BOARD OF ELECTIONS
Darryl Hicks, Chairman
Addison Lester
Aaron Wright

FAYETTE COUNTY, GEORGIA
Floyd L Jones, Director
April Crosby, Elections Supervisor

140 Stonewall Avenue West
Public Meeting Room
Fayetteville, GA 30214

AGENDA

February 27, 2018
5:00 p.m.

Welcome to the meeting of your Fayette County Board of Elections. Your participation is appreciated. All regularly scheduled Board meetings are open to the public and are generally held on the 4th Tuesday of each month at 5:00 p.m.

Chairman to Call the Meeting to Order

Approval of the Agenda

ORGANIZATIONAL SESSION:

1. Election of Chairman to the Fayette County Board of Elections.

PUBLIC COMMENTS:

APPROVAL OF MINUTES:

2. Consideration of staff's request to approve the January 23, 2018 Board of Elections' Meeting Minutes. ***Pages 1-5***

PUBLIC HEARING:

CONSENT AGENDA:

OLD BUSINESS:

NEW BUSINESS:

3. Review of the current Fayette County Board of Elections' Bylaws. ***Pages 6-17***

4. Consideration of staff's recommendation to approve Poll Managers for the May 22, 2018 General Primary Election and the July 24, 2018 Primary Runoff Election. ***Pages 18-19***

5. Discussion of House Bills 680 and 848 and of Senate Bills 59 and 403. ***Pages 20-107***

6. Discussion concerning the May 22, 2018 General Primary Election. ***Pages 108-112***

DIRECTOR'S REPORT:

ATTORNEY'S REPORTS:

BOARD MEMBERS REPORTS:

EXECUTIVE SESSION:

ADJOURNMENT:

BOARD OF ELECTIONS AGENDA REQUEST FORM

MEETING DATE 02/27/2018 **AGENDA ITEM #** Approval of Minutes #2

PRESENTER(S) Floyd L. Jones, Director

TYPE OF REQUEST Minutes

WORDING FOR THE AGENDA

Consideration of staff's request to approve the January 23, 2018 Board of Elections' Meeting Minutes.

BACKGROUND / HISTORY / DETAILS

O.C.G.A. 50-14-1(3)(B) reads: The regular minutes of a meeting subject to this chapter shall be promptly recorded and such records shall be open to public inspection once approved as official by the agency or its committee, but in no case later than immediately following its next regular meeting; provided, however, that nothing contained in this chapter shall prohibit the earlier release of minutes, whether approved by the agency or not. Such minutes shall, at a minimum, include the names of the members present at the meeting, a description of each motion or other proposal made, the identity of the person making and seconding the motion or other proposal, and a record of all votes. The name of each person voting for or against a proposal shall be recorded. It shall be presumed that the action taken was approved by each person in attendance unless the minutes reflect the name of the persons voting against the proposal or abstaining.

SPECIFIC ACTION / DIRECTION SOUGHT

Approve the January 23, 2018 Board of Elections' Meeting Minutes.

BOARD OF ELECTIONS
Darryl Hicks, Chairman
Addison Lester
Aaron Wright

FAYETTE COUNTY, GEORGIA
Floyd L Jones, Director
Leigh Combs, Registrar
April Crosby, Elections Supervisor

140 Stonewall Avenue West
Public Meeting Room
Fayetteville, GA 30214

MINUTES

January 23, 2018
5:00 p.m.

Welcome to the meeting of your Fayette County Board of Elections. Your participation is appreciated. All regularly scheduled Board meetings are open to the public and are generally held on the 4th Tuesday of each month at 5:00 p.m.

Chairman to Call the Meeting to Order

Chairman Hicks called the January 23, 2018 Board of Elections meeting to order at 5:00 p.m.

Approval of the Agenda

Mr. Wright moved to approve the Agenda. Mr. Lester seconded the motion. The motion passed 3-0.

PUBLIC COMMENTS:

No one spoke during Public Comments.

APPROVAL OF MINUTES:

1. **Consideration of staff's request to approve the December 8, 2017 Board of Elections' Meeting Minutes.**

   Mr. Lester moved to approve the December 8, 2017 Board of Elections' Meeting Minutes. Mr. Wright seconded the motion. The motion passed 3-0.

PUBLIC HEARING:

2. **Public Hearing of staff's recommendation to remove registered Fayette County voters from the Electors List who are registered in the State of Georgia's Secretary of State Voter Registration System as deceased.**

   No one spoke during this Public Hearing.

   Mr. Wright moved to approve the list as presented. Mr. Lester seconded the motion. The motion passed 3-0. A copy of the request, identified as "Attachment 1," follow these minutes and is made an official part hereof.

3. **Public Hearing of staff's recommendation to remove registered Fayette County voters from the Electors List who are registered in the State of Georgia's Secretary of State Voter Registration System as felons**.

   No one spoke during this Public Hearing.

Mr. Lester moved to remove Fayette County voters from the Elector's List who are registered in the State of Georgia's Secretary of State Voter System as felons. Mr. Wright seconded the motion. The motion passed 3-0. A copy of the request, identified as "Attachment 2," follow these minutes and is made an official part hereof.

CONSENT AGENDA:

There was no Consent Agenda item for consideration.

OLD BUSINESS:

There was no Old Business item for consideration.

NEW BUSINESS:

4. **Consideration of staff's recommendation to approve a Memorandum of Agreement between the Georgia Soil and Water Conservation Commission and the Election Superintendent of Fayette County, and authorization for the Elections Director to sign said agreement**.

   Director Jones stated this was a basic Memorandum of Agreement allowing the Fayette County to conduct the election on behalf of the Georgia Soil and Water Conservation Commission. He added that the position is a non-partisan position, that the office would be on the November ballot rather than on the May primary ballot, and that qualifying for this office would also occur in March.

   Mr. Lester moved to approve the Memorandum of Agreement. Mr. Wright seconded the motion. The motion passed 3-0. A copy of the request, identified as "Attachment 3," follows these minutes and is made an official part hereof.

DIRECTOR'S REPORT:

1) **Move Meeting Location:** Director Jones asked for the Board's agreement to have the April 2018 Board of Elections meeting in the Elections Office rather than in the Public Meeting Room in order to accommodate poll worker training. The Board agreed to the request.

2) **Amend Meeting Date**: Director Jones stated that the scheduled March 27, 2018 Board meeting will occur at the same time when staff and the Board will be in Athens for the joint GEOA/ VRAG Conference. He asked the Board to consider moving the Board meeting to later in the week and he provided options for them to consider. The Board consented to meet on Thursday, March 29 at 5:00 p.m.

3) **Ballot Building:** Director Jones stated that the elections schedule is compressed with requirements and events landing on top of each other. He stated that there had already been an email issued stating that the ballots will need to be built at the same time the GEOA / VRAG Conference is taking place, but that there is no location available in Athens to build the ballots. He informed the Board that he and staff would leave Athens on Wednesday, come back to the office, and build the ballots then. He suggested that this effort may involve overtime for staff.

4) **Presentation at the GEOA / VRAG Conference:** Director Jones stated he had been asked to give a presentation on the subject of Early Tabulation of Votes. He suggested this would not be a "barnburner" of a speech, but he saw it as an opportunity to get his foot in the door at the conference and use the opportunity to effect change in the organization.

5) **Candidate's Academy:** Director Jones informed the Board that he would be giving a presentation at the Fayette Chamber of Chamber of Commerce's Candidate Academy on Friday, February 2, 2018. He also informed them of a draft version of the presentation was at the dais for their review and information.

6) **Qualifying for Office:** Director Jones informed the Board that qualifying for the elected offices will begin at 9:00 a.m. on Monday, March 5 and will conclude at noon on Friday, March 9.

7) **Ethics Notification:** Director Jones stated that he notified each of the elected officials that their ethics documents are to be turned in by a set deadline. He stated that all are on notice, but so far only a few have actually replied.

8) **House Bill 680:** Director Jones stated that House Bill 680 (HB680). He stated that the bill was brand new to his attention, that he was still reading the bill, but that his initial read of the proposed law was a cause of concern. There was discussion about whether this law is the result of the pilot program tested by the City of Conyers and of the implications of the proposed bill. The Board asked to be provided with further information about the bill as it becomes available with the possibility of making a decision on its level of support of the bill.

9) **Primary Runoff Election:** Director Jones informed the Board of a possibility of a dual-voting situation for the primary runoff. He stated that the Secretary of States' Office was aware of the situation and was looking at solutions. He stated that it creates a possibility of Fayette and other counties holding dual elections during the runoff with not enough machines. The Board asked to be kept informed how it would progress.

10) **Contracts:** Director Jones stated that he is working to have one contract, with Balotar (ES&S) amended so that it will be continually renewed each year. He stated that he was looking at the possibility of another contract, similar to one entered into by Clayton County, which would allow ES&S to conduct Logic and Accuracy (L&S) testing, bulk updates, and machine repair. He stated that it was under review and that he would be discussing the contract with his counterpart in Clayton County.

11) **Resignation of Leigh Combs:** Director Jones reminded the Board that County Registrar Leigh Combs has resigned from office and has accepted employment with the Secretary of State's Office. He further informed the Board that the position had been posted with Human Resources and through the Firefly system. He added that Firefly is an internal communication system, similar to email, that goes to all Georgia counties.

12) **Leigh Combs:** Mrs. Combs spoke about her new position and thanked those who have worked with her and supported her through her time at Fayette County Elections Office. The Board thanked Mrs. Combs for all she has done for Fayette County Elections and wished her well with her new position at the Secretary of State's Office.

ATTORNEY'S REPORTS:

There was no Attorney's Report.

BOARD MEMBERS REPORTS:

Mr. Wright: Mr. Wright stated that a couple of people at the Republican Party mentioned there was conflicting or confusing information on the County website regarding the Board of Elections meeting schedule, and he asked if that could be looked into. Director Jones replied he would look into the situation to determine and correct the problem.

EXECUTIVE SESSION:

There was no Executive Session.

ADJOURNMENT:

Mr. Lester moved to adjourn the January 23, 2018 Board of Elections Meeting. Mr. Wright seconded the motion. The motion passed 3-0.

The Board of Elections meeting adjourned at 5:28 p.m.

_____ _____

Floyd L. Jones, Director Darryl Hicks, Chairman

The foregoing minutes were duly approved at an official meeting of the Board of Elections of Fayette County, Georgia, held on the 27th day of February 2018. Referenced attachments are available upon request in the Board of Elections' Office.

_____

Floyd L. Jones, Director

BOARD OF ELECTIONS AGENDA REQUEST FORM

MEETING DATE 02/27/2018 **AGENDA ITEM #** New Business #3

PRESENTER(S) Floyd L. Jones, Director

TYPE OF REQUEST New Business

WORDING FOR THE AGENDA

Review of the current Fayette County Board of Elections' By-Laws.

BACKGROUND / HISTORY / DETAILS

The Board of Elections' current By-Laws were adopted on October 24, 2017.

Per request of the Board, the By-Laws are to be placed on the February Agenda each year for review.

Fayette County's current Ethics Ordinance, which is referenced in the By-Laws, are included with the By-Laws.

No direction has been provided with regard to any amendments to the By-Laws.

SPECIFIC ACTION / DIRECTION SOUGHT

Review the current Fayette County Board of Elections' By-Laws.

BYLAWS

FAYETTE COUNTY BOARD OF ELECTIONS AND VOTER REGISTRATION

ADOPTED IN SESSION JANUARY 22, 2008

AMENDED OCTOBER 24, 2017

I. NAME

The name of this Board shall be the Fayette County Board of Elections and Voter Registration, hereinafter referred to as the "Board."

II. PURPOSE

The purpose of this Board is:

1) To protect the integrity of all elections conducted by the Board.

2) To conduct elections in a legal, ethical, and non-partisan manner with an environment of honesty, openness, impartiality, and integrity, keeping in mind the public trust and interest of all voters in Fayette County. The Board or its members should avoid any action which might result in, or create the appearance of, affecting adversely the confidence of the public in the integrity of any election.

