

House Bill 728

By: Representatives Hilton of the 48th, Draper of the 90th, Ballard of the 147th, and Carpenter of the 4th

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 limit the effective date of rules or regulations
3 adopted by the State Election Board prior to a primary, election, or runoff; to provide for
4 related matters; 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 21-2-35, relating to emergency
9 rules and regulations, imminent peril requirement, and procedures, as follows:

10 "21-2-35.

11 (a) Except for emergency rule-making as provided for in subsection (b) of this Code
12 section, if the State Election Board adopts a rule, as defined in Code Section 50-13-2, or
13 a regulation and the date of such adoption is within 75 days of the:

14 (1) Date of a presidential preference primary, general primary, general election, or runoff
15 thereof, the effective date of such rule or regulation shall be 30 days following the date
16 of such primary, election, or runoff; or

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17 (2) Date of a special primary, special election, or runoff thereof, the effective date of
18 such rule or regulation shall be effective as otherwise provided by law; provided,
19 however, that such rule or regulation shall not be applicable to the conducting of any such
20 special primary, special election, or runoff.

21 (b) Notwithstanding any other provision of this chapter, Chapter 3 of Title 38, relating to
22 emergency management, or Chapter 13 of Title 50, the 'Georgia Administrative Procedure
23 Act,' to the contrary, the State Election Board may only adopt emergency rules or
24 regulations in circumstances of imminent peril to public health, safety, or welfare. To
25 adopt any such emergency rule or regulation, in addition to any other rule-making
26 requirement of this chapter or Chapter 13 of Title 50, the State Election Board shall:

27 (1) Give notice to the public of its intended action;
28 (2) Immediately upon the setting of the date and time of the meeting at which such
29 emergency rule or regulation is to be considered, give notice by email of its intended
30 action to:

31 (A) The Governor;
32 (B) The Lieutenant Governor;
33 (C) The Speaker of the House of Representatives;
34 (D) The chairpersons of the standing committees of each house of the General
35 Assembly tasked with election matters;
36 (E) The Secretary of State;
37 (F) Legislative counsel; and
38 (G) The chief executive officer of each political party registered pursuant to
39 subsection (a) of Code Section 21-2-110; and
40 (3) State in the notices required by paragraphs (1) and (2) of this subsection the nature
41 of the emergency and the manner in which such emergency represents an imminent peril
42 to public health, safety, or welfare.

43 ~~(b)~~(c) Upon adoption or promulgation of any emergency rule or regulation pursuant to
44 subsection (b) of this Code section, a majority of the State Election Board shall certify in
45 writing that such emergency rule or regulation was made in strict and exact compliance
46 with the provisions of this chapter and subsection (e) of Code Section 50-13-4.
47 ~~(e)~~(d) In the event of any conflict between this Code section and any provision of
48 Chapter 13 of Title 50, this Code section shall govern and supersede any such conflicting
49 provision."

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SECTION 2.

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