

The House Committee on Governmental Affairs offers the following substitute to HB 397:

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 procedures for the removal of members of
3 the State Election Board who were elected by a house of the General Assembly; to allow
4 municipalities to opt out of providing advance voting on Saturdays for municipal elections;
5 to revise provisions related to the timelines for calling special elections and the dates on
6 which special elections can be held; to provide for related matters; to provide for effective
7 dates; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to elections and
11 primaries generally, is amended in Code Section 21-2-30, relating to creation, membership,
12 terms of service, vacancies, quorum, bylaws, meetings, and executive director, by revising
13 subsection (b) as follows:

14 "(b) A member elected by a house of the General Assembly shall take office on the day
15 following the adjournment of the regular session in which elected and shall serve for a term
16 of two years and until his or her successor is elected and qualified, unless sooner removed.

17 An elected member of the board may be removed at any time the General Assembly is in
 18 session by a majority vote of the house which elected him or her, or at any time when the
 19 General Assembly is not in session by the President of the Senate if such member was
 20 elected by the Senate or by the Speaker of the House of Representatives if such member
 21 was elected by the House of Representatives. In the event a vacancy should occur in the
 22 office of such a member of the board at a time when the General Assembly is not in
 23 session, then the President of the Senate shall thereupon appoint an elector to fill the
 24 vacancy if the prior incumbent of such office was elected by the Senate or appointed by the
 25 President of the Senate; and the Speaker of the House of Representatives shall thereupon
 26 appoint an elector to fill the vacancy if the prior incumbent of such office was elected by
 27 the House of Representatives or appointed by the Speaker of the House of Representatives.
 28 A member appointed to fill a vacancy may be removed ~~at any time by a majority vote of~~
 29 ~~the house whose presiding officer appointed him or her~~ in the same manner as a member
 30 elected by a house of the General Assembly."

31 **SECTION 2.**

32 Said chapter is further amended in Code Section 21-2-385, relating to procedure for voting
 33 by absentee ballot and advance voting, by revising paragraph (1) of subsection (d) as follows:
 34 "(1) There shall be a period of advance voting that shall commence:
 35 (A) On the fourth Monday immediately prior to each primary or election; and
 36 (B) As soon as possible prior to a runoff from any general primary or election but no
 37 later than the second Monday immediately prior to such runoff
 38 and shall end on the Friday immediately prior to each primary, election, or runoff.
 39 Voting shall be conducted beginning at 9:00 A.M. and ending at 5:00 P.M. on weekdays,
 40 other than observed state holidays, during such period and shall be conducted on the
 41 second and third Saturdays during the hours of 9:00 A.M. through 5:00 P.M. and, if the
 42 registrar or absentee ballot clerk so chooses, the second Sunday, the third Sunday, or both

43 the second and third Sundays prior to a primary or election during hours determined by
44 the registrar or absentee ballot clerk, but no longer than 7:00 A.M. through 7:00 P.M.;
45 provided, however, that, if such second Saturday is a public and legal holiday pursuant
46 to Code Section 1-4-1, if such second Saturday follows a public and legal holiday
47 occurring on the Thursday or Friday immediately preceding such second Saturday, or if
48 such second Saturday immediately precedes a public and legal holiday occurring on the
49 following Sunday or Monday, such advance voting shall not be held on such second
50 Saturday but shall be held on the third Saturday prior to such primary or election
51 beginning at 9:00 A.M. and ending at 5:00 P.M. Except as otherwise provided in this
52 paragraph, the registrars may extend the hours for voting to permit advance voting
53 from 7:00 A.M. until 7:00 P.M. and may provide for additional voting locations pursuant
54 to Code Section 21-2-382 to suit the needs of the electors of the jurisdiction at their
55 option; provided, however, that voting shall occur only on the days specified in this
56 paragraph and counties and municipalities shall not be authorized to conduct advance
57 voting on any other days. Notwithstanding any other provision of this paragraph to the
58 contrary, a city council or other municipal governing body may opt out of conducting
59 voting on one or more Saturdays during the period of advance voting in any municipal
60 election, by action taken during a duly called public meeting of the city council or other
61 municipal governing body."

