

The House Committee on Rules offers the following substitute to SB 189:

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 remove the Secretary of State from the State
3 Election Board; to provide additional conflict of interest provisions for state-wide and local
4 election officers, officials, and employees relating to businesses providing goods and services
5 related to voting equipment or any other equipment related to the tabulation, auditing,
6 processing, or scanning of ballots; to provide for ballot access to certain political parties or
7 political bodies relating to nomination of presidential electors and candidates; to provide for
8 definitions; to revise provisions for determining residency for election purposes; to revise
9 provisions related to challenging electors; to provide that the text portions or machine marks
10 on ballots produced by ballot marking devices shall be counted for vote tabulation and
11 recount purposes instead of any machine coding; to authorize the use of physical ballots in
12 certain circumstances; to provide for chain of custody and related procedures for absentee
13 ballots; to provide timelines for the tabulation of absentee ballots and ballots cast by advance
14 voting; to provide procedures for requesting high resolution scanned images of ballots; to
15 provide for a pilot program to audit paper ballots using optical character recognition; to
16 revise a timing limitation on holding certain special elections in conjunction with certain
17 state-wide primaries or elections; to provide for related matters; to provide effective dates;
18 to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

"(d) ~~The Secretary of State shall be an ex officio nonvoting member of the board.~~ Three voting members of the board shall constitute a quorum, and no vacancy on the board shall impair the right of the quorum to exercise all the powers and perform all the duties of the board. The board shall adopt a seal for its use and bylaws for its own government and procedure."

"(f) If any member of the board, ~~other than the Secretary of State,~~ shall qualify as a candidate for any public office which is to be voted upon in any primary or election regulated by the board, that member's position on the board shall be immediately vacated and such vacancy shall be filled in the manner provided for filling other vacancies on the board."

SECTION 2.

Said chapter is further amended in Code Section 21-2-35, relating to emergency rules and regulations, imminent peril requirement, and procedures, by revising paragraph (2) of subsection (a) as follows:

"(2) Immediately upon the setting of the date and time of the meeting at which such emergency rule or regulation is to be considered give notice by email of its intended action to:

(A) The Governor;

(B) The Lieutenant Governor;

- 44 (C) The Speaker of the House of Representatives;
- 45 (D) The chairpersons of the standing committees of each house of the General
- 46 Assembly tasked with election matters;
- 47 (E) The Secretary of State;
- 48 ~~(E)~~(F) Legislative counsel; and
- 49 ~~(F)~~(G) The chief executive officer of each political party registered pursuant to
- 50 subsection (a) of Code Section 21-2-110; and"

51 SECTION 3.

52 Said chapter is further amended by adding a new Code section to read as follows:

53 "21-2-19.

54 (a) As used in this Code section, the term:

55 (1) 'Business' means any corporation, partnership, proprietorship, firm, enterprise,

56 franchise, association, organization, self-employed individual, trust, or other legal entity.

57 (2) 'Family' means spouse and dependents.

58 (3) 'Full-time' means 30 hours of work for the state per week for more than 26 weeks per

59 calendar year.

60 (4) 'Part-time' means any amount of work other than full-time work.

61 (5) 'Substantial interest' means the direct or indirect ownership of more than 5 percent

62 of the assets or stock of any business.

63 (6) 'Transact business' or 'transact any business' means to sell or lease any personal

64 property, real property, or services on behalf of oneself or on behalf of any third party as

65 an agent, broker, dealer, or representative and to purchase surplus real or personal

66 property on behalf of oneself or on behalf of any third party as an agent, broker, dealer,

67 or representative.

68 (b) In addition to and notwithstanding any contrary provisions of Chapter 10 of Title 45,

69 it shall be unlawful for any member of the State Board of Elections, the Secretary of State,

a county or municipal superintendent or registrar, or any full-time, part-time, or contractual employee of such officer or official, for himself or herself or on behalf of any business, or for any business in which such officer, official, or employee or member of his or her family has a substantial interest to transact any business with a business that has contracted with the state, or any county or municipal government, to provide goods or services related to voting equipment or any other equipment related to the tabulation, auditing, processing, or scanning of ballots."

SECTION 3.1.

Code Section 21-2-172 of the Official Code of Georgia Annotated, relating to nomination of presidential electors and candidates of political bodies by convention, is amended by adding a new subsection to read as follows:

"(g) Notwithstanding any provision of law to the contrary, any political party or political body which has obtained ballot access in no fewer than 20 states or territories for the office of presidential elector shall be allowed to qualify candidates for presidential elector and receive access to the general election ballot for the purpose of election of the office of presidential elector."

SECTION 4.

Said chapter is further amended by revising Code Section 21-2-217, relating to rules for determining residence, as follows:

"21-2-217.

