

The Senate Committee on Ethics offered the following substitute to SB 214:

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 for new voting equipment by the state
3 using and optical scanning voting system and hand marked paper ballots; to provide for
4 ballot on demand printing; to revise and provide for definitions; to repeal superseded
5 provisions; to authorize the use of certain election equipment for accessibility purposes; to
6 revise provisions related to certain offenses to include references to new election equipment
7 systems; to provide for related matters; 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 21-2-2, relating to definitions, by adding
12 a new paragraph to read as follows:

13 “(2.05) 'Ballot on demand printing' means a stand-alone system that prints ballots for
14 each ballot style within a county or municipality.”

15

SECTION 2.

16 Said chapter is further amended by revising Code Section 21-2-300, relating to provision of
17 new voting equipment by state, uniform system using ballot scanners, pilot programs, county
18 obligations, and use of physical ballots, as follows:

19 "21-2-300.

20 (a)(1) The equipment used for casting and counting votes in county, state, and federal
21 elections shall be the same in each county in this state and shall be provided to each
22 county by the state, as determined by the Secretary of State.

23 (2) As soon as possible, once such equipment is certified by the Secretary of State as safe
24 and practicable for use, all federal, state, and county general primaries and general
25 elections as well as special primaries and special elections in the State of Georgia shall
26 be conducted with the use of scanning ballots marked by electronic ballot markers and
27 an optical scanning voting system utilizing nonelectronic ballot markers and ballot on
28 demand printing, and shall be tabulated by using ballot scanners that also create scanned
29 images of tabulated ballots, for voting at the polls and for absentee ballots cast in person,
30 unless otherwise authorized by law; provided, however, that such ~~electronic ballot~~
31 ~~markers system~~ shall produce paper ballots which are marked with the elector's choices
32 in a format readable by the elector.

33 (3) The state shall furnish a uniform optical scanning voting system and ballot on
34 demand printing system ~~of electronic ballot markers~~ and ballot scanners for use in each
35 county as soon as possible. Such equipment shall be certified by the United States
36 Election Assistance Commission prior to purchase, lease, or acquisition. At its own
37 expense, the governing authority of a county may purchase, lease, or otherwise acquire
38 additional ~~electronic ballot markers~~ optical scanning voting and on ballot on demand
39 printing equipment and ballot scanners of the type furnished by the state; if the governing
40 authority so desires. Additionally, at its own expense, the governing authority of a
41 municipality may choose to acquire its own ~~electronic ballot markers~~ optical scanning

42 voting system, ballot on demand printing equipment, and ballot scanners by purchase,
43 lease, or other procurement process.

44 (4) Notwithstanding any provision of law to the contrary, the Secretary of State is
45 authorized to conduct pilot programs to test and evaluate the use of ~~electronic ballot~~
46 ~~markers~~ an optical scanning voting system, ballot on demand printing, and ballot scanners
47 in primaries and elections in this state.

48 (b) Each county shall, prior to being provided with voting equipment by the state, provide
49 polling places that are adequate for the operation of such equipment including, if necessary,
50 the placement within the polling places of a sufficient number of electrical outlets and
51 telephone lines.

52 (c) Each county shall, prior to being provided with voting equipment by the state, provide
53 or contract for adequate technical support for the installation, set up, and operation of such
54 voting equipment for each primary, election, and special primary and special election as
55 the Secretary of State shall determine by rule or regulation.

56 (d) The Secretary of State shall be responsible for the development, implementation, and
57 provision of a continuing program to educate voters, election officials, and poll workers
58 in the proper use of such voting equipment. Each county shall bear the costs, including
59 transportation, subsistence, and lodging, incurred by its election and registration officials
60 in attending courses taught by or arranged by the Secretary of State for instruction in the
61 use of the voting equipment.

62 (e)(1) Counties shall be authorized to contract with municipal governments for the use
63 of such voting equipment in municipal elections under terms and conditions specified by
64 the Secretary of State to assure that the equipment is properly used and kept secure.

65 (2) Notwithstanding the provisions of Code Section 21-2-45, counties may not levy a fee
66 for use of state owned voting equipment but may require municipalities to reimburse the
67 county for the actual expenses related to the election or elections that are subject to the
68 county and municipal contract.

69 ~~(f)(1) Notwithstanding any provision of this Code section to the contrary, provided that~~
 70 ~~the county election superintendent has petitioned and received the approval of the State~~
 71 ~~Election Board at least 10 days prior to the beginning of advance voting, in any election~~
 72 ~~with less than 5,000 registered electors, such superintendent may provide the electors~~
 73 ~~physical ballots on the same type of ballot that is used for absentee ballots pursuant to~~
 74 ~~subsection (a) of Code Section 21-2-383 and allow electors to mark their ballot using a~~
 75 ~~pen, pencil, or similar non-electronic writing tool as an alternative to using electronic~~
 76 ~~ballot marking devices.~~

77 ~~(2) Such physical ballots may only be used to conduct:~~

78 ~~(A) Special primaries, special elections, or runoffs thereof for county offices; or~~

79 ~~(B) Special elections to present a question to the voters of a county.~~

80 ~~Furthermore, such primary, special primary, election, or special election shall occur~~
 81 ~~independently and apart from a presidential preference primary, state-wide general~~
 82 ~~primary, state-wide special primary, state-wide general election, or state-wide special~~
 83 ~~election."~~

84 **SECTION 3.**

85 Said chapter is further amended by revising Code Section 21-2-367, relating to installation
 86 of systems, number of systems, and good working order, as follows:

87 "21-2-367.

