

The Senate Committee on Ethics offered the following substitute to HB 960:

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 require that the list of eligible voters is posted and
3 made public prior to each primary or election; to provide for civil fines in the event that
4 registrars fail to remove a person from the list of registered voters following a successful
5 challenge; to revise provisions related to the uniform system of election equipment to be used
6 after July 1, 2026; to revise provisions related to ballot design; to provide that timing marks
7 may be used on ballots to determine an elector's marked selections; to require the posting of
8 a list of electors who cast ballots in an election upon the closing of the polls; to require the
9 Secretary of State to maintain an archival database of such lists; to revise provisions related
10 to data that must be posted with scanned ballots following the closing of the polls; to revise
11 provisions related to certain recounts of votes; to revise provisions related to risk-limiting
12 audits; to provide conforming changes; to provide for related matters; to repeal conflicting
13 laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15

SECTION 1.

16 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to elections and
17 primaries generally, is amended in Code Section 21-2-224, relating to registration deadlines,
18 restrictions on voting in primaries, official list of electors, and voting procedure when portion
19 of county changed from one county to another, by revising subsection (f) as follows:

20 "(f) The official list of electors eligible to vote in any primary or election shall be prepared
21 and completed at least five calendar days prior to the ~~date of the~~ first day of advance voting
22 as provided for in subsection (d) of Code Section 21-2-385 in a primary or election in
23 which the list is to be used. On such fifth calendar day prior to the first day of advance
24 voting, such list shall be deemed a public record subject to inspection and copying pursuant
25 to Article 4 of Chapter 18 of Title 50."

26

SECTION 2.

27 Said chapter is further amended in Code Section 21-2-229, relating to challenge of applicant
28 for registration by other electors, notice and hearing, right of appeal, and sanctions for
29 board's noncompliance, by revising subsection (f) as follows:

30 "(f) Failure to comply with the provisions of this Code section by the board of registrars
31 shall subject such board to sanctions by the State Election Board, including civil fines of
32 up to \$100.00 per registration not properly removed."

33

SECTION 3.

34 Said chapter is further amended in Code Section 21-2-230, relating to challenge of persons
35 on list of electors by other electors, procedure, hearing, and right of appeal, by revising
36 subsection (j) as follows:

37 "(j) Failure to comply with the provisions of this Code section by the board of registrars
38 shall subject such board to sanctions by the State Election Board, including civil fines of
39 up to \$100.00 per registration not properly removed."

SECTION 4.

40

41 Said chapter is further amended in Code Section 21-2-300, relating to provision of new
42 voting equipment by state, uniform system using ballot scanners, pilot programs, county
43 obligations, and use of physical ballots, by revising subsection (a) as follows:

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

47 (2) ~~Once As soon as possible, once~~ such equipment is certified by the Secretary of State
48 as safe and practicable for use, all federal, state, and county general primaries and general
49 elections as well as special primaries and special elections in the State of Georgia
50 occurring after July 1, 2026, shall be conducted with the use of ~~scanning ballots marked~~
51 ~~by electronic ballot markers and an optical scanning voting system utilizing preprinted,~~
52 hand marked paper ballots. Ballots shall be tabulated by using ballot scanners with
53 activated infrared detectors to detect counterfeit ballots and to create scanned images of
54 tabulated ballots for voting at the polls and for absentee ballots cast in person, unless
55 otherwise authorized by law; provided, however, that electronic ballot markers shall be
56 available and accessible at each polling place and advance voting location for individuals
57 with disabilities and that any such electronic ballot markers shall produce paper ballots
58 which are marked with the elector's choices in a format readable by the elector.