(a) In determining the residence of a person desiring to register to vote or to qualify to run for elective office, the following rules shall be followed so far as they are applicable:

(1) The residence of any person shall be held to be in that place in which such person's habitation is fixed, without any present intention of removing therefrom;

94 (1.1) The mailing address for election purposes of any person of this state who is
95 homeless and without a permanent address shall be the registrar's office of the county in
96 which such person resides;

97 (2) A person shall not be considered to have lost such person's residence who leaves such
98 person's home and goes into another state or county or municipality in this state, for
99 temporary purposes only, with the intention of returning, unless such person shall register
100 to vote or perform other acts indicating a desire to change such person's citizenship and
101 residence; provided, however, that:

102 (A) If a person registers to vote in another state, county, municipality, or legislative
103 district of any type or sort, that person shall be deemed to have changed his or her
104 residency;

105 (B) If a person returns to his or her original or new residence after voting or registering
106 to vote in a different or separate jurisdiction, such person shall update their voter
107 registration with their current residency jurisdiction in order to be deemed a valid
108 registered elector and resident of such jurisdiction for voting purposes; and

109 (C) Proof of ownership or rental of a post office box or private mailbox service address
110 within a particular jurisdiction shall not constitute sufficient grounds to establish a
111 person's residency within that particular jurisdiction;

112 (3) A person shall not be considered to have gained a residence in any county or
113 municipality of this state into which such person has come for temporary purposes only
114 without the intention of making such county or municipality such person's permanent
115 place of abode;

116 (4) If a person removes to another state with the intention of making it such person's
117 residence, such person shall be considered to have lost such person's residence in this
118 state;

119 (4.1) If a person removes to another county or municipality in this state with the
120 intention of making it such person's residence, such person shall be considered to have
121 lost such person's residence in the former county or municipality in this state;

122 (5) If a person removes to another state with the intention of remaining there an
123 indefinite time and making such state such person's place of residence, such person shall
124 be considered to have lost such person's residence in this state, notwithstanding that such
125 person may intend to return at some indefinite future period;

126 (6) If a person removes to another county or municipality within this state with the
127 intention of remaining there an indefinite time and making such other county or
128 municipality such person's place of residence, such person shall be considered to have
129 lost such person's residence in the former county or municipality, notwithstanding that
130 such person may intend to return at some indefinite future period;

131 (7) The residence for voting purposes of a person shall not be required to be the same as
132 the residence for voting purposes of his or her spouse;

133 (8) No person shall be deemed to have gained or lost a residence by reason of such
134 person's presence or absence while enrolled as a student at any college, university, or
135 other institution of learning in this state;

136 (9) The mere intention to acquire a new residence, without the fact of removal, shall
137 avail nothing; neither shall the fact of removal without the intention;

138 (10) No member of the armed forces of the United States shall be deemed to have
139 acquired a residence in this state by reason of being stationed on duty in this state;

140 (11) If a person removes to the District of Columbia or other federal territory, another
141 state, or foreign country to engage in government service, such person shall not be
142 considered to have lost such person's residence in this state during the period of such
143 service; and the place where the person resided at the time of such person's removal shall
144 be considered and held to be such person's place of residence;

145 (12) If a person is adjudged mentally ill and is committed to an institution for the
146 mentally ill, such person shall not be considered to have gained a residence in the county
147 in which the institution to which such person is committed is located;

148 (13) If a person goes into another state and while there exercises the right of a citizen by
149 voting, such person shall be considered to have lost such person's residence in this state;

150 (14) The specific address in the county or municipality in which a person has declared
151 a homestead exemption, if a homestead exemption has been claimed, shall be deemed the
152 person's residence address; and

153 (15) For voter registration purposes, the board of registrars and, for candidacy residency
154 purposes, the Secretary of State, election superintendent, or hearing officer may consider
155 evidence of where the person receives significant mail such as personal bills and any
156 other evidence that indicates where the person resides.

157 (b) In determining a voter's qualification to register and vote, the registrars to whom such
158 application is made shall consider, in addition to the applicant's expressed intent, any
159 relevant circumstances determining the applicant's residence. The registrars taking such
160 registration may consider the applicant's financial independence, business pursuits,
161 employment, income sources, residence for income tax purposes, age, marital status,
162 residence of parents, spouse, and children, if any, leaseholds, sites of personal and real
163 property owned by the applicant, motor vehicle and other personal property registration,
164 National Change of Address program information sponsored by the United States Postal
165 Service, and other such factors that the registrars may reasonably deem necessary to
166 determine the qualification of an applicant to vote in a primary or election. The decision
167 of the registrars to whom such application is made shall be presumptive evidence of a
168 person's residence for voting purposes."

SECTION 5.