III. CONFLICT OF INTEREST

While conducting the duties of their office, board members should not engage in political activity such as campaigning for any candidate on a Fayette County ballot (whether as a volunteer or a paid position) or ballot question, writing letters to the editor, or participating in discussion or comments regarding candidates or candidates' activities. Board members should conduct themselves in an objective, detached and non-partisan manner while conducting the business of the Board. Board members may not speak at public meetings in support of or in opposition to an issue or candidate on a Fayette County ballot. The Code of Ethics for the Fayette County Government in effect as of the adoption and/or readoption of these Bylaws, as found in Division 3 of Article IV of Chapter 2 of the Fayette County Code of Ordinances and as attached hereto, governs the affairs and activities of the Board and is incorporated by reference into these Bylaws.

IV. ORGANIZATION OF THE BOARD

The Board is empowered to organize itself, determine its procedural rules and regulations, adopt bylaws, specify functions and duties of its employees, and otherwise take such actions as are appropriate to the management of the affairs committed to its supervision; provided, however, that no such action shall conflict with state law. The Chairman of the Board shall be the Chief Executive Officer and shall generally supervise, direct, and control the

administration of the affairs of the Board pursuant to law and duly adopted resolutions of the Board as prescribed by law. The Chairman will be elected among the Board members at the February meeting of each even numbered year to serve for a term of two years.

The Board shall enter into its minutes any directives governing the execution of matters within its jurisdiction. The Board shall hold regular monthly meetings at the Elections Office, unless cancelled for lack of business. Any special called meetings shall be held in accordance with the provisions of state law. The Board shall maintain a written record of policy decisions that shall be amended to include additions or deletions. Meetings shall be conducted, insofar as practicable, in accordance with Robert's Rules of Order and Minutes shall be kept of all meetings and shall reflect the votes of each member upon matters voted upon. The Board shall keep correct and complete books and records of account and shall also store the Minutes of all meetings at the Elections Office. Individual Board members may not issue directives to administrative staff or poll workers. All directives to staff and poll workers must be at the behest of the Chairman of the Board and/or the entire Board, acting in its official capacity.

The Board shall be authorized to appoint an Elections Superintendent and to employ any other employees deemed appropriate to manage the matters of the elections and voter registration.

The Board shall be responsible for the selection, appointment and training of poll workers in elections.

V. INVESTIGATIONS

The Board may conduct investigations of irregularities in voting practices, voter registrations, and suspected violations of election laws. Any such investigation shall be conducted in strict compliance with Georgia law and the results shall be made available to the proper law enforcement agencies.

VI. CONFLICT WITH STATE ELECTIONS BOARD RULES

These Bylaws should not be in conflict with the rules of the State Election Board. In case of a conflict, the rules of the State Election Board shall control.

VII. PENALTIES FOR VIOLATION OF BYLAWS

In its discretion, if the Board determines that there has been a violation of these Bylaws, it may impose penalties for said violations(s), including censure and revocation of monthly pay for the Board member. Additional penalties can be imposed by the Board at its discretion.

VIII. AMENDMENTS TO BYLAWS

These Bylaws may be amended by majority vote of the Board at any meeting of the Board, provided that seven (7) days' notice of the intention to amend said Bylaws has been received by Board members, said notice setting forth in detail the proposed amendment. Any

amendment to these Bylaws shall be effective upon adoption, unless otherwise provided for in the amendment.

ADOPTED this 24th day of October, 2017.

Darryl Hicks, Chairman

Addison Lester

Aaron Wright

COUNTY OF FAYETTE

STATE OF GEORGIA

ORDINANCE NO.

2016-04

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF FAYETTE COUNTY, GEORGIA; TO REWRITE THE CODE OF ETHICS FOR FAYETTE COUNTY, GEORGIA; TO PROMOTE THE PUBLIC HEALTH, SAFETY AND WELFARE; AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF FAYETTE COUNTY, GEORGIA, AND IT IS HEREBY ENACTED PURSUANT TO THE AUTHORITY OF THE SAME THAT DIVISION 3 OF ARTICLE IV OF CHAPTER 2 OF THE CODE OF FAYETTE COUNTY GEORGIA BE DELETED IN ITS ENTIRETY AND REPLACED WITH A NEW DIVISION 3 OF ARTICLE IV OF CHAPTER 2 OF THE CODE OF FAYETTE COUNTY, GEORGIA TO READ AS FOLLOWS:

SECTION 1. By deleting Sections 2-200 through 2-208 which comprise the Code of Ethics in their entirety and by enacting the following Code of Ethics to be numbered and to read as follows:

Sec. 2-200. Purpose.

The purpose of this Code of Ethics is to:

(a) Encourage high ethical standards in conduct by Fayette County officials ("County Officials");

(b) Establish guidelines for ethical standards of conduct for all County Officials by setting forth those acts or actions that are incompatible with the best interests of Fayette County (the "County");

(c) Maintain public trust through transparency by requiring disclosure by County Officials of private financial or other interests in matters affecting the County or in matters that affect their ability to act in the best interests of the County; and

(d) Serve as a basis for disciplining those who do not comply with its terms.

Sec. 2-201. Scope.

The provisions of this Code of Ethics shall be applicable to all County Officials. Further, the County Purchasing Director shall develop procedures for individuals, corporations and other entities seeking to do business with the County to disclose financial, familial or other relationships with any person who comes within the scope of this Code of Ethics and who is also required to disclose such relationships. Such disclosures must be made prior to presenting a recommendation of award to the Fayette County Board of Commissioners (the "Board of Commissioners") or, if Board of Commissioners approval is not required, prior to execution of a contract in excess of $10,000. The obligation for an individual, corporation or other entity seeking to do business with the County to disclose the aforementioned relationships is ongoing and shall be enforced as a prerequisite to any action by a County Official or other person covered by this Code of Ethics to renew, extend or otherwise modify a contract after award.

Sec. 2-202. Definitions.

The following words and phrases as used in this Code of Ethics shall, unless the context clearly indicates otherwise, have the meanings as follows:

(a) *County* means Fayette County, Georgia.

(b) *County Administrator* means the individual who serves as County Administrator of Fayette County.

(c) *County Official* includes County employees, members of the Board of Commissioners, the County Administrator, the County Clerk and the County Attorney. County Official also includes all individuals appointed by the County Administrator and the Board of Commissioners to County authorities, commissions, committees, boards, task forces, or other bodies.

(d) *Gift* means the transfer of anything of economic value, regardless of form, without adequate and lawful consideration. "Gift" also means a subscription, membership, loan, forgiveness of debt, advance or deposit of money or anything of value, conveyed or transferred.

(e) *Ethics*: the discipline dealing with what is good and bad and with moral duty and obligation – Merriam Webster

(f) *Immediate family* means the spouse, mother, father, grandparent, brother, sister, son or daughter of any County Official related by blood, adoption or marriage. The relationship by marriage shall include in-laws.

(g) *Person* means an individual, a business entity, or other similar type organization.

Sec. 2-203. Prohibitions.

(a) No County Official shall use or secure confidential information for any purpose other than his/her official duties.

(b) No County Official may participate or vote on any matter before the Board of Commissioners or other County body where such County Official has a substantial interest in the

outcome of such matter. For purposes of this Code of Ethics, a substantial interest is found where the County Official receives a pecuniary interest due to the outcome of the vote.

(c) No County Official shall act as an agent or attorney for another in any matter before the Board of Commissioners or other County body.

(d) No County Official shall enter into any contract with the County except as authorized by state law.

(e) No County Official shall solicit or accept other employment to be performed, or compensation to be received, while still a County Official if the employment or compensation could reasonably be expected to impair such County Official's judgment or performance of County duties.

(f) No County Official shall disseminate confidential information to someone other than another County Official, unless otherwise authorized by law.

(g) No County Official shall solicit or accept gifts, loans, gratuities, discounts, favors, hospitality, or services from any person for himself/herself, or any member of his/her immediate family, under circumstances from which it could reasonably be inferred that a major purpose of the donor is to influence the performance of the County Official's duties.

Sec. 2-204. Conflict of Interest.

(a) No County Official may participate in a vote or decision on a matter affecting an immediate family member or any person, entity, or property in which the County Official has a substantial interest.

(b) A County Official who has a relationship with any entity which receives funding from the County shall disclose such relationship prior to participating in any action for such funding.

(c) A County Official shall never discriminate by the dispensing of special favors or privileges to anyone, whether or not for remuneration.

(d) No County Official shall engage in any business with the County, or allow any member of his/her immediate family to engage in any business with the County which is inconsistent with the conscientious performance of his/her governmental duties.

(e) Notwithstanding anything contained herein to the contrary, a County Official shall disclose, prior to discussing or taking any action on any matter involving the donor, any gift or campaign contribution (cash or in kind) received by him/her, or any member of his/her immediate family, greater than $100.00. Receipt of gifts and campaign contributions within the current election cycle valued at $250.00 or more by a County Official, or member of his/her immediate family, will prohibit the County Official from participating or taking action on any matter involving the donor.

Sec. 2-205. Enforcement and administration.

(a) All allegations of violations of the Code of Ethics must be filed with the County Clerk, in writing, signed by the complainant, no later than 45 days after the alleged act occurred unless the complainant, by exercising reasonable diligence, failed to discover the alleged violation of the Code of Ethics within such 45-day period. In such case, a complainant must file an Ethics Complaint with the County Clerk no later than 45 days after the complainant discovered the alleged violation.

(b) In no event shall an Ethics Complaint be filed with the County Clerk more than six (6) months from the date of the alleged violation of the Code of Ethics.

(c) The complainant may withdraw the Ethics Complaint at any time in writing.

(d) Within 30 days of receipt of an Ethics Complaint the Board of Commissioners will review the Ethics Complaint to determine whether same is on its face unjustified, frivolous, patently unfounded or fails to state facts sufficient to invoke disciplinary jurisdiction. A majority of the full Board of Commissioners must agree that a sufficient basis has been given to warrant a public hearing. Certain violations alleged against County Officials who are employees may be referred through the proper channels consistent with the Employee Handbook's disciplinary procedures. A majority of the full Board of Commissioners shall make the determination of whether or not a review board should be impaneled.

(e) If a complaint is received by the Clerk which alleges a violation of the Code of Ethics by a member of the Board of Commissioners, a determination of sufficiency of the complaint will not be forwarded to the Board of Commissioners. The County Attorney of any county within the Griffin Judicial Circuit, or any circuit abutting the Griffin Judicial Circuit, other than the County Attorney for Fayette County, shall make the determination of whether or not a review board should be impaneled.

(f) If a review board is needed, three (3) county attorneys, other than the County Attorney for Fayette County, within reasonably close geographic proximity of the County will be requested to conduct a public hearing based upon the complaint. A majority vote based upon clear and convincing evidence will determine the existence of the violation or lack thereof. Should the review board find a violation has occurred, the review board will assess the commensurate penalty for the violation. A written decision shall be issued within 15 days of the conclusion of the public hearing. County Officials are subject to the following penalties and action for violations of the Code of Ethics:

(1) Written reprimand or public censure;

(2) Recovery of value transferred from or received by the County;

(3) Cancellation of the contract or rejection of the bid or offer;

(4) A monetary fine not to exceed $1,000.00; and

(5) Demotion or termination.

(g) Any County Official adversely affected by any final decision of the Board of Ethics may appeal as provided in this subsection.

(h) An appeal by certiorari may be commenced in the Superior Court of Fayette County within 30 days after the decision becomes final.

Secs. 2-206 – 2-220. Reserved.

SECTION 2. This ordinance shall become effective immediately upon its adoption by the Fayette County Board of Commissioners.

SECTION 3. All other ordinances or parts of ordinances which are in conflict with this ordinance are hereby repealed.

SECTION 4. In the event any section, subsection, sentence, clause or phrase of this ordinance shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect other sections, subsections, sentences, clauses or phrases of this ordinance, which shall remain in full force and effect as if the section, subsection, sentence, clause or phrase so declared or adjudged invalid or unconstitutional were not a part thereof. The Board of Commissioners hereby declares that it would have passed the remaining parts of this ordinance if it had known that such part or parts hereof would be declared or adjudged invalid or unconstitutional.