59 (3) The state shall furnish a uniform system of election equipment for use in each county.
60 Additionally, the state shall furnish a uniform system of electronic ballot markers and
61 ballot scanners in sufficient numbers to comply with Code Section 21-2-379.21 for use
62 in each county as soon as possible. Such equipment shall be certified by the United
63 States Election Assistance Commission prior to purchase, lease, or acquisition. At its
64 own expense, the governing authority of a county may purchase, lease, or otherwise
65 acquire additional ~~electronic ballot markers~~ optical scanning voting system equipment
66 and ballot scanners of the type furnished by the state; if the governing authority so

67 desires. Additionally, at its own expense, the governing authority of a municipality may
68 choose to acquire its own ~~electronic ballot markers~~ optical scanning voting system
69 equipment and ballot scanners by purchase, lease, or other procurement process.

70 ~~(4) Notwithstanding any provision of law to the contrary, the Secretary of State is~~
71 ~~authorized to conduct pilot programs to test and evaluate the use of electronic ballot~~
72 ~~markers and ballot scanners in primaries and elections in this state."~~

73 **SECTION 5.**

74 Said chapter is further amended in Code Section 21-2-369, relating to printing of ballots and
75 arrangement, by revising subsection (a) as follows:

76 "(a) The ballots shall be printed in black ink upon ~~clear, white, or colored~~ material, of such
77 size and arrangement as will suit the construction of the ballot scanner, and in plain, clear
78 type so as to be easily readable by persons with normal vision; ~~provided, however, that red~~
79 ~~material shall not be used except that all ovals appearing on the ballot to indicate where a~~
80 ~~voter should mark to cast a vote may be printed in red ink."~~

81 **SECTION 6.**

82 Said chapter is further amended by revising Code Section 21-2-372, relating to ballot
83 description and watermark required, as follows:

84 "21-2-372.

85 Ballots shall be of suitable design, size, and stock to permit processing by a ballot scanner
86 and shall be printed in black ink on ~~clear, white, or colored~~ material. Printed ballots shall
87 also include a solid unique line connecting a candidate's name or ballot question answer
88 with the selection oval relating to such candidate or answer. Other than ballots delivered
89 electronically to qualified electors who are entitled to vote by absentee ballot under the
90 federal Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. Section 20301,
91 et seq., the ballots shall be printed on security paper that incorporates features which can

92 be used to authenticate the ballot as an official ballot, including, but not limited, to a unique
93 serialized ballot batch identifier number in batches of 100, but which do not make the
94 ballot identifiable to a particular elector, provided that at least one such feature is a visible
95 watermark that identifies the ballot as an official Georgia ballot."

96 **SECTION 7.**

97 Said chapter is further amended in Code Section 21-2-379.23, relating to requirements for
98 ballot display and official ballot for vote tabulation, recount, and audit, as effective on
99 July 1, 2026, by revising subsection (d) as follows:

100 "(d) The text portion of the paper ballot marked ~~and~~ by the elector or printed by the
101 electronic ballot marker indicating the elector's selection shall constitute the official ballot
102 and shall constitute the official vote for purposes of vote tabulation, any recount conducted
103 pursuant to Code Section 21-2-495, and any audit conducted pursuant to Code
104 Section 21-2-498. The official tabulation count of any ballot scanner shall be based upon
105 the text portion or the machine mark, provided that such mark clearly denotes the elector's
106 selection and does not use a QR code, bar code, or similar coding, of such ballots and not
107 any machine coding that may be printed on such ballots; provided, however, that nothing
108 in this chapter shall be deemed to prohibit or prevent the use of timing marks by optical
109 scanning voting systems to determine the elector's marked selection."

110 **SECTION 8.**

111 Said chapter is further amended in Code Section 21-2-383, relating to preparation and
112 delivery of ballots, form of ballots, casting ballot in person using DRE unit, and casting
113 ballot in person or as absentee using electronic ballot markers, by adding a new subsection
114 to read as follows:

115 "(d) Notwithstanding any other provision of this Code section to the contrary, in
116 jurisdictions in which an optical scanning voting system with ballot scanners is used in

117 polling places on election day, such scanners shall be used for casting absentee ballots in
118 person at a registrar's or absentee ballot clerk's office or in accordance with subsection (d)
119 of Code Section 21-2-385."