62 **SECTION 3.**

63 Said chapter is further amended in Code Section 21-2-540, relating to conduct and timing of
64 special primaries and special elections generally, by revising subsection (b) and
65 paragraph (2) of subsection (c) as follows:

66 "(b) At least 29 days shall intervene between the call of a special primary and the holding
67 of same, and at least 29 days shall intervene between the call of a special election and the
68 holding of same. The period during which candidates may qualify to run in a special

69 primary or a special election shall remain open for a minimum of two and one-half days.
 70 Special elections to present questions to the voters which are to be held in conjunction with
 71 the presidential preference primary, a state-wide general primary, ~~or~~ state-wide general
 72 election, state-wide special primary, or state-wide special election shall be called at least
 73 90 days prior to the date of such presidential preference primary, state-wide general
 74 primary, ~~or~~ state-wide general election, state-wide special primary, or state-wide special
 75 election; provided, however, that this requirement shall not apply to special elections to
 76 present questions to the voters held on the same date as such presidential preference
 77 primary, state-wide general primary, ~~or~~ state-wide general election, state-wide special
 78 primary, or state-wide special election but conducted completely separate and apart from
 79 such state-wide general primary or state-wide general election using different ballots or
 80 voting equipment, facilities, poll workers, and paperwork."

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

84 (A) In odd-numbered years, any such special election shall only be held on ~~the~~:

85 (i) The third Tuesday in March ~~or on the~~;

86 (ii) The Tuesday after the first Monday in November; ~~and~~ or

87 (iii) The date of and in conjunction with any state-wide special primary or special
 88 election if one is held that year, regardless of whether or not such special primary or
 89 special election is held pursuant to the terms of this chapter; provided, however, that
 90 the 90 days call provision of subsection (b) of this Code section shall not apply to a
 91 special election held pursuant to this division; and

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

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

- 95 (ii) The third Tuesday in March; provided, however, that such special election shall
96 occur prior to July 1, 2024, and present a question to the voters on sales and use taxes
97 authorized by Articles 5, 5A, and 5B of Chapter 8 of Title 48;
- 98 (iii) The date of the general primary; or
- 99 (iv) The Tuesday after the first Monday in November."

100 **SECTION 4.**

101 Said chapter is further amended by revising Code Section 21-2-540, relating to conduct and
102 timing of special primaries and special elections generally, effective on July 1, 2026, as
103 follows:

104 "21-2-540.

105 (a)(1) Every special primary and special election shall be held and conducted in all
106 respects in accordance with the provisions of this chapter relating to general primaries
107 and general elections; and the provisions of this chapter relating to general primaries and
108 general elections shall apply thereto insofar as practicable and as not inconsistent with
109 any other provisions of this chapter. All special primaries and special elections held at
110 the time of a general primary, as provided by Code Section 21-2-541, shall be conducted
111 by the poll officers by the use of the same equipment and facilities, insofar as practicable,
112 as are used for such general primary. All special primaries and special elections held at
113 the time of a general election, as provided by Code Section 21-2-541, shall be conducted
114 by the poll officers by the use of the same equipment and facilities, insofar as practicable,
115 as are used for such general election.