SO ORDAINED this 25th day of February, 2016.

BOARD OF COMMISSIONERS OF
FAYETTE COUNTY, GEORGIA

(SEAL)

By: _____
CHARLES W. ODDO

ATTEST:

_____
Floyd L. Jones, County Clerk

Approved as to form:

_____
County Attorney

BOARD OF ELECTIONS AGENDA REQUEST FORM

MEETING DATE 02/27/2018 **AGENDA ITEM #** New Business #4

PRESENTER(S) Floyd L. Jones, Director

TYPE OF REQUEST New Business

WORDING FOR THE AGENDA

Consideration of staff's recommendation to approve Poll Managers for the May 22, 2018 General Primary Election and the July 24, 2018 Primary Runoff Election.

BACKGROUND / HISTORY / DETAILS

O.C.G.A 21-2-90 reads, in part: The managers of each polling place shall be appointed by the superintendent.

The Board of Elections' Bylaws read, in part: The Board shall be responsible for the selection, appointment, and training of poll workers in elections.

Historically, the Board has approved poll managers to conduct elections. The poll managers work with county staff to provide for assistant managers and clerical support.

SPECIFIC ACTION / DIRECTION SOUGHT

Approval of staff's recommendation to approve Poll Managers for the May 22, 2018 General Primary Election and the July 24, 2018 Primary Runoff Election.

PROPOSED POLL MANAGERS FOR THE GENERAL PRIMARY ELECTION AND RUNOFF PRIMARY ELECTION

Precinct Number	Precinct Name	First Name	Last Name	Address	City	State
1	Blackrock	John	Eades	110 Old Lees Mill Rd	Fayetteville	GA
2	Brooks	Sharon	Simmons	182 Mask Road	Brooks	GA
3	Europe	JoAnn	Bailey	1112 Hwy. 314	Fayetteville	GA
4	Fayetteville East	Michael	Carver	285 Grandchester Way	Fayetteville	GA
5	Fayetteville West	Nancy	Hubbard	236 Lynn /druve	Fayetteville	GA
6	Flint	Jaclyn S.	Bell	193 Longview Road	Fayetteville	GA
7	Hopeful	Brenda(Connie)	Younger	533 Lees Lake Rd	Fayetteville	GA
8	Morning Creek	Larris	Marks	130 Mark Lane	Fayetteville	GA
9	Rareover	Connie J.	Winkles	155 Valley View Drive	Tyrone	GA
10	Sandy Creek	John 2nd time	Goolsbee	465 Postwood Drive	Fayetteville	GA
11	Shakerag East	Mary P.	Thorn	115 Brennan Drive	Tyrone	GA
12	Shakerag West	Martha Ann	Elrod	211 Oakmount Road	Peachtree City	GA
13	Starrs Mill	Cynthia Penna	Penna	1105 Old Greenville Rd.	Fayetteville	GA
14	Whitewater	Judy	Herrin	204 Villa Point	Peachtree City	GA
15	Woolsey	Susan	Frye	P.O. Box 143232	Fayetteville	GA
16	McIntosh	Judy	Gagliano	143 Lakeside Drive	Peachtree City	GA
17	Oak Grove	Cheryl	Witherspoon	106 North Meade Drive	Peachtree City	GA
18	Kedron	Laura	Line	110 Knights Court	Fayetteville	GA
19	Aberdeen	Mary - exp-1st MGR	Weaver	1202 Greers Trail	Peachtree City	GA
20	Windgate	Ida"Jane"	Rode	285 LaGrange CT	Fayetteville	GA
21	Flat Creek	James	Preau SR	265 Smokerise Trace	Peachtree City	GA
22	Braelinn	Melissa 0 exp	Wortman	112 Fielding Ridge	Peachtree City	GA
23	Kenwood	Brenda exp 6	Wicker	130 Tanglewood Drive	Fayetteville	GA
24	Banks	Derryll	Anderson	150 Church Street	Fayetteville	GA
25	Harps Crossing	Joy	McElwaney	220 Country Ssquire Drive	Fayetteville	GA
26	Willow Pond	Willene	Wallis	1115 S. Jeff Davis Drive	Fayetteville	GA
27	Dogwood	Rita (1 time 35)	Williams	255 Brogdon Rd.	Fayetteville	GA
28	Oak Ridge	Judith A.	Bausch	115 Middling Lane	Fayetteville	GA
29	Jeff Davis	James	Schultz	225 Innisbrook Way	Fayetteville	GA
30	Murphy	Bullard	Linda	130 St. Andrews Dr	Fayetteville	GA
31	Fielding Reidge	Jacquelyn	Barr	608 Bellenden Drive	Peachtree City	GA
32	Willowbend	Iola	Snow	603 Vermillion Lane	Peachtree City	GA
33	Camp Creek	Barbara	Bateman	904 Hip Pocket Road	Peachtree City	GA
34	Rising Starr	Dolores	Little	135 Thorne Ridge Trail	Fayetteville	GA
35	Spring Hill	Nadine- exp 17	Trotter	200 Habersham Place	Fayetteville	GA
36	Antioch	Debra (1 time-	Coulter	105 Primrose Court	Fayetteville	GA

BOARD OF ELECTIONS AGENDA REQUEST FORM

MEETING DATE 02/27/2018 **AGENDA ITEM #** New Business #5

PRESENTER(S) Floyd L. Jones, Director

TYPE OF REQUEST New Business

WORDING FOR THE AGENDA

Discussion of House Bills 680 and 848 and of Senate Bills 59 and 403.

BACKGROUND / HISTORY / DETAILS

There are a number of bills that have been introduced into the Georgia General Assembly pertaining to Georgia's elections. Prominent bills are House Bill 680, House Bill 848, Senate Bill 59, and Senate Bill 403. Each of these bills, upon passage and signature by the Governor, could move Georgia back to a paper ballot process. The Elections Board and staff will discuss these bills and consider a draft response to Fayette County's legislative delegation pertaining to these bills.

"Exhibit A" provides the multiple bills concerning elections. "Exhibit B" provides House Bill 680. "Exhibit C" provides House Bill 848. "Exhibit D" provides Senate Bill 403. "Exhibit E" provides Senate Bill 59. "Exhibit F" provides a draft letter concerning the bills.

SPECIFIC ACTION / DIRECTION SOUGHT

Discussion of House Bills 680 and 848 and of Senate Bills 59 and 403.

Exhibit A

Bill Number	Description	Sponsor	Date Introduced	Committee Assignment	Title	Subcommittee Hearing Dates	Date Voted Out of Subcommittee	Committee Hearing Dates	Other Info	Amendments	Date Voted Out of Committee	Date Voted Out of Rules	Structure	Floor Vote Date	Floor Vote Count	Signed By Governor
HB20	Elections; automatic registration of voters who obtain, renew, or change their name or address on a driver's license or identification card issued by the Department of Driver Services; provide	Rep. Sandra Scott	Prefiled	Governmental Affairs	21											
HB22	Elections; elector to vote in any precinct of the county under certain conditions; provide	Rep. Roger Bruce	1/24/2017	Governmental Affairs	21											
HB133	Ballot Access Reform Act of 2015; enact	Rep. John Pezold	1/25/2017	Governmental Affairs	21											
HB164	Elections; only current office holders shall be designated as incumbents; provide	Rep. Betty Price	1/30/2017	Governmental Affairs	21											
HB167	Timely Process Act; enact	Rep. Patty Bentley	1/30/2017	Governmental Affairs	21											
HB180	Elections and primaries; electors to change address and vote on primary and elections days; provisions	Rep. David Dreyer	1/31/2017	Governmental Affairs	21											
HB346	Permanent Portable Registration Act; enact	Rep. Sam Park	2/14/2017	Governmental Affairs	21											
HB351	Elections; district attorneys, sheriffs, coroners, tax commissioners, and superior court clerks; provide nonpartisan elections	Rep. Allen Peake	2/15/2017	Governmental Affairs	21											
HB362	Elections; county and municipal governing authorities and consolidated governments; provisions	Rep. Andrew Welch	2/15/2017	Governmental Affairs	21	2/21/2017	2/21/2017	3/1/2017			3/1/2017					
HB520	Absentee Ballot Access Act; enact	Rep. Craig Gordon	3/1/2017	Governmental Affairs	21											
HB531	Agreement Among the States to Elect the President by National Popular Vote; enact	Rep. Karla Drenner	3/3/2017	Governmental Affairs	21											
HB632	Elections; certain small municipalities shorten advance voting period for municipal elections; provide method	Rep. Dave Belton	3/30/2017	Governmental Affairs	21											
HB640	Elections; candidates for offices of President and Vice President of the United States shall file copies of their federal income tax returns with the Secretary of State in order for their names be listed on the ballot; provide	Rep. Scott Holcomb	3/30/2017	Governmental Affairs	21											
HB641	Elections; direct recording electronic voting systems purchased on and after July 1, 2017 shall be equipped with paper audit records; provide	Rep. Scot Turner	3/30/2017	Governmental Affairs	21											
HB652	Elections; certain electors list maintenance activities; elminate	Rep. Robert Trammell	1/18/2017	Governmental Affairs	21											
HB680	Elections; direct recording electronic voting systems shall not be used in primaries or elections in this state after January 1, 2019; provisions	Rep. Scot Turner	1/18/2017	Governmental Affairs	21											
HB819	Elections; voter registration and polling places; provisions	Rep. Michael Smith	2/5/2018	Governmental Affairs	21											
HB848	Elections; uniform election equipment; provisions	Rep. Ed Setzler	2/7/2018	Governmental Affairs	21	2/13/2018										
HR610	United States Congress; remove election and voting systems from the critical infrastructure designation; urge	Rep. Jason Spencer	3/15/2017	Governmental Affairs	21			3/22/2017			3/22/2017					
SB20	Elections; conducting certain special elections; provide for the dates	Sen. Joshua McKoon	1/23/2017	Ethics	21											
SB32	Elections; primaries, elections, and runoffs; revise the dates; qualifying for office; revise the times	Sen. Joshua McKoon	1/23/2017	Ethics	21											
SB33	Elections; advance voting; change the time period	Sen. Gloria Butler	1/23/2017	Ethics	21											

Bill Number	Description	Sponsor	Date Introduced	Committee Assignment	Title	Subcommittee Hearing Dates	Date Voted Out of Subcommittee	Committee Hearing Dates	Other Info	Amendments	Date Voted Out of Committee	Date Voted Out of Rules	Structure	Floor Vote Date	Floor Vote Count	Signed By Governor
SB34	Elections; voter identity at the polls; remove certain requirements regarding proof	Sen. Vincent Fort	1/23/2017	Ethics	21											
SB35	Elections; election day voter registration and voting; provide for procedures and methods	Sen. Vincent Fort	1/23/2017	Ethics	21											
SB36	Elections; automatic voter registration in certain circumstances; provide	Sen. Nan Orrock	1/23/2017	Ethics	21											
SB37	Elections; advance voting; change the time periods	Sen. Lester Jackson	1/23/2017	Ethics	21											
SB57	Elections; fill vacancies in public offices; provide that the costs of special primaries/elections paid by this state in certain circumstances	Sen. Joshua McKoon	1/25/2017	Ethics	21											
SB59	Elections; direct recording electronic voting systems used in this state; provide for requirements	Sen. Horacena Tate	1/25/2017	Ethics	21											
SB62	Constitutional Amendments Publication Board; change makeup of the board	Sen. Emanuel Jones	1/25/2017	Ethics	21											
SB64	Agreement Among the States to Elect the President by National Popular Vote; enact	Sen. Steve Henson	1/25/2017	Ethics	21											
SB112	Elections; independent and political body candidates file nomination petitions for ballot access; remove the requirement	Sen. Joshua McKoon	2/2/2017	Ethics	21											
SB114	Elections; absentee votes; provide for tabulation of advance voting ballots	Sen. Joshua McKoon	2/2/2017	Ethics	21											
SB192	Elections and Primaries; nonpartisan election of district attorneys, sheriffs, coroners, tax commissioners, and clerks of superior court; qualifying; provide	Sen. Rick Jeffares	2/17/2017	Ethics	21			2/27/2017			2/27/2017					
SB225	Elections; tabulation of advance voting ballots in the same manner as absentee votes; provide	Sen. Michael Williams	2/22/2017	Ethics	21			2/27/2017			2/27/2017					
SB255	"Transparency in Elections Act"	Sen. Horacena Tate	2/27/2017	Ethics	21											
SB309	Elections; time for opening and closing of the polls; provide (PF)	Sen. Joshua McKoon	1/9/2018	Ethics	21											
SB320	Election and Primaries; public elementary and secondary schools register parents to vote when enrolling their children for school; provide	Sen. Steve Henson	1/11/2018	Ethics	21											
SB363	Elections and Primaries; time for opening and closing of the polls; provide	Sen. Matt Brass	1/30/2018	Ethics	21											
SB380	Primaries and Elections; conspiring or collaborating with any foreign government to influence any primary or election in this state; prohibit	Sen. Nikema Williams	2/5/2018	Ethics	21											
SB403	Primaries and Elections; uniform election equipment in this state; provide	Sen. Bruce Thompson			21											