120

SECTION 9.

121 Said chapter is further amended by revising Code Section 21-2-421, relating to posting of
122 required information after closing of polls and reporting to Secretary of State, as follows:

123 "21-2-421.

124 (a) As soon as possible but not later than 11:59 P.M. following the close of the polls on
125 the day of a primary, election, or runoff, the election superintendent shall report to the
126 Secretary of State and ~~post in a prominent public place~~ the Secretary shall post on the
127 Secretary's website the following information:

128 (1) The number of ballots cast at the polls on the day of the primary, election, or runoff,
129 including provisional ballots cast;

130 (2) The number of ballots cast at advance voting locations during the advance voting
131 period for the primary, election, or runoff; ~~and~~

132 (3) The total number of absentee ballots returned to the board of registrars by the
133 deadline to receive such absentee ballots on the day of the primary, election, or runoff;
134 and

135 (4) An enumerated list of electors who cast ballots during such primary, election, or
136 runoff.

137 (b) Upon the completion of the report provided for in subsection (a) of this Code section,
138 the election superintendent shall compare the total number of ballots received as reported
139 in subsection (a) of this Code section and the counting of the ballots in the primary,
140 election, or runoff minus any rejected and uncured absentee ballots, uncounted provisional
141 ballots, and any other uncounted ballots, with the total number of ballots cast in the
142 primary, election, or runoff. The results of such comparison and all explanatory materials

143 shall be reported to the Secretary of State. The reason for any discrepancy shall be fully
 144 investigated and reported to the Secretary of State.

145 (c) The Secretary of State shall maintain an archival database of the lists of electors
 146 required by paragraph (4) of subsection (a) of this Code section, and such lists shall be
 147 added to such database within one hour of being received and shall remain unchanged once
 148 placed in such database."

149 **SECTION 10.**

150 Said chapter is further amended by revising Code Section 21-2-481, relating to design, size,
 151 and stock of ballots, as follows:

152 "21-2-481.

153 Ballots in a precinct using optical scanning voting equipment shall be ~~of suitable design,~~
 154 ~~size, and stock to permit processing by a tabulating machine and shall be printed in black~~
 155 ~~ink on white or colored material. A serially numbered strip shall be attached to each ballot~~
 156 ~~to be counted by a central count tabulator~~ in the same form as required by Code
 157 Section 21-2-372."

158 **SECTION 11.**

159 Said chapter is further amended in Code Section 21-2-493, relating to computation,
 160 canvassing, and tabulation of returns, investigation of discrepancies in vote counts, recount
 161 procedure, posting of digital images of scanned paper ballots, certification of returns, and
 162 change in returns, by revising subsections (c), (e), (g), (j.1), and (j.2) as follows:

163 "(c) In precincts in which paper ballots or optical scanning voting systems have been used,
 164 the superintendent may require the production of the ballot box and the recount of the
 165 ballots contained in such ballot box, either generally or respecting the particular office,
 166 nomination, or question as to which the excess exists, in the discretion of the
 167 superintendent, and may require the correction of the returns in accordance with the result

168 of such recount. If the ballot box is found to contain more ballots than there are electors
169 registered in such precinct or more ballots than the number of voters who voted in such
170 precinct at such primary or election, the superintendent may, in his or her discretion,
171 exclude the poll of that precinct, either as to all offices, candidates, questions, or parties and
172 bodies or as to any particular offices, candidates, questions, or parties and bodies, as to
173 which such excess exists."

174 "(e) In precincts in which paper ballots or optical scanning voting systems have been used,
175 the general returns made by the poll officers from the various precincts shall be read one
176 after another in the usual order, slowly and audibly, by one of the assistants who shall, in
177 each case of a return from a precinct in which ballots were used, read therefrom the number
178 of ballots issued, spoiled, canceled, and cast, respectively, whereupon the assistant having
179 charge of the records of the superintendent showing the number of ballots furnished for
180 each precinct, including the number of stubs, where used, and unused ballots and spoiled
181 and canceled ballots returned, shall publicly announce the number of the same respectively;
182 and, unless it appears by such number or calculations therefrom that such records and such
183 general return correspond, no further returns shall be read from the latter until all
184 discrepancies are explained to the satisfaction of the superintendent."

