

House Bill 397

By: Representatives Fleming of the 114<sup>th</sup>, LaHood of the 175<sup>th</sup>, Leverett of the 123<sup>rd</sup>, Gullett of the 19<sup>th</sup>, Scoggins of the 14<sup>th</sup>, 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 allow municipalities to opt in to providing advance  
3 voting on Saturdays for municipal elections; to revise provisions related to the timelines for  
4 calling special elections and the dates on which special elections can be held; to provide for  
5 related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to elections and  
9 primaries generally, is amended in Code Section 21-2-385, relating to procedure for voting  
10 by absentee ballot and advance voting, by revising paragraph (1) of subsection (d) as follows:

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

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

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

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

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

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17 other than observed state holidays, during such period and shall be conducted on the  
18 second and third Saturdays during the hours of 9:00 A.M. through 5:00 P.M. and, if the  
19 registrar or absentee ballot clerk so chooses, the second Sunday, the third Sunday, or both  
20 the second and third Sundays prior to a primary or election during hours determined by  
21 the registrar or absentee ballot clerk, but no longer than 7:00 A.M. through 7:00 P.M.;  
22 provided, however, that, if such second Saturday is a public and legal holiday pursuant  
23 to Code Section 1-4-1, if such second Saturday follows a public and legal holiday  
24 occurring on the Thursday or Friday immediately preceding such second Saturday, or if  
25 such second Saturday immediately precedes a public and legal holiday occurring on the  
26 following Sunday or Monday, such advance voting shall not be held on such second  
27 Saturday but shall be held on the third Saturday prior to such primary or election  
28 beginning at 9:00 A.M. and ending at 5:00 P.M. Except as otherwise provided in this  
29 paragraph, the registrars may extend the hours for voting to permit advance voting  
30 from 7:00 A.M. until 7:00 P.M. and may provide for additional voting locations pursuant  
31 to Code Section 21-2-382 to suit the needs of the electors of the jurisdiction at their  
32 option; provided, however, that voting shall occur only on the days specified in this  
33 paragraph and counties and municipalities shall not be authorized to conduct advance  
34 voting on any other days. Notwithstanding any other provision of this paragraph to the  
35 contrary, the period of advance voting in any municipal election shall not include any  
36 Saturdays unless otherwise provided by the municipal election superintendent for the  
37 relevant municipality."

38 **SECTION 2.**

39 Said chapter is further amended by revising Code Section 21-2-540, relating to conduct and  
40 timing of special primaries and special elections generally, as follows:

41 "21-2-540.

42 (a)(1) Every special primary and special election shall be held and conducted in all  
43 respects in accordance with the provisions of this chapter relating to general primaries  
44 and general elections; and the provisions of this chapter relating to general primaries and  
45 general elections shall apply thereto insofar as practicable and as not inconsistent with  
46 any other provisions of this chapter. All special primaries and special elections held at  
47 the time of a general primary, as provided by Code Section 21-2-541, shall be conducted  
48 by the poll officers by the use of the same equipment and facilities, insofar as practicable,  
49 as are used for such general primary. All special primaries and special elections held at  
50 the time of a general election, as provided by Code Section 21-2-541, shall be conducted  
51 by the poll officers by the use of the same equipment and facilities, insofar as practicable,  
52 as are used for such general election.

53 (2) If a vacancy occurs in a partisan office to which the Governor is authorized to  
54 appoint an individual to serve until the next general election, a special primary shall  
55 precede the special election.

56 (b) At least ~~29~~ 60 days shall intervene between the call of a special primary and the  
57 holding of same, and at least ~~29~~ 60 days shall intervene between the call of a special  
58 election and the holding of same. The period during which candidates may qualify to run  
59 in a special primary or a special election shall remain open for a minimum of two and  
60 one-half days. Special elections to present questions to the voters which are to be held in  
61 conjunction with the presidential preference primary, a state-wide general primary, or  
62 state-wide general election shall be called at least 90 days prior to the date of such  
63 presidential preference primary, state-wide general primary, or state-wide general election;  
64 provided, however, that this requirement shall not apply to special elections to present  
65 questions to the voters held on the same date as such presidential preference primary,  
66 state-wide general primary, or state-wide general election but conducted completely

67 separate and apart from such state-wide general primary or state-wide general election  
68 using different ballots or voting equipment, facilities, poll workers, and paperwork.

69 (c)(1) Notwithstanding any other provision of law to the contrary, a special primary or  
70 special election to fill a vacancy in a county or municipal office shall be held only on one  
71 of the following dates which is at least ~~29~~ 60 days after the date of the call for the special  
72 election:

73 (A) In odd-numbered years, any such special primary or special election shall only be  
74 held on:

75 (i) The third Tuesday in March;

76 (ii) The third Tuesday in June; or

77 (iii) ~~The third Tuesday in September; or~~

78 ~~(iv)~~ The Tuesday after the first Monday in November; and

79 (B) In even-numbered years, any such special primary or special election shall only be  
80 held on:

81 (i) The third Tuesday in March; provided, however, that in the event that a special  
82 primary or special election is to be held under this provision in a year in which a  
83 presidential preference primary is to be held, then any such special primary or special  
84 election shall be held on the date of and in conjunction with the presidential  
85 preference primary;

86 (ii) The date of the general primary; or

87 (iii) The Tuesday after the first Monday in November;

88 provided, however, that, in the event that a special primary or special election to fill a  
89 federal or state office on a date other than the dates provided in this paragraph has been  
90 scheduled and it is possible to hold a special primary or special election to fill a vacancy  
91 in a county, municipal, or school board office in conjunction with such special primary  
92 or special election to fill a federal or state office, the special primary or special election  
93 to fill such county, municipal, or school board office may be held on the date of and in

94 conjunction with such special primary or special election to fill such federal or state  
 95 office, provided all other provisions of law regarding such primaries and elections are  
 96 met.

97 (2) Notwithstanding any other provision of law to the contrary, a special election to  
 98 present a question to the voters shall be held only on one of the following dates which is  
 99 at least ~~29~~ 60 days after the date of the call for the special election:

100 (A) In odd-numbered years, any such special election shall only be held on the third  
 101 Tuesday in March or on the Tuesday after the first Monday in November; and

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

103 (i) The date of and in conjunction with the presidential preference primary if one is  
 104 held that year;

105 (ii) ~~The third Tuesday in March, provided, however, that such special election shall~~  
 106 ~~occur prior to July 1, 2024, and present a question to the voters on sales and use taxes~~  
 107 ~~authorized by Articles 5, 5A, and 5B of Chapter 8 of Title 48;~~

108 (iii) The date of the general primary; or

109 (iv)~~(iii)~~ The Tuesday after the first Monday in November.

110 (3) The provisions of this subsection shall not apply to:

111 (A) Special elections held pursuant to Chapter 4 of this title, the 'Recall Act of 1989,'  
 112 to recall a public officer or to fill a vacancy in a public office caused by a recall  
 113 election; and

114 (B) Special primaries or special elections to fill vacancies in federal or state public  
 115 offices.

116 (d) Except as otherwise provided by this chapter, the superintendent of each county or  
 117 municipality shall publish the call of the special primary or special election.

118 (e)(1) Candidates in special elections for partisan offices that are not preceded by special  
 119 primaries shall be listed alphabetically on the ballot and may choose to designate on the

120 ballot their party affiliation. The party affiliation selected by a candidate shall not be  
121 changed following the close of qualifying.

122 (2) Candidates in special primaries shall be listed alphabetically on the ballot."

123 **SECTION 3.**

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