Exhibit B

HOUSE BILL 680

HOUSE BILL 680 NOTES

Amends Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and elections generally, so as to provide that direct recording electronic (DRE) voting systems shall not be used in primaries or elections in this state after January 1, 2019; to repeal provisions regarding voting machines; to provide for definitions; to provide for ballot marking devises and standards and procedures for such devises; to provide for risk-limiting audits and for definitions, intent, and procedures; to provide for conforming changes; to provide for related matters, to provide a short title; to provide for effective dates; to repeal conflicting laws; and for other purposes

- O.C.G.A. § 21-2-367(a): . . . such ballot scan voting systems shall be installed, either simultaneously or gradually, within the county or municipality.

- O.C.G.A. § 21-2-378: The governing authority of any county or municipality which adopts ballot scan voting systems in the manner provided for by this part shall, upon the purchase of ballot scan voting systems, provide for their payment by the county or municipality. Bonds or evidence of indebtedness may be issued in accordance with the provisions of law relating to the increase of indebtedness of counties and municipalities to meet all or any part of the cost of the ballot scan voting systems.

- O.C.G.A. § 21-2-379.1: On and after January 1, 2019, no primaries or elections in this state shall be conducted on direct recording electronic (DRE) voting systems.

- O.C.G.A. §21-2-379.3 (11): After use by the elector, it shall produce a ballot which is the same size and appearance as other ballots used in the primary or election for electors voting the same ballot style and on such ballot shall be marked the choices made by the elector using the electronic ballot marker. Such ballot shall contain all candidate names and questions in all of the contests for that particular style of ballot and not solely the names of those candidates or questions for which the elector chose to vote.

- O.C.G.A. § 21-2-498 (a)(1) and (3): 'Audit unit' means a precinct, a set of ballots (such as all the ballots tabulated on one vote tabulating devise or a batch of ballots) or a single ballot. A precinct, a set of ballots, or a single ballot may be used as an audit unit for purposes of this Code section only if both the following conditions are satisfied: . . . 'Risk-limiting audit' means a manual tally employing a statistical method that ensures a large, predetermined minimum chance of requiring a full manual tally whenever a full manual tally would show an electoral outcome that differs from the outcome reported by the vote tabulating system for the audited contest. A risk-limiting audit shall begin with a manual tally of the votes in one or more audit units and shall continue to manually tally votes in additional audit units until there is strong statistical evidence that the electoral outcome is correct. In the event that counting additional audit units does not provide strong statistical evidence that the electoral outcome is correct, the

audit shall continue until there has been a full manual tally to determine the correct electoral outcome of the contest.

- O.C.G.A. § 21-2-498 (b) and (c): The General Assembly hereby finds, determines, and declares that auditing the election results is necessary to ensure effecting election administration and public confidence in election results. Further, risk-limiting audits provide a more effective manner of conducting audits than traditional audit methods in that risk-limiting audits typically require only limited resources for election contests with wide margins of victory, whereas greater resources are required for close contests. Beginning on January 1, 2019, the State Election Board in conjunction with local election superintendents shall be authorized to conduct risk-limiting audits after all state-wide primary, general, and special elections and any runoffs of such elections, in accordance with the requirements of this Code section. On and after January 1, 2021, the State Election Board in conjunction with local election superintendents shall conduct postelection risk-limiting audits for all federal and gubernatorial elections for both the primary and general elections with requirements of this Code section.

- O.C.G.A. § 21-2-468 (d) (1, 5, 6): For each contest election being audited, the State Election Board in conjunction with the local election superintendents shall set a risk limit no larger than 10 percent, while providing a minimum 90 percent chance of detecting and correcting a result where the outcome of the original tabulation is inconsistent with the election outcome obtained by conducting a full recount. The State Election Board in conjunction with the local election superintendents shall conduct the audit upon tabulation of the unofficial final results. The State Election Board in conjunction with the local election superintendents shall conduct the audit in public view by **manually interpreting the actual ballots that the voters themselves verified, not an image or a duplicated ballot or a barcode associated with such ballot.**

- O.C.G.A. § 21-2-468(e-f): **The audit must be completed prior to the final certification of the results of the contest.** If a risk-limiting audit of a contest leads to a full manual tally of the ballots cast using the voting system, the vote counts according to that manual tally shall replace the vote counts reported for the purpose of determining the official contest results.

Floyd Jones

From: Firefly <DoNotReply@sos.ga.gov>
Sent: Wednesday, January 24, 2018 4:36 PM
To: DoNotReply@sos.ga.gov
Subject: Letter from Secretary Kemp

A new discussion has been posted in The Buzz by Simmons, Jessica on 1/24/2018 4:03:54 PM

Georgia Elections Officials,

Over the past few days, the Secretary of State's office has received several questions about recently introduced legislation – House Bill 680 by Scot Turner – calling for the replacement of Georgia's voting equipment with optical scan devices. The bill allows for the use of ballot-marking devices similar to those used in the Rockdale County pilot project last November. It does not appear to require ballot-marking devices to be used by every voter, which I presume requires some voters to hand-mark paper ballots.

It is not unusual for election bills to be introduced during the legislative session. It happens every year. The Secretary of State's office cannot prevent a bill from being introduced. However, our office can provide input to legislators – **and so can you.**

House Bill 680 requires significant changes to every election, primary, or run-off held in this state. It also requires millions of dollars and significant training in all 159 counties. I have urged lawmakers to solicit input from Georgia's elections officials – all of you on the front lines – on any proposal to change the election code, especially for a proposal of this magnitude. **Any meaningful proposal to change Georgia's voting system must take your feedback into account.**

This is a call to action. I am asking you to review this bill and provide your insight – good and bad. With millions of ballots accurately cast and tabulated, Georgia's battle-tested voting equipment has earned voters' confidence, but we must plan for its eventual replacement. Tell us your vision for the future of our voting system, and do not hold back if you have concerns about House Bill 680. Now, more than ever, legislators need to hear your voices.

I, along with my team in the Elections Division, will provide updates about this legislation if it progresses under the Gold Dome. We encourage you to send us your feedback at electionsupervisor@sos.ga.gov. If you have specific questions, you are welcome to contact Chris Harvey or myself, and we will do our best to assist you. As always, thank you for your service to Georgia voters.

Sincerely,

Brian P. Kemp

Secretary of State and Chief Elections Official

If you would like to opt out of receiving email notifications for this discussion, click here.

Georgia General Assembly

Legislation

2017-2018 Regular Session - HB 680

Elections; direct recording electronic voting systems shall not be u primaries or elections in this state after January 1, 2019; provis

Sponsored By

(1) Turner, Scot 21st
(2) Holcomb, Scott 81st
(3) Teasley, Sam 37th
(4) Mosby, Howard 83rd
(5) Caldwell, Michael 20th
(6) Trammell, Robert 132n

Committees

HC: Governmental Affairs

SC:

First Reader Summary

A BILL to be entitled an Act to amend Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to elections generally, so as to provide that direct recording electronic voting systems shall not be used in primarie this state after January 1, 2019; to repeal provisions regarding voting machines; to provide for definitions; to pr marking devices and standards and procedures for such devices; to provide for risk-limiting audits and for defini and procedures; to provide for conforming changes; to provide for related matters; to provide a short title; to p effective dates; to repeal conflicting laws; and for other purposes.

Status History

Jan/19/2018 - House Second Readers
Jan/18/2018 - House First Readers
Jan/11/2018 - House Hopper

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House Bill 680

By: Representatives Turner of the 21st, Holcomb of the 81st, Teasley of the 37th, Mosby of the 83rd, Caldwell of the 20th, and others

A BILL TO BE ENTITLED

AN ACT

To amend Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and elections generally, so as to provide that direct recording electronic voting systems shall not be used in primaries or elections in this state after January 1, 2019; to repeal provisions regarding voting machines; to provide for definitions; to provide for ballot marking devices and standards and procedures for such devices; to provide for risk-limiting audits and for definitions, intent, and procedures; to provide for conforming changes; to provide for related matters; to provide a short title; to provide for effective dates; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

This Act shall be known and may be cited as the "Secure Transparent Accurate Reliable Voting Act."

SECTION 2.

Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and elections generally, is amended by revising paragraphs (1), (2), (4.1), (16), and (40) of Code Section 21-2-2, relating to definitions, and adding new paragraphs to read as follows:

"(.3) 'Automatic tabulating equipment' means apparatus, including ballot scanning machines, that are utilized to ascertain the manner by which paper ballots have been marked by electors, whether by hand or by means of electronic ballot markers, and that count the votes marked on such ballots.

(1) 'Ballot' means 'official ballot' or 'paper ballot' ~~and shall include the instrument, whether paper, mechanical, or electronic, by which an elector casts his or her vote~~ that is an individual durable paper instrument by which an elector casts his or her vote which includes paper ballots designed to be read by automatic tabulating equipment. The term shall include, in appropriate contexts, conventional paper ballots.

(2) 'Ballot ~~labels' means the cards, paper, or other material placed on the front of a voting machine containing the names of offices and candidates and statements of questions to be voted on~~ marking device' means a pen, pencil, or similar writing tool, or an electronic device, all designed for use in marking paper ballots, and so designed or fabricated that the mark it leaves may be detected and the vote so cast counted by automatic tabulating equipment.

(2.1) 'Ballot scan voting system' means a system employing paper ballots under which votes are cast by electors by marking paper ballots with a ballot marking device and thereafter counted by the use of automatic tabulating equipment.

(2.2) 'Ballot scanner' means an electronic recording device into which an elector's voted ballot is cast which tabulates those votes by its own devices and is also known as a 'tabulating machine.'"

"(4.1) 'Direct recording electronic' or 'DRE' voting equipment means a computer driven unit for casting and counting votes on which an elector touches a video screen or a button adjacent to a video screen to cast his or her vote. Such term shall not encompass ballot marking devices.

(4.2) 'Durable paper' means a paper instrument sufficiently durable to withstand repeated handling and long-term storage for the purposes of tabulation, scanning, retabulation, audits, and recounts."

"(7.1) 'Electronic ballot marker' means an electronic device that does not compute or retain votes that may integrate components such as a ballot scanner, printer, touch screen monitor, audio output, and a navigational keypad and uses electronic technology to independently and privately mark a paper ballot at the direction of an elector, interpret ballot selections, communicate such interpretation for elector verification, and print an elector-verifiable paper ballot."

"(16) 'Numbered list of voters' means one or more sheets of uniform size containing consecutively numbered blank spaces for the insertion of voters' names at the time of and in the order of receiving their ballots ~~or number slips governing admissions to the voting machines~~."