88 (a) When the use of optical scanning voting systems has been authorized in the manner
 89 prescribed in this part, such optical scanning voting systems shall be installed, ~~either~~
 90 ~~simultaneously or gradually,~~ within the county or municipality.

91 (b)(1) In each precinct in which optical scanning voting systems are used in a state-wide
 92 general election, except as provided for in paragraph (2) of this subsection, the county
 93 election superintendent shall provide at least one voting booth or enclosure for each 250
 94 electors therein, or fraction thereof.

95 (2) For any primary, election, or runoff, the county or municipal election superintendent
 96 may provide a greater or lesser number of voting booths or enclosures if, after a thorough
 97 consideration of the type of election, expected turnout, the number of electors who have
 98 already voted by advance voting or absentee ballot, and other relevant factors that inform
 99 the appropriate amount of equipment needed, such superintendent determines that a
 100 different amount of equipment is needed or sufficient. Such determination shall be
 101 subject to the provisions of Code Section 21-2-263.

102 (c) ~~Reserved.~~

103 (d) The county or municipal governing authority, as appropriate, shall provide optical
 104 scanning voting systems in good working order and of sufficient capacity to accommodate
 105 the names of a reasonable number of candidates for all party offices and nominations and
 106 public offices which, under the provisions of existing laws and party rules, are likely to be
 107 voted for at any future primary or election."

108 **SECTION 4.**

109 Said chapter is further amended by repealing and reserving Code Section 21-2-378, relating
 110 to payment for systems.

111 **SECTION 5.**

112 Said chapter is further amended by revising Code Section 21-2-379.21, relating to access to
 113 optical scanning voting systems for disabled, as follows:

114 "21-2-379.21.

115 Notwithstanding any provision of Code Section 21-2-300 to the contrary, each Each polling
 116 place in this state utilizing optical scanning voting systems shall be equipped with at least
 117 one electronic ballot marker that meets the requirements as set forth in this part that is
 118 accessible to individuals with disabilities."

119

SECTION 6.

120 Said chapter is further amended by revising Code Section 21-2-482, relating to absentee
121 ballots for precincts using optical scanning voting equipment, as follows:

122 "21-2-482.

123 Ballots in a precinct using optical scanning voting equipment for voting by absentee
124 electors shall be either be prepared sufficiently in advance by the superintendent and shall
125 be delivered to the board of registrars as provided in Code Section 21-2-384, or shall be
126 printed using ballot on demand printing. Such ballots shall be marked 'Official Absentee
127 Ballot' and shall be in substantially the form for ballots required by Article 8 of this
128 chapter, except that in counties or municipalities using voting machines; or direct recording
129 electronic (DRE) units, or ballot scanners, the ballots may be in substantially the form for
130 the ballot labels required by Article 9 of this chapter or in such form as will allow the ballot
131 to be machine tabulated. Every such ballot shall have printed on the face thereof the
132 following:

133 'I understand that the offer or acceptance of money or any other object of value to vote
134 for any particular candidate, list of candidates, issue, or list of issues included in this
135 election constitutes an act of voter fraud and is a felony under Georgia law.'

136 The form for either ballot shall be determined and prescribed by the Secretary of State and
137 shall have printed at the top the name and designation of the precinct."

138

SECTION 7.

139 Said chapter is further amended by revising Code Section 21-2-566, relating to interference
140 with primaries and elections generally, as follows:

141 "21-2-566.

142 Any person who:

143 (1) Willfully prevents or attempts to prevent any poll officer from holding any primary
144 or election under this chapter;

145 (2) Uses or threatens violence in a manner that would prevent a reasonable poll officer,
 146 election official, or poll watcher or actually prevents a poll officer, election official, or
 147 poll watcher; as provided for by Code Section 21-2-408, from the execution of his or her
 148 duties or materially interrupts or improperly and materially interferes with the execution
 149 of a poll officer, election official, or poll watcher's, as provided for by Code Section
 150 21-2-408, duties;

151 (3) Willfully blocks or attempts to block the avenue to the door of any polling place;

152 (4) Uses or threatens violence in a manner that would prevent a reasonable elector from
 153 voting or actually prevents any elector from voting;

154 (5) Willfully prepares or presents to any poll officer a fraudulent voter's certificate not
 155 signed by the elector whose certificate it purports to be;

156 (6) Knowingly deposits fraudulent ballots in the ballot box;

157 (7) Knowingly registers fraudulent votes upon any voting machine; or

158 (8) Willfully tampers with any electors list, voter's certificate, numbered list of voters,
 159 ballot box, voting machine, direct recording electronic (DRE) equipment, electronic
 160 ballot marker, optical scanning voting system, ballot on demand printing equipment, or
 161 tabulating machine

162 shall be guilty of a felony and, upon conviction thereof, shall be sentenced to imprisonment
 163 for not less than one nor more than ten years or to pay a fine not to exceed \$100,000.00,
 164 or both."