Said chapter is further amended by revising subsection (b) of Code Section 21-2-230, relating to challenge of persons on list of electors by other electors, procedure, hearing, and right of appeal, and by adding a new subsection to read as follows:

"(b) Upon the filing of such challenge, the board of registrars shall immediately consider such challenge and determine whether probable cause exists to sustain such challenge. If the registrars do not find probable cause, the challenge shall be denied. If the registrars find probable cause, the registrars shall notify the poll officers of the challenged elector's precinct or, if the challenged elector voted by absentee ballot, notify the poll officers at the absentee ballot precinct and, if practical, notify the challenged elector and afford such elector an opportunity to answer. Probable causes shall include, but not be limited to, an elector who is deceased; an elector voting or registering to vote in a different jurisdiction; an elector obtaining a homestead exemption in a different jurisdiction; or an elector being registered at a nonresidential address as confirmed or listed by or in a government office, data base, website, or publicly available sources derived solely from such governmental sources. If a challenged elector's name appears on the National Change of Address data base, as maintained by the United States Postal Service, as having changed such elector's residence to a different jurisdiction, the presence of such elector's name on such data base shall be insufficient cause to sustain the challenge against the elector unless additional evidence would indicate that the elector has lost his or her residency as determined pursuant to Code Section 21-2-217; provided, however, that:

(1) Any challenge of an elector within 45 days of a primary, run-off primary, election, or run-off election shall be postponed until the certification of such primary, election, or runoff is completed; and

(2) Any challenge of an elector who is determined eligible pursuant to the residency determinations provided for in paragraph (8), (10), or (11) of subsection (a) of Code Section 21-2-217 shall be deemed insufficient to sustain such challenge."

196 "(k) Any challenge of an elector that occurs during a primary or general election shall
 197 continue through the run-off primary or run-off election of such primary or general
 198 election."

199 SECTION 6.

200 Said chapter is further amended in Code Section 21-2-300, relating to provision of new
 201 voting equipment by state, uniform system for all elections to be conducted with the use of
 202 scanning ballots marked by electronic ballot markers, pilot programs, county responsibilities,
 203 education, and county and municipal contracts for equipment, by adding a new subsection
 204 to read as follows:

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

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

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

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

216 Furthermore, such primary, special primary, election, or special election shall occur
 217 independently and apart from a presidential preference primary, state-wide general
 218 primary, state-wide special primary, state-wide general election, or state-wide special
 219 election."

220 **SECTION 7.**

221 Said chapter is further amended in Code Section 21-2-379.23, relating to requirements for
222 ballot display, role of Secretary of State, and printed paper ballot controls during recount, by
223 revising subsection (d) as follows:

224 "(d) The text portion of the paper ballot marked and printed by the electronic ballot marker
225 indicating the elector's selection shall constitute the official ballot and shall ~~be used for, and~~
226 ~~govern the result in,~~ constitute the official vote for purposes of vote tabulation, any recount
227 conducted pursuant to Code Section 21-2-495, and any audit conducted pursuant to Code
228 Section 21-2-498. The official tabulation count of any ballot scanner shall be based upon
229 the text portion or the machine mark, provided that such mark clearly denotes the elector's
230 selection and does not use a QR code, bar code, or similar coding, of such ballots and not
231 any machine coding that may be printed on such ballots."

232 **SECTION 8.**

233 Said chapter is further amended in Code Section 21-2-386, relating to safekeeping,
234 certification, and validation of absentee ballots, rejection of ballot, delivery of ballots to
235 location designated by superintendent, duties of superintendent and managers, precinct
236 returns, report of returns of verified and accepted absentee ballots cast as soon as possible
237 following closing of polls, notification of challenged elector, and unlawful disclosure of
238 tabulation results, by revising paragraph (3) of subsection (a) as follows:

239 "(3) A county election superintendent may, in his or her discretion, after 7:00 A.M. on
240 the day of the primary, election, or runoff begin tabulating the absentee ballots; provided,
241 however, that all absentee ballots that have been verified and accepted pursuant to
242 subparagraph (a)(1)(B) of this Code section by the Monday prior to the day of the
243 primary, election, or runoff shall be tabulated and the results reported by no later than
244 8:00 P.M. on the day of such primary, election, or runoff or within one hour of the
245 closing of all polls in such county, whichever occurs later. If the county election

superintendent chooses to open the inner envelopes and begin tabulating such ballots prior to the close of the polls on the day of the primary, election, or runoff, the superintendent shall notify in writing, at least seven days prior to the primary, election, or runoff, the Secretary of State of the superintendent's intent to begin the absentee ballot tabulation prior to the close of the polls. The county executive committee or, if there is no organized county executive committee, the state executive committee of each political party and political body having candidates whose names appear on the ballot for such election in such county shall have the right to designate two persons and each independent and nonpartisan candidate whose name appears on the ballot for such election in such county shall have the right to designate one person to act as monitors for such process. In the event that the only issue to be voted upon in an election is a referendum question, the superintendent shall also notify in writing the chief judge of the superior court of the county who shall appoint two electors of the county to monitor such process."