"(18) 'Official ballot' means a durable paper ballot, ~~whether paper, mechanical, or electronic,~~ which is furnished by the superintendent or governing authority in accordance with Code Section 21-2-280~~, including ballots read by optical scanning tabulators~~ that is read by scanning tabulators and for purposes of audits and recounts, is not a cast vote record, ASCII representation, digital ballot picture, 2D scanned image, or facsimile."

"(28.1) 'Precinct ballot scanner' is a ballot scanner."

"(32.1) 'Scanning ballot' means a printed paper ballot designed to be marked by an elector with a ballot marking device and inserted for casting into a ballot scanner."

"(40) ~~'Voting machine' is a mechanical device on which an elector may cast a vote and which tabulates those votes by its own devices and is also known as a 'lever machine.'~~ Reserved."

SECTION 3.

Said chapter is further amended by revising paragraph (15) of subsection (a) of Code Section 21-2-50, relating to the powers and duties of the Secretary of State and prohibition against serving in a fiduciary capacity, as follows:

"(15) To develop, program, build, and review ballots for use by counties and municipalities on ~~direct recording electronic (DRE)~~ voting systems in use in ~~the~~ this state."

SECTION 4.

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

"(a) Any elector of the county or municipality may challenge the right of any other elector of the county or municipality, whose name appears on the list of electors, to vote in an election. Such challenge shall be in writing and specify distinctly the grounds of such challenge. Such challenge may be made at any time prior to the elector whose right to vote is being challenged voting at the elector's polling place or, if such elector cast an absentee ballot, prior to 5:00 P.M. on the day before the election; provided, however, that challenges to persons voting by absentee ballot in person at the office of the registrars or the absentee ballot clerk ~~whose vote is cast on a DRE unit must~~ shall be made prior to such person's voting."

SECTION 5.

Said chapter is further amended by revising subsection (a) of Code Section 21-2-267, relating to equipment, arrangement, and storage at polling places, as follows:

"(a) The governing authority of each county and municipality shall provide and the superintendent shall cause all rooms used as polling places to be provided with suitable heat and light and, in precincts in which ballots are used, with a sufficient number of voting compartments or booths with proper supplies in which the electors may conveniently mark their ballots, with a curtain, screen, or door in the upper part of the front of each compartment or booth so that in the marking thereof they may be screened from the observation of others. A curtain, screen, or door shall not be required, however, for the self-contained units used as voting booths in which ~~direct recording electronic (DRE)~~

~~voting units~~ electronic ballot markers are located if such booths have been designed so as to ensure the privacy of the elector. When practicable, every polling place shall consist of a single room, every part of which is within the unobstructed view of those present therein and shall be furnished with a guardrail or barrier closing the inner portion of such room, which guardrail or barrier shall be so constructed and placed that only such persons as are inside such rail or barrier can approach within six feet of the ballot box and voting compartments, or booths, ~~or voting machines,~~ as the case may be. The ballot box and voting compartments or booths shall be so arranged in the voting room within the enclosed space as to be in full view of those persons in the room outside the guardrail or barrier. ~~The voting machine or machines shall be placed in the voting rooms within the enclosed space so that, unless its construction shall otherwise require, the ballot labels on the face of the machine can be plainly seen by the poll officers when the machine is not occupied by an elector.~~ In the case of ~~direct recording electronic (DRE) voting units~~ electronic ballot markers, the ~~units~~ devices shall be arranged in such a manner as to ensure the privacy of the elector while voting on such ~~units~~ devices, to allow monitoring of the ~~units~~ devices by the poll officers while the polls are open, and to permit the public to observe the voting without affecting the privacy of the electors as they vote."

SECTION 6.

Said chapter is further amended by revising Code Section 21-2-293, relating to correction of mistakes and omissions on ballots, as follows:

"21-2-293.

(a) If the election superintendent discovers that a mistake or omission has occurred in the printing of official ballots or in the programming of the display of the official ballot on ~~DRE voting equipment~~ electronic ballot markers for any primary or election, the superintendent is authorized on his or her own motion to take such steps as necessary to correct such mistake or omission if the superintendent determines that such correction is feasible and practicable under the circumstances; provided, however, that the superintendent gives at least 24 hours notice to the Secretary of State and any affected candidates of the mistake or omission prior to making such correction.

(b) When it is shown by affidavit that a mistake or omission has occurred in the printing of official ballots or in the programming of the display of the official ballot on ~~DRE voting equipment~~ electronic ballot markers for any primary or election, the superior court of the proper county may, upon the application of any elector of the county or municipality, require the superintendent to correct the mistake or omission or to show cause why he or she should not do so."

SECTION 7.

Said chapter is further amended by adding a new subsection to Code Section 21-2-300, relating to provision of new voting equipment by state, contingent upon appropriations, county responsibilities, education, and county and municipal contracts for equipment, to read as follows:

"(f) Notwithstanding any provision of law to the contrary, the Secretary of State is authorized to conduct pilot programs to test and evaluate the use of optical scanning voting systems and voter-verifiable ballots in primaries and elections in this state."

SECTION 8.

Said chapter is further amended by repealing and reserving Parts 1 and 2, relating to general provisions regarding voting machines and vote recorders and voting machines, respectively, of Article 9, relating to voting machines and vote recorders generally.

SECTION 9.

Said chapter is further amended by revising Part 4 of Article 9, relating to optical scanning voting systems, as follows:

"21-2-365.

No ~~optical scanning~~ ballot scan voting system shall be adopted or used unless it shall, at the time, satisfy the following requirements:

(1) It shall provide facilities for voting for such candidates as may be nominated and upon such questions as may be submitted;

(2) It shall permit each elector, in one operation per ballot, to vote for all the candidates of one party or body for presidential electors;

(3) Except as provided in paragraph (2) of this Code section for presidential electors, it shall permit each elector, at other than primaries, to vote a ticket selected from the nominees of any and all parties or bodies, from independent nominations, and from persons not in nomination;

(4) It shall permit each elector to vote, at any election, for any person and for any office for whom and for which he or she is lawfully entitled to vote, whether or not the name of such person or persons appears upon a ballot as a candidate for election; to vote for as many persons for an office as he or she is entitled to vote for; and to vote for or against any question upon which he or she is entitled to vote;

(5) ~~An optical scanning tabulator~~ A ballot scanner shall preclude the counting of votes for any candidate or upon any question for whom or upon which an elector is not entitled to vote; shall preclude the counting of votes for more persons for any office than he or

she is entitled to vote for; and shall preclude the counting of votes for any candidate for the same office or upon any question more than once;

(6) It shall permit voting in absolute secrecy so that no person can see or know for whom any other elector has voted or is voting, save an elector whom he or she has assisted or is assisting in voting, as prescribed by law;

(7) It shall be constructed of material of good quality in a neat and workmanlike manner;

(8) It shall, when properly operated, record correctly and accurately every vote cast;

(9) It shall be so constructed that an elector may readily learn the method of operating it; and

(10) It shall be safely transportable.

21-2-366.

The governing authority of any county or municipality may, at any regular meeting or at a special meeting called for the purpose, by a majority vote authorize and direct the use of ~~optical scanning~~ ballot scan voting systems for recording and computing the vote at elections held in the county or municipality. If so authorized and directed, the governing authority shall purchase, lease, rent, or otherwise procure ~~optical scanning~~ ballot scan voting systems conforming to the requirements of this part.

21-2-367.

(a) When the use of ~~optical scanning~~ ballot scan voting systems has been authorized in the manner prescribed in this part, such ~~optical scanning~~ ballot scan voting systems shall be installed, either simultaneously or gradually, within the county or municipality. Upon the installation of ~~optical scanning~~ ballot scan voting systems in any precinct, the use of paper ballots or other voting machines or apparatus therein shall be discontinued, except as otherwise provided by this chapter.

(b) In each precinct in which ~~optical scanning~~ ballot scan voting systems are used, the county or municipal governing authority, as appropriate, shall provide at least one voting booth or enclosure for each 200 electors therein, or fraction thereof.

(c) ~~Optical scanning~~ Ballot scan voting systems of different kinds may be used for different precincts in the same county or municipality.

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

21-2-368.

(a) Any person or organization owning, manufacturing, or selling, or being interested in the manufacture or sale of, any ~~optical scanning~~ ballot scan voting system may request the Secretary of State to examine the ~~optical scanning~~ ballot scan voting system. Any ten or more electors of this state may, at any time, request the Secretary of State to reexamine any ~~optical scanning~~ ballot scan voting system previously examined and approved by him or her. Before any such examination or reexamination, the person, persons, or organization requesting such examination or reexamination shall pay to the Secretary of State the reasonable expenses of such examination. The Secretary of State may, at any time, in his or her discretion, reexamine any ~~optical scanning~~ ballot scan voting system.

(b) The Secretary of State shall thereupon examine or reexamine such ~~optical scanning~~ ballot scan voting system and shall make and file in his or her office a report, attested by his or her signature and the seal of his or her office, stating whether, in his or her opinion, the kind of ~~optical scanning~~ ballot scan voting system so examined can be safely and accurately used by electors at primaries and elections as provided in this chapter. If this report states that the ~~optical scanning~~ ballot scan voting system can be so used, the ~~optical scanning~~ ballot scan voting system shall be deemed approved; and ~~optical scanning~~ ballot scan voting systems of its kind may be adopted for use at primaries and elections as provided in this chapter.

(c) No kind of ~~optical scanning~~ ballot scan voting system not so approved shall be used at any primary or election and if, upon the reexamination of any ~~optical scanning~~ ballot scan voting system previously approved, it shall appear that the ~~optical scanning~~ ballot scan voting system so reexamined can no longer be safely or accurately used by electors at primaries or elections as provided in this chapter because of any problem concerning its ability to accurately record or tabulate votes, the approval of the same shall immediately be revoked by the Secretary of State; and no such ~~optical scanning~~ ballot scan voting system shall thereafter be purchased for use or be used in this state.

(d) At least ten days prior to any primary or election, including special primaries, special elections, and referendum elections, the election superintendent shall verify and certify in writing to the Secretary of State that all voting will occur on equipment certified by the Secretary of State.

(e) Any vendor who completes a sale of ~~optical scanning~~ ballot scan voting system that has not been certified by the Secretary of State to a governmental body in this state shall be subject to a penalty of $100,000.00, payable to the State of Georgia, plus reimbursement of all costs and expenses incurred by the governmental body in connection with the sale. The State Election Board shall have authority to impose such penalty upon a finding that such a sale has occurred.

(f) When ~~an optical scanning~~ a ballot scan voting system has been so approved, no improvement or change that does not impair its accuracy, efficiency, or capacity shall render necessary a reexamination or reapproval of the ~~optical scanning voting~~ system, or of its kind.

(g) Neither the Secretary of State, nor any custodian, nor the governing authority of any county or municipality or a member of such authority nor any other person involved in the examination process shall have any pecuniary interest in any ~~optical scanning~~ ballot scan voting system or in the manufacture or sale thereof.

21-2-369.

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

(b) The arrangement of offices, names of candidates, and questions upon the ballots shall conform as nearly as practicable to this chapter for the arrangement of same on paper ballots; provided, however, that such form may be varied in order to present a clear presentation of candidates and questions to the electors and that the ballots shall not be required to have a name stub.

(c) The form and arrangement of ballots shall be prescribed by the Secretary of State and prepared by the superintendent.

21-2-369.1.

If two or more candidates for the same nomination or office shall have the same or similar names, the Secretary of State, in the case of federal or state offices, the superintendent of elections, in the case of county offices, or the official with whom such candidates qualify, in the case of municipal elections, shall print or cause to be printed the residence of all candidates for such nomination or office on the ballot under their names. The designated official shall determine whether the names of the candidates are of such a similar nature as to warrant printing the residence of all candidates for that office on the ballot; and the decision of the designated official shall be conclusive.

21-2-370.

Reserved.

21-2-371.

