available to any member of the General  
173 Assembly upon request. The report shall include a summary of all actions taken by the  
174 board and a financial report of all income and disbursements and staff personnel. The  
175 Governor may request a preliminary financial report for budgetary purposes prior to the  
176 executive director delivering the annual report."

177 **SECTION 3.**

178 Said chapter is further amended by revising subsection (b) of Code Section 21-2-71, relating  
179 to payment by county or municipality of superintendent's expenses, and study and report on  
180 acceptance and equitable distribution of donations, as follows:

181 "(b) No superintendent, county, or municipality shall take or accept any ~~funding,~~ grants;  
182 or gifts for purposes of administering this chapter from any source other than ~~from the~~  
183 ~~governing authority of the county or municipality,~~ the State of Georgia; or the federal  
184 government."

185 **SECTION 4.**

186 Said chapter is further amended in Code Section 21-2-212, relating to county registrars,  
187 appointment, certification, term of service, vacancies, compensation, and expenses of chief  
188 registrar, registrars, and other officers and employees, and budget estimates, by revising  
189 subsection (f) as follows:

190 "(f) The board of registrars of each county shall prepare annually a budget estimate in  
191 which it shall set forth an itemized list of its expenditures for the preceding two years and  
192 an itemized estimate of the amount of money necessary to be appropriated for the ensuing  
193 year and shall submit the same at the time and in the manner and form other county budget  
194 estimates are required to be filed. No board of registrars shall take or accept any ~~funding,~~  
195 grants; or gifts for the purpose of administering this chapter from any source other than  
196 ~~from the governing authority of the county,~~ the State of Georgia; or the federal  
197 government."

198 **SECTION 5.**

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

201

**SECTION 6.**

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