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

119 (b) At least ~~29~~ 60 days shall intervene between the call of a special primary and the
120 holding of same, and at least ~~29~~ 60 days shall intervene between the call of a special

121 election and the holding of same. The period during which candidates may qualify to run
 122 in a special primary or a special election shall remain open for a minimum of two and
 123 one-half days. Special elections to present questions to the voters which are to be held in
 124 conjunction with the presidential preference primary, a state-wide general primary,
 125 state-wide general election, state-wide special primary, or state-wide special election shall
 126 be called at least 90 days prior to the date of such presidential preference primary,
 127 state-wide general primary, state-wide general election, state-wide special primary, or
 128 state-wide special election; provided, however, that this requirement shall not apply to
 129 special elections to present questions to the voters held on the same date as such
 130 presidential preference primary, state-wide general primary, state-wide general election,
 131 state-wide special primary, or state-wide special election but conducted completely
 132 separate and apart from such state-wide general primary or state-wide general election
 133 using different ballots or voting equipment, facilities, poll workers, and paperwork.

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

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

- 140 (i) The third Tuesday in March;
- 141 (ii) The third Tuesday in June; or
- 142 (iii) ~~The third Tuesday in September; or~~
- 143 (~~iv~~) The Tuesday after the first Monday in November; and

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

- 146 (i) The third Tuesday in March; provided, however, that in the event that a special
 147 primary or special election is to be held under this provision in a year in which a

148 presidential preference primary is to be held, then any such special primary or special
 149 election shall be held on the date of and in conjunction with the presidential
 150 preference primary;

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

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

153 provided, however, that, in the event that a special primary or special election to fill a
 154 federal or state office on a date other than the dates provided in this paragraph has been
 155 scheduled and it is possible to hold a special primary or special election to fill a vacancy
 156 in a county, municipal, or school board office in conjunction with such special primary
 157 or special election to fill a federal or state office, the special primary or special election
 158 to fill such county, municipal, or school board office may be held on the date of and in
 159 conjunction with such special primary or special election to fill such federal or state
 160 office, provided all other provisions of law regarding such primaries and elections are
 161 met.

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

165 (A) In odd-numbered years, any such special election shall only be held on:

166 (i) The third Tuesday in March;

167 (ii) The Tuesday after the first Monday in November; or

168 (iii) The date of and in conjunction with any state-wide special primary or special
 169 election if one is held that year, regardless of whether or not such special primary or
 170 special election is held pursuant to the terms of this chapter; provided, however, that
 171 the 90 days call provision of subsection (b) of this Code section shall not apply to a
 172 special election held pursuant to this division; and

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

- 174 (i) The date of and in conjunction with the presidential preference primary if one is
 175 held that year;
- 176 (ii) ~~The third Tuesday in March, provided, however, that such special election shall~~
 177 ~~occur prior to July 1, 2024, and present a question to the voters on sales and use taxes~~
 178 ~~authorized by Articles 5, 5A, and 5B of Chapter 8 of Title 48;~~
- 179 (iii) The date of the general primary; or
- 180 ~~(iv)~~(iii) The Tuesday after the first Monday in November.
- 181 (3) The provisions of this subsection shall not apply to:
- 182 (A) Special elections held pursuant to Chapter 4 of this title, the 'Recall Act of 1989,'
 183 to recall a public officer or to fill a vacancy in a public office caused by a recall
 184 election; and
- 185 (B) Special primaries or special elections to fill vacancies in federal or state public
 186 offices.
- 187 (d) Except as otherwise provided by this chapter, the superintendent of each county or
 188 municipality shall publish the call of the special primary or special election.
- 189 (e)(1) Candidates in special elections for partisan offices that are not preceded by special
 190 primaries shall be listed alphabetically on the ballot and may choose to designate on the
 191 ballot their party affiliation. The party affiliation selected by a candidate shall not be
 192 changed following the close of qualifying.
- 193 (2) Candidates in special primaries shall be listed alphabetically on the ballot."

194 **SECTION 5.**

- 195 (a) Except as provided for in subsection (b) of this section, this Act shall become effective
 196 on July 1, 2025.
- 197 (b)(1) Section 3 of this Act shall become effective upon its approval by the Governor or
 198 upon its becoming law without such approval.
- 199 (2) Section 4 of this Act shall become effective on July 1, 2026.

200

SECTION 6.

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