(a) If ballots for a precinct at which ~~an optical scanning~~ a ballot scan voting system is to be used shall not be delivered to the poll officers as required by this chapter, the chief manager of such precinct shall cause other ballots to be prepared, printed, or written, as nearly in the form of official ballots as practicable; and the poll officers shall cause the ballots, so substituted, to be used at the primary or election, in the same manner, as nearly as may be, as the official ballots. Such ballots, so substituted, shall be known as unofficial ballots.

(b) If any ~~optical scanning~~ ballot scan voting system being used in any primary or election shall become out of order during such primary or election, it shall, if possible, be repaired or another ~~optical scanning~~ ballot scan voting system substituted by the custodian or superintendent as promptly as possible, for which purpose the governing authority of the county or municipality may purchase as many extra ~~optical scanning~~ ballot scan voting systems as it may deem necessary; but, in case such repair or substitution cannot be made, the ballots may be voted manually.

21-2-372.

Ballots shall be of suitable design, size, and stock to permit processing by a ~~tabulating machine~~ ballot scanner and shall be printed in black ink on clear, white, or colored material. ~~In counties using a central count tabulating system, a serially numbered strip shall be attached to each ballot in a manner and form similar to that prescribed in this chapter for paper ballots.~~

21-2-373.

In elections, electors shall be permitted to cast write-in votes. The design of the ballot shall permit the superintendents, in counting the write-in votes, to determine readily whether an elector has cast any write-in vote not authorized by law. The Secretary of State, in specifying the form of the ballot, and the State Election Board, in promulgating rules and regulations respecting the conduct of elections, shall provide for ballot secrecy in connection with write-in votes.

21-2-374.

(a) The superintendent of each county or municipality shall order the proper programming to be placed in each ~~tabulator~~ ballot scanner used in any precinct or central tabulating location.

(b) On or before the third day preceding a primary or election, including special primaries, special elections, and referendum elections, the superintendent shall have the ~~optical~~

~~scanning tabulators~~ ballot scanners tested to ascertain that they will correctly count the votes cast for all offices and on all questions. Public notice of the time and place of the test shall be made at least five days prior thereto; provided, however, that, in the case of a runoff, the public notice shall be made at least three days prior thereto. Representatives of political parties and bodies, candidates, news media, and the public shall be permitted to observe such tests. The test shall be conducted by processing a preaudited group of ballots so marked as to record a predetermined number of valid votes for each candidate and on each question and shall include for each office one or more ballots which are improperly marked and one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the ~~optical scanning tabulator~~ ballot scanner to reject such votes. The ~~optical scanning tabulator~~ ballot scanner shall not be approved unless it produces an errorless count. If any error is detected, the cause therefor shall be ascertained and corrected; and an errorless count shall be made before the ~~tabulator~~ ballot scanner is approved. The superintendent shall cause the pretested ~~tabulators~~ ballot scanners to be placed at the various polling places to be used in the primary or election. The superintendent shall require that each ~~optical scanning tabulator~~ ballot scanner be thoroughly tested and inspected prior to each primary and election in which it is used and shall keep such tested material as certification of an errorless count on each ~~tabulator~~ ballot scanner. In counties using central count ~~optical scanning tabulators~~ ballot scanners, the same test shall be repeated immediately before the start of the official count of the ballots and at the conclusion of such count. Precinct ~~tabulators~~ ballot scanners shall produce a zero tape prior to any ballots being inserted on the day of any primary or election.

(c) In every primary or election, the superintendent shall furnish, at the expense of the county or municipality, all ballots, forms of certificates, and other papers and supplies required under this chapter and which are not furnished by the Secretary of State, all of which shall be in the form and according to the specifications prescribed, from time to time, by the Secretary of State.

21-2-375.

(a) In counties using precinct count ~~optical scanning tabulators~~ ballot scanners, the superintendent shall deliver the proper ~~optical scanning tabulator~~ ballot scanner to the polling places at least one hour before the time set for opening of the polls at each primary or election and shall cause each to be set up in the proper manner for use in voting.

(b) The superintendent shall provide ample protection against molestation of and injury to the ~~optical scanning tabulator~~ ballot scanner and, for that purpose, shall call upon any law enforcement officer to furnish such assistance as may be necessary; and it shall be the

duty of the law enforcement officer to furnish such assistance when so requested by the superintendent.

(c) The superintendent shall at least one hour before the opening of the polls:

(1) Provide sufficient lighting to enable electors, while in the voting booth, to read the ballot, which lighting shall be suitable for the use of poll officers in examining the booth; and such lighting shall be in good working order before the opening of the polls;

(2) Prominently post directions for voting ~~on the optical scanning ballot~~ within the voting booth; at least two sample ballots in use for the primary or election shall be posted prominently outside the enclosed space within the polling place;

(3) Ensure that the precinct count ~~optical scanning tabulator~~ ballot scanner shall have a seal securing the memory pack in use throughout the election day; such seal shall not be broken unless the ~~tabulator~~ ballot scanner is replaced due to malfunction; and

(4) Provide such other materials and supplies as may be necessary or as may be required by law.

21-2-376.

During the 30 days next preceding a general primary or election or during the ten days next preceding a special primary or election, the superintendent shall place on public exhibition, in such public places and at such times as he or she may deem most suitable for the information and instruction of the electors, one or more sets of sample ballots that will be used in such election. The sample ballots shall show the offices and questions to be voted upon, the names and arrangements of parties and bodies, and the names and arrangements of the candidates to be voted for. Such ballots shall be under the charge and care of a person competent as an instructor.

21-2-377.

(a) The superintendent shall designate a person or persons who shall have custody of the ~~optical scanning tabulators~~ ballot scanners of the county or municipality when they are not in use at a primary or election and shall provide for his or her compensation and for the safe storage and care of the ~~optical scanning tabulators~~ ballot scanners.

(b) All ~~optical scanning tabulators~~ ballot scanners, when not in use, shall be properly covered and stored in a suitable place or places.

21-2-378.

The governing authority of any county or municipality which adopts ~~optical scanning~~ ballot scan voting systems in the manner provided for by this part shall, upon the purchase of ~~optical scanning~~ ballot scan voting systems, provide for their payment by the county or

municipality. Bonds or ~~other~~ evidence of indebtedness may be issued in accordance with the provisions of law relating to the increase of indebtedness of counties or municipalities to meet all or any part of the cost of the ~~optical scanning~~ ballot scan voting systems.

21-2-379.

If a method of nomination or election for any candidate or office, or of voting on any question is prescribed by law, in which the use of ~~optical scanning~~ ballot scan voting systems is not possible or practicable, or in case, at any primary or election, the number of candidates seeking nomination or nominated for any office renders the use of ~~optical scanning~~ ballot scan voting systems for such office at such primary or election impracticable, or if, for any other reason, at any primary or election the use of ~~optical scanning~~ ballot scan voting systems wholly or in part is not practicable, the superintendent may arrange to have the voting for such candidates or offices or for such questions conducted by any other lawful method authorized in this chapter. In such cases, appropriate ballots shall be printed for such candidates, offices, or questions, and the primary or election shall be conducted by the poll officers, and the ballots shall be counted and return thereof made in the manner required by law for such method."

SECTION 10.

Said chapter is further amended by revising Part 5 of Article 9, relating to electronic recording voting systems, by repealing the part and inserting in lieu thereof the following:

"Part 5

21-2-379.1.

On and after January 1, 2019, no primaries or elections in this state shall be conducted on direct recording electronic (DRE) voting systems.

21-2-379.2.

Each polling place in this state utilizing ballot scan voting systems shall be equipped with at least one electronic ballot marker that meets the requirements as set forth in this part.

21-2-379.3.

No electronic ballot marker shall be adopted or used in primaries or elections in this state unless it shall, at the time, satisfy the following requirements:

(1) It shall provide facilities for marking scanning ballots for all such candidates and questions for which the elector shall be entitled to vote in a primary or election;

403 (2) It shall permit each elector, in one operation, to mark a vote for presidential electors
404 for all the candidates of one party or body for the office of presidential elector;
405 (3) Except as provided in paragraph (2) of this Code section for presidential electors, it
406 shall permit each elector, at other than primaries, to mark votes for a ticket selected from
407 the nominees of any and all parties or bodies, from independent nominations, and from
408 persons not in nomination;
409 (4) It shall permit each elector to mark votes, at any election, for any person and for any
410 office for whom and for which he or she is lawfully entitled to vote, whether or not the
411 name of such person or persons appears as a candidate for election; to mark votes for as
412 many persons for an office as he or she is entitled to vote for; and to mark votes for or
413 against any question upon which he or she is entitled to vote;
414 (5) It shall preclude the marking of votes for any candidate or upon any question for
415 whom or upon which an elector is not entitled to vote; shall preclude the marking of votes
416 for more persons for any office than he or she is entitled to vote for; and shall preclude
417 the marking of votes for any candidate for the same office or upon any question more
418 than once;
419 (6) It shall permit voting in absolute secrecy so that no person can see or know for whom
420 any other elector has voted or is voting, save an elector whom he or she has assisted or
421 is assisting in voting, as prescribed by law;
422 (7) It shall be constructed of material of good quality in a neat and workmanlike manner;
423 (8) It shall, when properly operated, mark correctly and accurately every vote cast;
424 (9) It shall be so constructed that an elector may readily learn the method of operating
425 it;
426 (10) It shall be safely transportable; and
427 (11) After use by the elector, it shall produce a ballot which is the same size and
428 appearance as other ballots used in the primary or election for electors voting the same
429 ballot style and on such ballot shall be marked the choices made by the elector using the
430 electronic ballot marker. Such ballot shall contain all candidate names and questions in
431 all of the contests for that particular style of ballot and not solely the names of those
432 candidates or questions for which the elector chose to vote.

433 21-2-379.4.
434 (a) Any person or organization owning, manufacturing, or selling, or being interested in
435 the manufacture or sale of, any electronic ballot marker may request the Secretary of State
436 to examine the device. Any ten or more electors of this state may, at any time, request the
437 Secretary of State to reexamine any such device previously examined and approved by him
438 or her. Before any such examination or reexamination, the person, persons, or organization

439 requesting such examination or reexamination shall pay to the Secretary of State the
440 reasonable expenses of such examination or reexamination. The Secretary of State shall
441 publish and maintain on his or her website the cost of such examination or reexamination.
442 The Secretary of State may, at any time, in his or her discretion, reexamine any such
443 device.
444 (b) The Secretary of State shall thereupon examine or reexamine such device and shall
445 make and file in his or her office a report, attested by his or her signature and the seal of
446 his or her office, stating whether, in his or her opinion, the kind of device so examined can
447 be safely and accurately used by electors at primaries and elections as provided in this
448 chapter. If this report states that the device can be so used, the device shall be deemed
449 approved; and devices of its kind may be adopted for use at primaries and elections as
450 provided in this chapter.
451 (c) No kind of device not so approved shall be used at any primary or election and if, upon
452 the reexamination of any such device previously approved, it shall appear that the device
453 so reexamined can no longer be safely or accurately used by electors at primaries or
454 elections as provided in this chapter because of any problem concerning its ability to
455 accurately record votes, the approval of the same shall immediately be revoked by the
456 Secretary of State; and no such device shall thereafter be purchased for use or be used in
457 this state.
458 (d) Any vendor who completes a sale of a electronic ballot marker that has not been
459 certified by the Secretary of State to a governmental body in this state shall be subject to
460 a penalty of $100,000.00, payable to the State of Georgia, plus reimbursement of all costs
461 and expenses incurred by the governmental body in connection with the sale. The State
462 Election Board shall have authority to impose such penalty upon a finding that such a sale
463 has occurred.
464 (e) When a device has been so approved, no improvement or change that does not impair
465 its accuracy, efficiency, or capacity shall render necessary a reexamination or reproval of
466 such device, or of its kind.
467 (f) Neither the Secretary of State, nor any custodian, nor the governing authority of any
468 county or municipality or a member of such authority nor any other person involved in the
469 examination process shall have any pecuniary interest in any device or in the manufacture
470 or sale thereof.