185 "(g) In precincts in which paper ballots or optical scanning voting systems have been used,
186 when the records agree with such returns regarding the number of ballots and the number
187 of votes recorded for each candidate, such votes for each candidate shall be read by an
188 assistant slowly, audibly, and in an orderly manner from the general return which has been
189 returned unsealed; and the figures announced shall be compared by other assistants with
190 the general return which has been returned sealed. The figures announced for all precincts
191 shall be compared by one of the assistants with the tally papers from the respective
192 precincts. If any discrepancies are discovered, the superintendent shall examine all of the
193 return sheets, tally papers, and other papers in his or her possession relating to the same
194 precinct. If the tally papers and sealed general return sheet agree, the unsealed general

195 return shall be immediately corrected to conform thereto. In every other case the
196 superintendent shall immediately cause the ballot box of the precinct to be opened and the
197 vote therein to be recounted in the presence of interested candidates or their
198 representatives; and, if the recount shall not be sufficient to correct the error, the
199 superintendent may summon the poll officers to appear immediately with all election
200 papers in their possession."

201 "(j.1) The Secretary of State shall create and maintain a state-wide program for the posting
202 of digital images of the scanned paper ballots created by the voting system. All such scans
203 shall have a resolution of no less than 200 dots per inch. Such posted scans shall include
204 the authentication files for such scans, and such scans shall be posted by precinct for each
205 county. Digital images of the scanned ballots created as part of the preliminary tabulation
206 process, cast vote records, security logs, and system log files of central tabulators shall be
207 posted no later than 5:00 P.M. on the second Friday following the day of the election, and
208 such postings shall be supplemented by the posting of any additional ballot images created
209 in the tabulation process through final certification of such election.

210 (j.2)(1) ~~In~~ ~~On or after January 1, 2025,~~ in the event that a superintendent receives a
211 request pursuant to Code Section 50-18-71 for scanned ballot images at a resolution
212 higher than the ballot images available from the Secretary of State pursuant to
213 subsection (j.1) of this Code section, and such request is received following the final
214 certification of the results of the election in which such ballots were created, the
215 superintendent shall, consistent with Code Section 50-18-71, produce digital scans of the
216 requested ballots at a resolution of no less than 600 dots per inch and deliver such scans
217 to the requestor; provided, however, that the superintendent shall not be authorized to
218 charge any fee authorized by Code Section 50-18-71 for such request. A person making
219 a request pursuant to this subsection may observe the scanning and related handling
220 process, but under no circumstances shall anyone other than an authorized election

221 official touch or handle a physical ballot. In no event shall the superintendent take more
 222 than 30 days from the date of request to deliver such request to the requestor.

223 (2) Notwithstanding any seal provided for by Code Section 21-2-500, a superintendent
 224 shall have access to the ballots cast within its jurisdiction so as to comply with the
 225 provisions of this subsection. Upon receiving a request pursuant to this subsection, the
 226 superintendent shall notify the clerk of the superior court or, if designated by the clerk of
 227 the superior court, the county records manager or other office or official under the
 228 jurisdiction of a county governing authority which maintains or is responsible for
 229 maintaining such sealed ballots, and such official or office that maintains such requested
 230 ballot shall provide the superintendent access to such ballot without the need for
 231 obtaining a court order. All ballots provided to a superintendent pursuant to this
 232 paragraph shall be immediately returned by such superintendent to the official or office
 233 that maintains such ballots upon the scanning of such ballot."

234

SECTION 12.

