

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 certain Saturdays for certain  
5 municipal elections; to revise provisions related to the timelines for calling special elections  
6 and the dates on which special elections can be held; to provide for related matters; to  
7 provide for effective 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.

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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, the governing authority of a municipality may opt out of conducting voting on  
59 one or more Saturdays during the period of advance voting in any municipal election for  
60 such municipality, by action taken during a duly called public meeting of the governing  
61 authority; provided, however, that the provisions of this sentence shall not apply to any  
62 municipal election that is held concurrent with and on the same date as any county or  
63 state primary, election, or runoff thereof."

64

### SECTION 3.

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

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68 "(b) At least 29 days shall intervene between the call of a special primary and the holding  
 69 of same, and at least 29 days shall intervene between the call of a special election and the  
 70 holding of same. The period during which candidates may qualify to run in a special  
 71 primary or a special election shall remain open for a minimum of two and one-half days.  
 72 Special elections to present questions to the voters which are to be held in conjunction with  
 73 the presidential preference primary, a state-wide general primary, ~~or~~ state-wide general  
 74 election, state-wide special primary, or state-wide special election shall be called at least  
 75 90 days prior to the date of such presidential preference primary, state-wide general  
 76 primary, ~~or~~ state-wide general election, state-wide special primary, or state-wide special  
 77 election; provided, however, that this requirement shall not apply to special elections to  
 78 present questions to the voters held on the same date as such presidential preference  
 79 primary, state-wide general primary, ~~or~~ state-wide general election, state-wide special  
 80 primary, or state-wide special election but conducted completely separate and apart from  
 81 such state-wide general primary or state-wide general election using different ballots or  
 82 voting equipment, facilities, poll workers, and paperwork."

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

- 86 (A) In odd-numbered years, any such special election shall only be held on ~~the~~:
- 87 (i) The third Tuesday in March ~~or on the~~;
- 88 (ii) The Tuesday after the first Monday in November; ~~and~~ or
- 89 (iii) The date of and in conjunction with any state-wide special primary or special  
 90 election if one is held that year, regardless of whether or not such special primary or  
 91 special election is held pursuant to the terms of this chapter; provided, however, that  
 92 the 90 days call provision of subsection (b) of this Code section shall not apply to a  
 93 special election held pursuant to this division; and
- 94 (B) In even-numbered years, any such special election shall only be held on:

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

102 **SECTION 4.**

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

106 "21-2-540.

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

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

121 (b) At least ~~29~~ 60 days shall intervene between the call of a special primary and the  
 122 holding of same, and at least ~~29~~ 60 days shall intervene between the call of a special  
 123 election and the holding of same. The period during which candidates may qualify to run  
 124 in a special primary or a special election shall remain open for a minimum of two and  
 125 one-half days. Special elections to present questions to the voters which are to be held in  
 126 conjunction with the presidential preference primary, a state-wide general primary,  
 127 state-wide general election, state-wide special primary, or state-wide special election shall  
 128 be called at least 90 days prior to the date of such presidential preference primary,  
 129 state-wide general primary, state-wide general election, state-wide special primary, or  
 130 state-wide special election; provided, however, that this requirement shall not apply to  
 131 special elections to present questions to the voters held on the same date as such  
 132 presidential preference primary, state-wide general primary, state-wide general election,  
 133 state-wide special primary, or state-wide special election but conducted completely  
 134 separate and apart from such state-wide general primary or state-wide general election  
 135 using different ballots or voting equipment, facilities, poll workers, and paperwork.

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

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

142 (i) The third Tuesday in March;

143 (ii) The third Tuesday in June; or

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

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

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

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

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

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

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

164 (2) Notwithstanding any other provision of law to the contrary, a special election to  
 165 present a question to the voters shall be held only on one of the following dates which is  
 166 at least ~~29~~ 45 days after the date of the call for the special election:

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

168 (i) The third Tuesday in March;

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

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

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

196 **SECTION 5.**

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

201 (2) Section 4 of this Act shall become effective on July 1, 2026.

202 **SECTION 6.**

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