SECTION 9.

Said chapter is further amended by revising Code Section 21-2-386, relating to safekeeping, certification, and validation of absentee ballots, rejection of ballot, delivery of ballots to location designated by superintendent, duties of superintendent and managers, precinct returns, report of returns of verified and accepted absentee ballots cast as soon as possible following closing of polls, notification of challenged elector, and unlawful disclosure of tabulation results, as follows:

"21-2-386.

(a)(1)(A) The board of registrars or absentee ballot clerk shall keep safely, unopened, and stored in a manner that will prevent tampering and unauthorized access to and shall document authorized access to all official absentee ballots received from absentee

electors prior to the closing of the polls on the day of the primary or election except as otherwise provided in this subsection.

(B) Upon receipt of each ballot, a registrar or clerk shall write the day and hour of the receipt of the ballot on its envelope. The registrar or clerk shall then compare the number of the elector's Georgia driver's license number or state identification card issued pursuant to Article 5 of Chapter 5 of Title 40 and date of birth entered on the absentee ballot envelope with the same information contained in the elector's voter registration records. If the elector has affirmed on the envelope that he or she does not have a Georgia driver's license or state identification card issued pursuant to Article 5 of Chapter 5 of Title 40, the registrar or clerk shall compare the last four digits of the elector's social security number and date of birth entered on the envelope with the same information contained in the elector's voter registration records. The registrar or clerk shall also confirm that the elector signed the oath and the person assisting the elector, if any, signed the required oath. If the elector has signed the elector's oath, the person assisting has signed the required oath, if applicable, and the identifying information entered on the absentee ballot envelope matches the same information contained in the elector's voter registration record, the registrar or clerk shall so certify by signing or initialing his or her name below the voter's oath. Each elector's name so certified shall be listed by the registrar or clerk on the numbered list of absentee voters prepared for his or her precinct. All accepted absentee ballots shall be securely stored in either a sealed container or appropriately secured in an access controlled room that will prevent tampering or unauthorized access prior to the scanning of such ballots.

(C) If the elector has failed to sign the oath, or if the identifying information entered on the absentee ballot envelope does not match the same information appearing in the elector's voter registration record, or if the elector has failed to furnish required information or information so furnished does not conform with that on file in the registrar's or clerk's office, or if the elector is otherwise found disqualified to vote, the

298 registrar or clerk shall write across the face of the envelope 'Rejected,' giving the reason
299 therefor. The board of registrars or absentee ballot clerk shall promptly notify the
300 elector of such rejection, a copy of which notification shall be retained in the files of
301 the board of registrars or absentee ballot clerk for at least two years. Such elector shall
302 have until the end of the period for verifying provisional ballots contained in
303 subsection (c) of Code Section 21-2-419 to cure the problem resulting in the rejection
304 of the ballot. The elector may cure a failure to sign the oath, nonmatching identifying
305 information, or missing information by submitting an affidavit to the board of registrars
306 or absentee ballot clerk along with a copy of one of the forms of identification
307 enumerated in subsection (c) of Code Section 21-2-417 before the close of such period.
308 The affidavit shall affirm that the ballot was submitted by the elector, is the elector's
309 ballot, and that the elector is registered and qualified to vote in the primary, election,
310 or runoff in question. If the board of registrars or absentee ballot clerk finds the
311 affidavit and identification to be sufficient, the absentee ballot shall be counted.

312 (D) An elector who registered to vote by mail, but did not comply with subsection (c)
313 of Code Section 21-2-220, and who votes for the first time in this state by absentee
314 ballot shall include with his or her application for an absentee ballot or in the outer oath
315 envelope of his or her absentee ballot either one of the forms of identification listed in
316 subsection (a) of Code Section 21-2-417 or a copy of a current utility bill, bank
317 statement, government check, paycheck, or other government document that shows the
318 name and address of such elector. If such elector does not provide any of the forms of
319 identification listed in this subparagraph with his or her application for an absentee
320 ballot or with the absentee ballot, such absentee ballot shall be deemed to be a
321 provisional ballot and such ballot shall only be counted if the registrars are able to
322 verify current and valid identification of the elector as provided in this subparagraph
323 within the time period for verifying provisional ballots pursuant to Code
324 Section 21-2-419. The board of registrars or absentee ballot clerk shall promptly notify

the elector that such ballot is deemed a provisional ballot and shall provide information on the types of identification needed and how and when such identification is to be submitted to the board of registrars or absentee ballot clerk to verify the ballot.