471 21-2-379.5.
472 (a) The superintendent of each county or municipality shall cause the proper ballot design
473 and style to be programmed for each electronic ballot marker which is to be used in any
474 precinct within such county or municipality, cause each such device to be placed in proper

475 order for voting, and examine each unit before it is sent to a polling place for use in a
476 primary or election to verify that each device is properly recording votes and producing
477 proper ballots.
478 (b) The superintendent may appoint, with the approval of the county or municipal
479 governing authority, as appropriate, a custodian of the electronic ballot markers, and deputy
480 custodians as may be necessary, whose duty shall be to prepare the devices to be used in
481 the county or municipality at the primaries and elections to be held therein. Each custodian
482 and deputy custodian shall receive from the county or municipality such compensation as
483 shall be fixed by the governing authority of such county or municipality. Such custodian
484 shall, under the direction of the superintendent, have charge of and represent the
485 superintendent during the preparation of the devices as required by this chapter. The
486 custodian and deputy custodians shall serve at the pleasure of the superintendent. Each
487 custodian and deputy custodian shall take an oath of office prepared by the Secretary of
488 State before each primary or election which shall be filed with the superintendent.
489 (c) On or before the third day preceding a primary or election, including special primaries,
490 special elections, and referendum elections, the superintendent shall have each electronic
491 ballot marker tested to ascertain that it will correctly record the votes cast for all offices and
492 on all questions and produce a ballot reflecting such choices of the elector in a manner that
493 the State Election Board shall prescribe by rule or regulation. Public notice of the time and
494 place of the test shall be made at least five days prior thereto; provided, however, that, in
495 the case of a runoff, the public notice shall be made at least three days prior thereto.
496 Representatives of political parties and bodies, news media, and the public shall be
497 permitted to observe such tests.

498 21-2-379.6.
499 (a) All electronic ballot markers and related equipment, when not in use, shall be properly
500 stored and secured under conditions as shall be specified by the Secretary of State.
501 (b) The superintendent shall store the devices and related equipment under his or her
502 supervision or shall designate a person or entity who shall provide secure storage of such
503 devices and related equipment when it is not in use at a primary or election. The
504 superintendent shall provide compensation for the safe storage and care of such devices and
505 related equipment if the devices and related equipment are stored by a person or entity
506 other than the superintendent."

507 **SECTION 11.**
508 Said chapter is further amended by revising subparagraph (b)(2)(B) of Code
509 Section 21-2-381, relating to making of application for absentee ballot, determination of

eligibility by ballot clerk, furnishing of applications to colleges and universities, and persons entitled to make application, as follows:

"(B) If the application is made in person, shall issue the ballot to the elector to be voted ~~on a direct recording electronic (DRE) voting system~~ within the confines of the registrar's or absentee ballot clerk's office ~~as required by Code Section 21-2-383 if the ballot is issued during the advance voting period established pursuant to subsection (d) of Code Section 21-2-385~~; or"

SECTION 12.

Said chapter is further amended by revising Code Section 21-2-383, relating to preparation and delivery of ballots, form of ballots, and casting ballot in person using DRE unit, as follows:

"21-2-383.

~~(a)~~ Ballots for use by absentee electors shall be prepared sufficiently in advance by the superintendent and shall be delivered to the board of registrars or absentee ballot clerk as provided in Code Section 21-2-384. Such ballots shall be marked 'Official Absentee Ballot' and shall be in substantially the form for ballots required by Article 8 of this chapter~~, except that in counties using voting machines or direct recording electronic (DRE) units the ballots may be in substantially the form for the ballot labels required by Article 9 of this chapter~~. Every such ballot shall have printed with other instructions thereon the following:

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

The form for either ballot shall be determined and prescribed by the Secretary of State, except in municipal primaries or elections, in which the form of absentee ballots which follows the paper ballot format shall be determined and prescribed by the superintendent. ~~(b) Notwithstanding any other provision of this Code section, in jurisdictions in which direct recording electronic (DRE) voting systems are used at the polling places on election day, such direct recording electronic (DRE) voting systems shall be used for casting absentee ballots in person at a registrar's or absentee ballot clerk's office or in accordance with Code Section 21-2-382, providing for additional sites.~~"

SECTION 13.

Said chapter is further amended by revising subsection (c) of Code Section 21-2-405, relating to meeting of poll officers at place of primary or election, oaths, failure of poll officer to appear, custodians of voting materials, temporary absence or disability, and poll workers working less than entire day, as follows:

"(c) After the poll officers of a precinct have been organized, the chief manager shall designate one of the assistant managers to have custody of the electors list. In precincts in which ballots are used, the other assistant manager shall have charge of the receipt and deposit of ballots in the ballot box, the chief manager or one of the clerks shall issue the ballots to electors after they are found entitled to vote, and the other clerk shall have custody of the voter's certificate binder and shall place the voter's certificates therein as they are received and approved. ~~In precincts in which voting machines are used, the other assistant manager or clerk shall have custody of the voter's certificate binder and shall place the voter's certificates therein as they are received and approved, and the chief manager shall have special charge of the operation of the voting machine; provided, however, that~~ The chief manager may make other arrangements for the division of the duties imposed by this chapter, so long as each poll officer is assigned some specific duty to perform. In municipal primaries being held with separate precinct managers, the chief managers appointed by each party shall jointly appoint the person or persons to be in charge of the electors list. In all precincts, the chief manager shall assign an assistant manager or a clerk to keep a numbered list of voters, in sufficient counterparts, during the progress of the voting."

SECTION 14.

Said chapter is further amended by revising subsection (c) of Code Section 21-2-408, relating to poll watchers, designation, duties, removal for interference with election, reports by poll watchers of infractions or irregularities, and ineligibility of candidates to serve as poll watchers, as follows:

"(c) ~~In counties or municipalities using direct recording electronic (DRE) voting systems or optical scanning voting systems, each political party may appoint two poll watchers in each primary or election, each political body may appoint two poll watchers in each election, each nonpartisan candidate may appoint one poll watcher in each nonpartisan election, and each independent candidate may appoint one poll watcher in each election to serve in the locations designated by the superintendent within the tabulating center. Such designated locations shall include the check-in area, the computer room, the duplication area, and such other areas as the superintendent may deem necessary to the assurance of fair and honest procedures in the tabulating center. The poll watchers provided for in this subsection shall be appointed and serve in the same manner as other poll watchers.~~ Reserved."

SECTION 15.

Said chapter is further amended by revising Code Section 21-2-413, relating to conduct of voters, campaigners, and others at polling places generally, as follows:

"21-2-413.

(a) No elector shall be allowed to occupy a voting compartment or ~~voting machine~~ booth already occupied by another except when giving assistance as permitted by this chapter.

(b) No elector shall remain in a voting compartment or ~~voting machine~~ booth an unreasonable length of time; and, if such elector shall refuse to leave after such period, he or she shall be removed by the poll officers.

(c) No elector except a poll officer or poll watcher shall reenter the enclosed space after he or she has once left it except to give assistance as provided by this chapter.

(d) No person, when within the polling place, shall electioneer or solicit votes for any political party or body or candidate or question, nor shall any written or printed matter be posted within the room, except as required by this chapter. The prohibitions contained within Code Section 21-2-414 shall be equally applicable within the polling place and no elector shall violate the provisions of Code Section 21-2-414.

(e) No person shall use photographic or other electronic monitoring or recording devices, cameras, or cellular telephones while such person is in a polling place while voting is taking place; provided, however, that a poll manager, in his or her discretion, may allow the use of photographic devices in the polling place under such conditions and limitations as the election superintendent finds appropriate, and provided, further, that no photography shall be allowed of a ballot or the face of a ~~voting machine or DRE unit~~ electronic ballot marker while an elector is voting such ballot or ~~machine or DRE unit~~ using such electronic ballot marker and no photography shall be allowed of an electors list, electronic electors list, or the use of an electors list or electronic electors list. This subsection shall not prohibit the use of photographic or other electronic monitoring or recording devices, cameras, or cellular telephones by poll officials for official purposes.

(f) All persons except poll officers, poll watchers, persons in the course of voting and such persons' children under 18 years of age or any child who is 12 years of age or younger accompanying such persons, persons lawfully giving assistance to electors, duly authorized investigators of the State Election Board, and peace officers when necessary for the preservation of order, must remain outside the enclosed space during the progress of the voting. Notwithstanding any other provision of this chapter, any elector shall be permitted to be accompanied into the enclosed area and into a voting compartment or ~~voting machine~~ booth while voting by such elector's child or children under 18 years of age or any child who is 12 years of age or younger unless the poll manager or an assistant manager determines in his or her sole discretion that such child or children are causing a disturbance

or are interfering with the conduct of voting. Children accompanying an elector in the enclosed space pursuant to this subsection shall not in any manner handle any ballot nor operate any function of the voting equipment under any circumstances.

(g) When the hour for closing the polls shall arrive, all electors who have already qualified and are inside the enclosed space shall be permitted to vote; and, in addition thereto, all electors who are then in the polling place outside the enclosed space, or then in line outside the polling place, waiting to vote, shall be permitted to do so if found qualified, but no other persons shall be permitted to vote.

(h) It shall be the duty of the chief manager to secure the observances of this Code section, to keep order in the polling place, and to see that no more persons are admitted within the enclosed space than are permitted by this chapter. Further, from the time a polling place is opened until the ballots are delivered to the superintendent, the ballots shall be in the custody of at least two poll officers at all times.

(i) No person except peace officers regularly employed by the federal, state, county, or municipal government or certified security guards shall be permitted to carry firearms within 150 feet of any polling place as provided for in subsection (b) of Code Section 16-11-127."

SECTION 16.

Said chapter is further amended by revising subsection (h) of Code Section 21-2-418, relating to provisional ballots, as follows:

"(h) ~~Notwithstanding any other provision of this chapter to the contrary, in the event that the voting machines or DRE units at a polling place malfunction and cannot be used to cast ballots or some other emergency situation exists which prevents the use of such equipment to cast votes, provisional ballots may be used by the electors at the polling place to cast their ballots. In such event, the ballots cast by electors whose names appear on the electors list for such polling place shall not be considered provisional ballots and shall not require verification as provided by Code Section 21-2-419; provided, however, that persons whose names do not appear on the electors list for such polling place shall vote provisional ballots which shall be subject to verification under Code Section 21-2-419.~~ Reserved."

SECTION 17.

Said chapter is further amended by repealing and reserving Part 3 of Article 11, relating to preparation for and conduct of primaries and elections in precinct using voting machines.

SECTION 18.

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

"21-2-482.

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

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

The form for ~~either~~ the ballot shall be determined and prescribed by the Secretary of State."

SECTION 19.

Said chapter is further amended by revising subsections (d), (f), and (h) of Code Section 21-2-493, relating to computation, canvassing, and tabulation of returns, investigation of discrepancies in vote counts, recount procedure, certification of returns, and change in returns, as follows:

"(d) ~~In precincts in which voting machines have been used, the superintendent may require a recanvass of the votes recorded on the machines used in the precinct, as provided in Code Section 21-2-495.~~ Reserved."

"(f) ~~In precincts in which voting machines have been used, there shall be read from the general return the identifying number or other designation of each voting machine used and the numbers registered on the protective counter or device on each machine prior to the opening of the polls and immediately after the close of the same, whereupon the assistant having charge of the records of the superintendent showing the number registered on the protective counter or device of each voting machine prior to delivery at the polling place shall publicly announce the numbers so registered; and, unless it appears that such records and such general return correspond, no further returns shall be read from the latter until any and all discrepancies are explained to the satisfaction of the superintendent.~~ Reserved."