235 Said chapter is further amended in Code Section 21-2-495, relating to procedure for recount
 236 or recanvass of votes, losing candidate's right to a recount, and rules and regulations, by
 237 revising subsection (c) and adding a new subsection to read as follows:

238 "(c)(1) Whenever the difference between the number of votes received by a candidate
 239 who has been declared nominated for an office in a primary election or who has been
 240 declared elected to an office in an election or who has been declared eligible for a run-off
 241 primary or election and the number of votes received by any other candidate or
 242 candidates not declared so nominated or elected or eligible for a runoff shall be not more
 243 than ~~one-half of~~ 1 percent of the total votes which were cast for such office therein, any
 244 such candidate or candidates receiving a sufficient number of votes so that the difference
 245 between his or her vote and that of a candidate declared nominated, elected, or eligible
 246 for a runoff is not more than ~~one-half of~~ 1 percent of the total votes cast, within a period

247 of two business days following the certification of the election results, shall have the right
248 to a recount of the votes cast, if such request is made in writing by the losing candidate.
249 If the office sought is a federal or state office voted upon by the electors of more than one
250 county, the request shall be made to the Secretary of State who shall direct that the
251 recount be performed in all counties in which electors voted for such office and notify the
252 superintendents of the several counties involved of the request. In all other cases, the
253 request shall be made to the superintendent. The superintendent or superintendents shall
254 order a recount of such votes to be made immediately. If, upon such recount, it is
255 determined that the original count was incorrect, the returns and all papers prepared by
256 the superintendent, the superintendents, or the Secretary of State shall be corrected
257 accordingly and the results recertified.

258 (2) Whenever the difference between the number of votes for approval or rejection of a
259 constitutional amendment or binding referendum question shall be not more than ~~one-half~~
260 ~~of~~ 1 percent of the total votes which were cast on such amendment or question therein,
261 within a period of two business days following the certification of the election results, the
262 Constitutional Amendments Publication Board shall be authorized in its discretion to call
263 for a recount of the votes cast with regard to such amendment or question. In the case of
264 a constitutional amendment or state-wide referendum question or a question voted upon
265 by the electors of more than one county, the board shall direct the Secretary of State to
266 cause a recount to be performed with regard to such amendment or question in all
267 counties involved and notify the superintendents of the recount. In the case of questions
268 voted upon by the electors of only one county or municipality, the board shall direct the
269 Secretary of State to cause a recount to be conducted by the county or municipality
270 involved and the Secretary of State shall notify the superintendent involved of the
271 recount. Upon notification, the superintendent or superintendents shall order a recount
272 of such votes to be made immediately. If, upon such recount, it is determined that the
273 original count was incorrect, the returns and all papers prepared by the superintendent,

274 the superintendents, or the Secretary of State shall be corrected accordingly and the
275 results recertified.

276 (3) Any recount pursuant to this subsection shall be conducted using a manual hand
277 count of all ballots cast in such primary or election."

278 "(d.1) Any other provision of this Code section to the contrary notwithstanding, within a
279 period of two business days following the certification of the election results, local election
280 superintendents shall initiate a manual recount of all votes casts in any election, special
281 election, election runoff, special election runoff, primary, special primary, primary runoff,
282 or special primary runoff on the following contests, if any such contest is on the ballot:
283 presidential, United States Senator, United States Representative, Governor, Lieutenant
284 Governor, Secretary of State, and Attorney General."

285 **SECTION 13.**

286 Said chapter is further amended in Code Section 21-2-498, relating to precertification
287 tabulation audits and risk-limiting audits, by revising subsection (e) as follows:

288 "(e) The State Election Board shall be responsible for overseeing the administration of this
289 Code section by election superintendents and shall be authorized to promulgate rules,
290 regulations, and procedures to implement and administer the provisions of this Code
291 section. The procedures prescribed by the State Election Board shall include security
292 procedures to ensure that collection of validly cast ballots is complete, accurate, and
293 trustworthy throughout the audit. The Secretary of State shall have no role in conducting,
294 overseeing, or administering the provisions of this Code section, unless requested by the
295 State Election Board."

296 **SECTION 14.**

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