(E) Three copies of the numbered list of voters shall also be prepared for such rejected absentee electors, giving the name of the elector and the reason for the rejection in each case. Three copies of the numbered list of certified absentee voters and three copies of the numbered list of rejected absentee voters for each precinct shall be turned over to the poll manager in charge of counting the absentee ballots and shall be distributed as required by law for numbered lists of voters.

(F) All absentee ballots returned to the board or absentee ballot clerk after the closing of the polls on the day of the primary or election shall be safely kept unopened by the board or absentee ballot clerk and then transferred to the appropriate clerk with the documentation provided for in subparagraph (a)(1)(A) of this Code section for storage in a manner that will prevent tampering for the period of time required for the preservation of ballots used at the primary or election and shall then, without being opened, be destroyed in like manner as the used ballots of the primary or election. The board of registrars or absentee ballot clerk shall promptly notify the elector by first-class mail that the elector's ballot was returned too late to be counted and that the elector will not receive credit for voting in the primary or election. All such late absentee ballots shall be delivered to the appropriate clerk and stored as provided in Code Section 21-2-390.

(G) Notwithstanding any provision of this chapter to the contrary, until the United States Department of Defense notifies the Secretary of State that the Department of Defense has implemented a system of expedited absentee voting for those electors covered by this subparagraph, absentee ballots cast in a primary, election, or runoff by eligible absentee electors who reside outside the county or municipality in which the primary, election, or runoff is held and are members of the armed forces of the United

States, members of the merchant marine of the United States, spouses or dependents of members of the armed forces or merchant marine residing with or accompanying such members, or overseas citizens that are postmarked by the date of such primary, election, or runoff and are received within the three-day period following such primary, election, or runoff, if proper in all other respects, shall be valid ballots and shall be counted and included in the certified election results.

(2)(A) Beginning at 8:00 A.M. on the third Monday prior to the day of the primary, election, or runoff, the election superintendent shall be authorized to open the outer oath envelope of absentee ballots that have been verified and accepted pursuant to subparagraph (a)(1)(B) of this Code section, remove the contents of such outer envelope, open the inner envelope marked 'Official Absentee Ballot,' and scan the absentee ballot using one or more ballot scanners. At least three persons who are registrars, deputy registrars, poll workers, or absentee ballot clerks ~~must~~ shall be present before commencing; and three persons who are registrars, deputy registrars, or absentee ballot clerks shall be present at all times while the sealed containers containing verified and accepted absentee ballots are unsealed and verified for integrity, while the absentee ballot envelopes are ~~being~~ opened, and while the absentee ballots are ~~being~~ scanned. However, no person shall tally, tabulate, estimate, or attempt to tally, tabulate, or estimate or cause the ballot scanner or any other equipment to produce any tally or tabulate, partial or otherwise, of the absentee ballots cast until the time for the closing of the polls on the day of the primary, election, or runoff except as provided in this Code section. Prior to beginning the process set forth in this paragraph, the superintendent shall provide written notice to the Secretary of State in writing at least seven days prior to processing and scanning absentee ballots. Such notice shall contain the dates, start and end times, and location or locations where absentee ballots will be processed and scanned. The superintendent shall also post such notice publicly in a prominent location in the superintendent's office and on the home page of the county

election superintendent's website, if the county election superintendent maintains such a website. The Secretary of State shall publish on his or her website the information he or she receives from superintendents stating the dates, times, and locations where absentee ballots will be processed.

(B) The proceedings set forth in this paragraph shall be open to the view of the public, but no person except one employed and designated by the superintendent shall touch any ballot or ballot container. Any person involved in processing and scanning absentee ballots shall swear an oath, in the same form as the oath for poll officers provided in Code Section 21-2-95, prior to beginning the processing and scanning of absentee ballots. The county executive committee or, if there is no organized county executive committee, the state executive committee of each political party and political body having candidates whose names appear on the ballot for such election shall have the right to designate two persons and each independent and nonpartisan candidate whose name appears on the ballot for such election shall have the right to designate one person to act as monitors for such process. In the event that the only issue to be voted upon in an election is a referendum question, the superintendent shall also notify in writing the chief judge of the superior court of the county who shall appoint two electors of the county to monitor such process. While viewing or monitoring the process set forth in this paragraph, monitors and observers shall be prohibited from:

- (i) In any way interfering with the processing or scanning of absentee ballots or the conduct of the election;
- (ii) Using or bringing into the room any photographic or other electronic monitoring or recording devices, cellular telephones, or computers;
- (iii) Engaging in any form of campaigning or campaign activity;
- (iv) Taking any action that endangers the secrecy and security of the ballots;
- (v) Touching any ballot or ballot container;

(vi) Tallying, tabulating, estimating, or attempting to tally, tabulate, or estimate, whether partial or otherwise, any of the votes on the absentee ballots cast; and

(vii) Communicating any information that they see while monitoring the processing and scanning of the absentee ballots, whether intentionally or inadvertently, about any ballot, vote, or selection to anyone other than an election official who needs such information to lawfully carry out his or her official duties.