165 **SECTION 8.**

166 Said chapter is further amended by revising Code Section 21-2-580, relating to tampering
 167 with, damaging, improper preparation of, or prevention of proper operation of voting
 168 machines or electronic ballot markers or tabulating machines, as follows:

169 "21-2-580.

170 Any person who:

171 (1) Unlawfully opens, tampers with, or damages any voting machine, ~~or~~ electronic ballot
 172 marker, optical scanning voting system, ballot on demand printing equipment, ballot
 173 scanner, or tabulating machine to be used or being used at any primary or election;
 174 (2) Willfully prepares a voting machine, ~~or an~~ electronic ballot marker, optical scanning
 175 voting system, ballot on demand printing, ballot scanner, or tabulating machine for use
 176 in a primary or election in improper order for voting; or
 177 (3) Prevents or attempts to prevent the correct operation of such voting machine,
 178 electronic ballot marker, optical scanning voting system, ballot on demand printing
 179 equipment, ballot scanner, or tabulating machine ~~or voting machine,~~
 180 shall be guilty of a felony."

181

SECTION 9.

182 Said chapter is further amended by revising Code Section 21-2-582, relating to tampering
 183 with, damaging, or preventing of proper operation of direct recording electronic equipment
 184 or electronic ballot marker or tabulating machine or device, as follows:

185 "21-2-582.

186 Any person who tampers with or damages any direct recording electronic (DRE)
 187 equipment, ~~or~~ electronic ballot marker, optical scanning voting system, ballot on demand
 188 printing equipment, ballot scanner, or tabulating machine or device to be used or being
 189 used at or in connection with any primary or election or who prevents or attempts to
 190 prevent the correct operation of any direct recording electronic (DRE) equipment, ~~or~~
 191 electronic ballot marker, optical scanning voting system, ballot on demand printing
 192 equipment, ballot scanner, or tabulating machine or device shall be guilty of a felony."

193

SECTION 10.

194 Said chapter is further amended by revising Code Section 21-2-582.1, relating to penalty for
 195 voting equipment modification, as follows:

196 "21-2-582.1.

197 (a) As used in ~~For the purposes of~~ this Code section, the term 'voting equipment' shall
 198 mean a voting machine, ballot scanner, tabulating machine, optical scanning voting system,
 199 ballot on demand printing equipment, direct recording electronic voting system, or
 200 electronic ballot marker.

201 (b) Any person or entity, including, but not limited to, a manufacturer or seller of voting
 202 equipment, who alters, modifies, or changes any aspect of such voting equipment without
 203 prior approval of the Secretary of State ~~is~~ shall be guilty of a felony."

204 **SECTION 11.**

205 Said chapter is further amended by revising Code Section 21-2-587, relating to frauds by poll
 206 officers as follows:

207 "21-2-587.

208 Any poll officer who willfully:

- 209 (1) Makes a false return of the votes cast at any primary or election;
- 210 (2) Deposits fraudulent ballots in the ballot box or certifies as correct a false return of
 211 ballots;
- 212 (3) Registers fraudulent votes upon any voting machine or certifies as correct a return
 213 of fraudulent votes cast upon any voting machine;
- 214 (4) Makes any false entries in the electors list;
- 215 (5) Destroys or alters any ballot, voter's certificate, or electors list;
- 216 (6) Tamperes with any voting machine, direct recording electronic (DRE) equipment,
 217 electronic ballot marker, optical scanning voting system, ballot on demand printing
 218 equipment, ballot scanner, or tabulating machine or device;
- 219 (7) Prepares or files any false voter's certificate not prepared by or for an elector actually
 220 voting at such primary or election; or

221 (8) Fails to return to the officials prescribed by this chapter, following any primary or
222 election, any keys of a voting machine; ballot box; general or duplicate return sheet; tally
223 paper; oaths of poll officers; affidavits of electors and others; record of assisted voters;
224 numbered list of voters; electors list; voter's certificate; spoiled and canceled ballots;
225 ballots deposited, written, or affixed in or upon a voting machine; DRE, electronic ballot
226 marker, ballot scanner, or tabulating machine memory cards; or any certificate or any
227 other paper or record required to be returned under this chapter,
228 shall be guilty of a felony and, upon conviction thereof, shall be sentenced to imprisonment
229 for not less than one nor more than ten years or to pay a fine not to exceed \$100,000.00,
230 or both."

231

SECTION 12.

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