(C) The State Election Board shall promulgate rules requiring reconciliation procedures; prompt and undelayed scanning of ballots after absentee ballot envelopes are opened; secrecy of election results prior to the closing of the polls on the day of a primary, election, or runoff; and other protections to protect the integrity of the process set forth in this paragraph.

(D) At the conclusion of the scanning of ballots, such scanned ballots shall be stored in tamper-resistant containers sealed with numbered seals, the number of which shall be recorded on the chain of custody document specified by the Secretary of State, and such forms shall be signed by the person storing the ballots and the date and time of storage shall be entered on such forms.

(3) A county election superintendent may, in his or her discretion, after 7:00 A.M. on the day of the primary, election, or runoff begin tabulating the absentee ballots; provided, however, that all absentee ballots that have been verified and accepted pursuant to subparagraph (a)(1)(B) of this Code section by the Monday prior to the day of the primary, election, or runoff shall be tabulated and the results reported by no later than 8:00 P.M. on the day of such primary, election, or runoff or within one hour of the closing of all polls in such county, whichever occurs later. If the county election superintendent chooses to open the inner envelopes and begin tabulating such ballots prior to the close of the polls on the day of the primary, election, or runoff, the superintendent shall notify in writing, at least seven days prior to the primary, election, or runoff, the Secretary of State of the superintendent's intent to begin the absentee ballot

See last page for text of (s)(1)(B)

432 tabulation prior to the close of the polls. The county executive committee or, if there is
433 no organized county executive committee, the state executive committee of each political
434 party and political body having candidates whose names appear on the ballot for such
435 election in such county shall have the right to designate two persons and each
436 independent and nonpartisan candidate whose name appears on the ballot for such
437 election in such county shall have the right to designate one person to act as monitors for
438 such process. In the event that the only issue to be voted upon in an election is a
439 referendum question, the superintendent shall also notify in writing the chief judge of the
440 superior court of the county who shall appoint two electors of the county to monitor such
441 process.

442 (4) The county election superintendent shall publish a written notice in the
443 superintendent's office of the superintendent's intent to begin the absentee ballot
444 tabulation prior to the close of the polls and publish such notice at least one week prior
445 to the primary, election, or runoff in the legal organ of the county.

446 (5) The process for opening absentee ballot envelopes, scanning absentee ballots, and
447 tabulating absentee ballots on the day of a primary, election, or runoff as provided in this
448 subsection shall be conducted in a manner to maintain the secrecy of all ballots and to
449 protect the disclosure of any balloting information before 7:00 P.M. on election day. No
450 absentee ballots shall be tabulated before 7:00 A.M. on the day of a primary, election, or
451 runoff.

452 (6) All persons conducting the tabulation of absentee ballots during the day of a primary,
453 election, or runoff, including the vote review panel required by Code Section 21-2-483,
454 and all monitors and observers shall be sequestered until the time for the closing of the
455 polls. All such persons shall have no contact with the news media; shall have no contact
456 with other persons not involved in monitoring, observing, or conducting the tabulation;
457 shall not use any type of communication device including radios, telephones, and cellular
458 telephones; shall not utilize computers for the purpose of email, instant messaging, or

other forms of communication; and shall not communicate any information concerning the tabulation until the time for the closing of the polls; provided, however, that supervisory and technical assistance personnel shall be permitted to enter and leave the area in which the tabulation is being conducted but shall not communicate any information concerning the tabulation to anyone other than the county election superintendent; the staff of the superintendent; those persons conducting, observing, or monitoring the tabulation; and those persons whose technical assistance is needed for the tabulation process to operate.

(7) The absentee ballots shall be tabulated in accordance with the procedures of this chapter for the tabulation of absentee ballots. As such ballots are tabulated, they shall be placed into locked ballot boxes and may be transferred to locked ballot bags, if needed, for security. Such boxes or bags shall be sealed and witnessed and verified by each person taking custody of such items by each such person's signature and date and time of taking custody. The persons conducting the tabulation of the absentee ballots shall not cause the tabulating equipment to produce any count, partial or otherwise, of the absentee votes cast until the time for the closing of the polls except as otherwise provided in this Code section.

(b) When requested by the superintendent, but not earlier than the third Monday prior to a primary, election, or runoff, a registrar or absentee ballot clerk shall deliver the official absentee ballot of each certified absentee elector, each rejected absentee ballot, applications for such ballots, and copies of the numbered lists of certified and rejected absentee electors to the location designated by the superintendent in secure, sealed containers with the chain of custody documents as specified by the Secretary of State and the signature and date and time of the person taking custody, and the superintendent or official receiving such absentee ballots shall issue his or her receipt therefor.

(c) The superintendent shall cause the verified and accepted absentee ballots to be opened and tabulated as provided in this Code section. A manager shall then open the outer

486 envelope in such manner as not to destroy the oath printed thereon and shall deposit the
487 inner envelope marked 'Official Absentee Ballot' in a ballot box reserved for absentee
488 ballots with an accompanying chain of custody documentation. Such ballot box shall be
489 securely sealed if it is not in the direct control of the poll officers or if it is transferred to
490 a different room or facility for tabulation. In the event that an outer envelope is found to
491 contain an absentee ballot that is not in an inner envelope, the ballot shall be sealed in an
492 inner envelope, initialed and dated by the person sealing the inner envelope, and deposited
493 in the ballot box and counted in the same manner as other absentee ballots, provided that
494 such ballot is otherwise proper. Such manager with two assistant managers, appointed by
495 the superintendent, with such clerks as the manager deems necessary shall count the
496 absentee ballots following the procedures prescribed by this chapter for other ballots,
497 insofar as practicable.

498 (d) All absentee ballots shall be counted and tabulated in such a manner that returns may
499 be reported by precinct; and separate returns shall be made for each precinct in which
500 absentee ballots were cast showing the results by each precinct in which the electors reside.
501 The superintendent shall utilize the procedures set forth in this Code section to ensure that
502 the returns of verified and accepted absentee ballots cast are reported to the public as soon
503 as possible following the closing of the polls on the day of the primary, election, or runoff.
504 Failure to utilize these procedures to ensure that the returns of verified and accepted
505 absentee ballots are reported as soon as possible following the close of polls shall subject
506 the superintendent to sanctions by the State Election Board. If a superintendent fails to
507 report the returns of verified and accepted absentee ballots by the day following the
508 election at 5:00 P.M., the State Election Board may convene an independent performance
509 review board pursuant to Code Section 21-2-107.

510 (e) If an absentee elector's right to vote has been challenged for cause, a poll officer shall
511 write 'Challenged,' the elector's name, and the alleged cause of challenge on the outer
512 envelope and shall deposit the ballot in a secure, sealed ballot box for which there shall be

513 a chain of custody document as specified by the Secretary of State on which is recorded
 514 and witnessed the name and signature of each person taking custody of such ballots; and
 515 it shall be counted as other challenged ballots are counted. Where direct recording
 516 electronic voting systems are used for absentee balloting and a challenge to an elector's
 517 right to vote is made prior to the time that the elector votes, the elector shall vote on a paper
 518 or optical scanning ballot and such ballot shall be handled as provided in this subsection.
 519 The board of registrars or absentee ballot clerk shall promptly notify the elector of such
 520 challenge.

521 (f) It shall be unlawful at any time prior to the close of the polls for any person to disclose
 522 or for any person to receive any information regarding the results of the tabulation of
 523 absentee ballots except as expressly provided by law."

524 **SECTION 10.**

525 Said chapter is further amended in Code Section 21-2-493, relating to computation,
 526 canvassing, and tabulation of returns, investigation of discrepancies in vote counts, recount
 527 procedure, pilot program for posting of digital images of scanned paper ballots, certification
 528 of returns, and change in returns, by revising subsection (a) and adding a new subsection to
 529 read as follows:

530 "(a) The superintendent shall, after the close of the polls on the day of a primary or
 531 election, at his or her office or at some other convenient public place at the county seat or
 532 in the municipality, of which due notice shall have been given as provided by Code
 533 Section 21-2-492, publicly commence the computation and canvassing of the returns and
 534 continue until all absentee ballots received by the close of the polls, including those cast
 535 by advance voting; provided, however, that such votes cast by advance voting shall be
 536 tabulated and the results reported by no later than 8:00 P.M. on such day or within one hour
 537 of the closing of all polls in such county, whichever occurs later, and all ballots cast on the
 538 day of the primary or election have been counted and tabulated and the results of such

539 tabulation released to the public and, then, continuing with provisional ballots as provided
540 in Code Sections 21-2-418 and 21-2-419 and those absentee ballots as provided in
541 subparagraph (a)(1)(G) of Code Section 21-2-386 from day to day until completed. For
542 this purpose, the superintendent may organize his or her assistants into sections, each of
543 whom may simultaneously proceed with the computation and canvassing of the returns
544 from various precincts of the county or municipality in the manner provided by this Code
545 section. Upon the completion of such computation and canvassing, the superintendent
546 shall tabulate the figures for the entire county or municipality and sign, announce, and
547 attest the same, as required by this Code section."

548 "(j.2)(1) On or after January 1, 2025, in the event that a superintendent receives a request
549 pursuant to Code Section 50-18-71 for scanned ballot images at a resolution higher than
550 the ballot images available from the Secretary of State pursuant to subsection (j.1) of this
551 Code section, and such request is received following the final certification of the results
552 of the election in which such ballots were created, the superintendent shall, consistent
553 with Code Section 50-18-71, produce digital scans of the requested ballots at a resolution
554 of no less than 600 dots per inch and deliver such scans to the requestor. A person
555 making a request pursuant to this subsection may observe the scanning and related
556 handling process, but under no circumstances shall anyone other than an authorized
557 election official touch or handle a physical ballot.

558 (2) Notwithstanding any seal provided for by Code Section 21-2-500, a superintendent
559 shall have access to the ballots cast within its jurisdiction so as to comply with the
560 provisions of this subsection. Upon receiving a request pursuant to this subsection, the
561 superintendent shall notify the clerk of the superior court or, if designated by the clerk of
562 the superior court, the county records manager or other office or official under the
563 jurisdiction of a county governing authority which maintains or is responsible for
564 maintaining such sealed ballots, and such official or office that maintains such requested
565 ballot shall provide the superintendent access to such ballot without the need for

obtaining a court order. All ballots provided to a superintendent pursuant to this paragraph shall be immediately returned by such superintendent to the official or office that maintains such ballots upon the scanning of such ballot."

SECTION 11.

Said chapter is further amended by adding a new Code section to read as follows:

"21-2-498.1.

The Secretary of State shall create a pilot program for the auditing of paper ballot images using optical character recognition technology or other related technology which shall verify the human-readable text portion of the ballot. Such auditing program shall not be based on or tabulate any QR code, bar code, or similar machine coding that may be printed on such ballots. Such audits shall include all ballot types, and the audit findings shall be reported prior to final certification of the election."

SECTION 12.

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

"(b) At least 29 days shall intervene between the call of a special primary and the holding of same, and at least 29 days shall intervene between the call of a special election and the holding of same. The period during which candidates may qualify to run in a special primary or a special election shall remain open for a minimum of two and one-half days. Special ~~primaries and special~~ elections to present questions to the voters which are to be held in conjunction with the presidential preference primary, a state-wide general primary, or state-wide general election shall be called at least 90 days prior to the date of such presidential preference primary, state-wide general primary, or state-wide general election; provided, however, that this requirement shall not apply to ~~special primaries and~~ special elections to present questions to the voters held on the same date as such presidential

preference primary, state-wide general primary, or state-wide general election but conducted completely separate and apart from such state-wide general primary or state-wide general election using different ballots or voting equipment, facilities, poll workers, and paperwork."

SECTION 13.

- (a) This section and Sections 12 and 14 of this Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.
- (b) Sections 1, 2, 3, 3.1, 5, 8, 10, and 11 of this Act shall become effective on July 1, 2024.
- (c) Sections 4, 6, and 9 of this Act shall become effective on January 1, 2025.
- (d) Section 7 of this Act shall become effective on July 1, 2026.

SECTION 14.

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

Universal Citation: GA Code § 21-2-386 (2022)

The board of registrars or absentee ballot clerk shall keep safely, unopened, and stored in a manner that will prevent tampering and unauthorized access all official absentee ballots received from absentee electors prior to the closing of the polls on the day of the primary or election except as otherwise provided in this subsection. Upon receipt of each ballot, a registrar or clerk shall write the day and hour of the receipt of the ballot on its envelope. The registrar or clerk shall then compare the number of the elector's Georgia driver's license number or state identification card issued pursuant to Article 5 of Chapter 5 of Title 40 and date of birth entered on the absentee ballot envelope with the same information contained in the elector's voter registration records. If the elector has affirmed on the envelope that he or she does not have a Georgia driver's license or state identification card issued pursuant to Article 5 of Chapter 5 of Title 40, the registrar or clerk shall compare the last four digits of the elector's social security number and date of birth entered on the envelope with the same information contained in the elector's voter registration records. The registrar or clerk shall also confirm that the elector signed the oath and the person assisting the elector, if any, signed the required oath. If the elector has signed the elector's oath, the person assisting has signed the required oath, if applicable, and the identifying information entered on the absentee ballot envelope matches the same information contained in the elector's voter registration record, the registrar or clerk shall so certify by signing or initialing his or her name below the voter's oath. Each elector's name so certified shall be listed by the registrar or clerk on the numbered list of absentee voters prepared for his or her precinct.