"(h) ~~In precincts in which voting machines have been used, when the records agree with the returns regarding the number registered on the voting machine, the votes recorded for~~

~~each candidate shall be read by an assistant slowly, audibly, and in an orderly manner from the general return sheet which has been returned unsealed, and the figures announced shall be compared by other assistants with the duplicate return sheet which has been returned sealed. If the voting machine is of the type equipped with a mechanism for printing paper proof sheets, such general and duplicate return sheets shall also be compared with such proof sheets, which have been returned as aforesaid. If any discrepancies are discovered, the superintendent shall examine all of the return sheets, proof sheets, and other papers in his or her possession relating to the same precinct. Such proof sheets shall be deemed to be prima-facie evidence of the result of the primary or election and to be prima facie accurate; and, if the proper proof sheets, properly identified, shall be mutually consistent and if the general and duplicate returns or either of such returns from such precinct shall not correspond with such proof sheets, they shall be corrected so as to correspond with such proof sheets in the absence of allegation of specific fraud or error proved to the satisfaction of the superintendent.~~ Reserved."

SECTION 20.

Said chapter is further amended by revising subsection (b) of Code Section 21-2-495, relating to procedure for recount or recanvass of votes; losing candidate's right to a recount, as follows:

"(b) ~~In precincts where voting machines have been used, whenever it appears that there is a discrepancy in the returns recorded for any voting machine or machines or that an error, although not apparent on the face of the returns, exists, the superintendent shall, either of his or her own motion or upon the sworn petition of three electors of any precinct, order a recanvass of the votes shown on that particular machine or machines. Such recanvass may be conducted at any time prior to the certification of the consolidated returns by the superintendent. In conducting such recanvass, the superintendent shall summon the poll officers of the precinct; and such officers, in the presence of the superintendent, shall make a record of the number of the seal upon the voting machine or machines and the number of the protective counter or other device; shall make visible the registering counters of each such machine; and, without unlocking the machine against voting, shall recanvass the vote thereon. Before making such recanvass, the superintendent shall give notice in writing to the custodian of voting machines, to each candidate, and to the county or municipal chairperson of each party or body affected by the recanvass. Each such candidate may be present in person or by representative, and each of such parties or bodies may send two representatives to be present at such recanvass. If, upon such recanvass, it shall be found that the original canvass of the returns has been correctly made from the machine and that the discrepancy still remains unaccounted for, the superintendent, with the assistance of the~~

~~custodian, in the presence of the poll officers and the authorized candidates and representatives, shall unlock the voting and counting mechanism of the machine and shall proceed thoroughly to examine and test the machine to determine and reveal the true cause or causes, if any, of the discrepancy in returns from such machine. Each counter shall be reset at zero before it is tested, after which it shall be operated at least 100 times. After the completion of such examination and test, the custodian shall then and there prepare a statement, in writing, giving in detail the result of the examination and test; and such statement shall be witnessed by the persons present and shall be filed with the superintendent. If, upon such recanvass, it shall appear that the original canvass of the returns by the poll officers was incorrect, such returns and all papers being prepared by the superintendent shall be corrected accordingly; provided, however, that in the case of returns from any precinct wherein the primary or election was held by the use of a voting machine equipped with a mechanism for printing paper proof sheets, such proof sheets, if mutually consistent, shall be deemed to be prima-facie evidence of the result of the primary or election and to be prima facie accurate; and there shall not be considered to be any discrepancy or error in the returns from any such precinct, such as to require a recanvass of the vote, if all available proof sheets, from the voting machine used therein, identified to the satisfaction of the superintendent and shown to his or her satisfaction to have been produced from proper custody, shall be mutually consistent; and, if the general and duplicate returns, or either of such returns from such precincts shall not correspond with such proof sheets, they and all other papers being prepared by the superintendent shall be corrected so as to correspond with such proof sheets in the absence of allegation of specific fraud or error proved to the satisfaction of the superintendent by the weight of the evidence; and only in such case shall the vote of such precinct be recanvassed under this Code section.~~ Reserved."

SECTION 21.

Said chapter is further amended by revising Code Section 21-2-498, which was previously reserved, as follows:

"21-2-498.

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

(1) 'Audit unit' means a precinct, a set of ballots (such as all the ballots tabulated on one vote tabulating device or a batch of ballots), or a single ballot. A precinct, a set of ballots, or a single ballot may be used as an audit unit for purposes of this Code section only if both of the following conditions are satisfied:

(A) The relevant vote tabulating device is able to produce a report of the votes cast in the precinct, set of ballots, or single ballot; and

755 (B) Each ballot is assigned to not more than one audit unit.
756 (2) 'Contest' means any primary, election, runoff primary, or runoff election for an office
757 or for a measure.
758 (3) 'Risk-limiting audit' means a manual tally employing a statistical method that ensures
759 a large, predetermined minimum chance of requiring a full manual tally whenever a full
760 manual tally would show an electoral outcome that differs from the outcome reported by
761 the vote tabulating system for the audited contest. A risk-limiting audit shall begin with
762 a manual tally of the votes in one or more audit units and shall continue to manually tally
763 votes in additional audit units until there is strong statistical evidence that the electoral
764 outcome is correct. In the event that counting additional audit units does not provide
765 strong statistical evidence that the electoral outcome is correct, the audit shall continue
766 until there has been a full manual tally to determine the correct electoral outcome of the
767 audited contest.
768 (4) 'Tabulation audits' means verifying that the votes on voter verified paper ballots made
769 available for the audit are counted and tabulated accurately enough to determine the
770 correct outcome.
771 (5) 'Unofficial final results' means election results tabulated.
772 (b) The General Assembly hereby finds, determines, and declares that auditing of election
773 results is necessary to ensure effective election administration and public confidence in
774 election results. Further, risk-limiting audits provide a more effective manner of
775 conducting audits than traditional audit methods in that risk-limiting audits typically
776 require only limited resources for election contests with wide margins of victory, whereas
777 greater resources are required for close contests.
778 (c) Beginning on January 1, 2019, the State Election Board in conjunction with local
779 election superintendents shall be authorized to conduct risk-limiting audits after all
780 state-wide primary, general, and special elections and any runoffs of such elections, in
781 accordance with the requirements of this Code section. On and after January 1, 2021, the
782 State Election Board in conjunction with local election superintendents shall conduct
783 postelection risk-limiting audits for all federal and gubernatorial elections for both the
784 primary and general elections in accordance with requirements of this Code section.
785 (d) The risk-limiting audit shall be conducted as follows:
786 (1) For each contest election being audited, the State Election Board in conjunction with
787 the local election superintendents shall set a risk limit no larger than 10 percent, while
788 providing a minimum 90 percent chance of detecting and correcting a result where the
789 outcome of the original tabulation is inconsistent with the election outcome obtained by
790 conducting a full recount;

791 (2) The State Election Board shall provide notice of the time and place of the random
792 selection of the audit units to be manually tallied and of the times and places of such
793 audits;
794 (3) The State Election Board shall make available to the public a report of the unofficial
795 final tabulated vote results for the contest, including the results for each audit unit in the
796 contest, prior to the random selection of audit units to be manually tallied and prior to the
797 commencement of the audit;
798 (4) The State Election Board shall make available to the public the statistical basis for
799 the size of the random samples so that the public can review the process;
800 (5) The State Election Board in conjunction with the local election superintendents shall
801 conduct the audit upon tabulation of the unofficial final results;
802 (6) The State Election Board in conjunction with the local election superintendents shall
803 conduct the audit in public view by manually interpreting the actual ballots that the voters
804 themselves verified, not an image or a duplicated ballot or a barcode associated with such
805 ballot; and
806 (7) All ballots, whether cast in person, by absentee ballot, early voting, provisional
807 ballot, or otherwise, shall be subject to audit.
808 (e) The audit must be completed prior to the final certification of the results of the contest.
809 (f) If a risk-limiting audit of a contest leads to a full manual tally of the ballots cast using
810 the voting system, the vote counts according to that manual tally shall replace the vote
811 counts reported for the purpose of determining the official contest results.
812 (g) The results of any audits conducted under this Code section shall be published on the
813 website of the Secretary of State within 48 hours of the completion of the audit. If the audit
814 involved a manual tally of one or more entire precincts, then the names and numbers of all
815 precincts audited and a comparison of the vote tabulator results with the manual tally for
816 each precinct shall be published with the audit results on the website. Similarly, if the audit
817 units are sets of ballots or single ballots, a comparison of the unofficial final results and the
818 audit results shall be published on the website.
819 (h) Any audit required under this Code section shall not commence for any election subject
820 to a recount until the conclusion of such recount.
821 (i) The State Election Board shall promulgate rules, regulations, and procedures necessary
822 to implement this Code section.
823 (j) In connection with the promulgation of such rules, regulations, and procedures, the
824 State Election Board shall consult with recognized statistical experts, including statistical
825 experts with experience in election auditing, equipment vendors, and local election
826 superintendents, and shall consider the best practices for conducting such risk-limiting
827 audits. ~~Reserved.~~"

SECTION 22.

Said chapter is further amended by revising Code Section 21-2-500, relating to delivery of voting materials, presentation to grand jury in certain cases, preservation and destruction, and destruction of unused ballots, as follows:

"21-2-500.

(a) Immediately upon completing the returns required by this article, in the case of elections other than municipal elections, the superintendent shall deliver in sealed containers to the clerk of the superior court or, if designated by the clerk of the superior court, to the county records manager or other office or officer under the jurisdiction of a county governing authority which maintains or is responsible for records, as provided in Code Section 50-18-99, the used and void ballots and the stubs of all ballots used; one copy of the oaths of poll officers; and one copy of each numbered list of voters, tally paper, ~~voting machine paper proof sheet,~~ and return sheet involved in the primary or election. In addition, the superintendent shall deliver copies of the ~~voting machine ballot labels,~~ computer chips containing ballot tabulation programs, copies of computer records of ballot design, and similar items or an electronic record of the program by which votes are to be recorded or tabulated, which is captured prior to the election, and which is stored on some alternative medium such as a CD-ROM or floppy disk simultaneously with the programming of the PROM or other memory storage device. The clerk, county records manager, or the office or officer designated by the clerk shall hold such ballots and other documents under seal, unless otherwise directed by the superior court, for at least 24 months, after which time they shall be presented to the grand jury for inspection at its next meeting. Such ballots and other documents shall be preserved in the office of the clerk, county records manager, or officer designated by the clerk until the adjournment of such grand jury, and then they may be destroyed, unless otherwise provided by order of the superior court.

(b) The superintendent shall retain all unused ballots for 30 days after the election or primary and, if no challenge or contest is filed prior to or during that period that could require future use of such ballots, may thereafter destroy such unused ballots. If a challenge or contest is filed during that period that could require the use of such ballots, they shall be retained until the final disposition of the challenge or contest and, if remaining unused, may thereafter be destroyed.

(c) Immediately upon completing the returns required by this article, the municipal superintendent shall deliver in sealed containers to the city clerk the used and void ballots and the stubs of all ballots used; one copy of the oaths of poll officers; and one copy of each numbered list of voters, tally paper, ~~voting machine paper proof sheet,~~ and return sheet involved in the primary or election. In addition, the municipal superintendent shall

deliver copies of the ~~voting machine ballot labels,~~ computer chips containing ballot tabulation programs, copies of computer records of ballot design, and similar items or an electronic record of the program by which votes are to be recorded or tabulated, which is captured prior to the election, and which is stored on some alternative medium such as a CD-ROM or floppy disk simultaneously with the programming of the PROM or other memory storage device. Such ballots and other documents shall be preserved under seal in the office of the city clerk for at least 24 months; and then they may be destroyed unless otherwise provided by order of the mayor and council if a contest has been filed or by court order, provided that the electors list, voter's certificates, and duplicate oaths of assisted electors shall be immediately returned by the superintendent to the county registrar."

SECTION 23.

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

"21-2-566.

Any person who:

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

(2) Uses or threatens violence in a manner that would prevent a reasonable poll officer or actually prevents a poll officer from the execution of his or her duties or materially interrupts or improperly and materially interferes with the execution of a poll officer's duties;

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

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

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

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

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

~~(8)~~(7) Willfully tampers with any electors list, voter's certificate, numbered list of voters, ballot box, ~~voting machine, direct recording electronic (DRE) equipment,~~ electronic ballot marker, or tabulating machine

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

SECTION 24.

Said chapter is further amended by revising Code Section 21-2-568, relating to entry into voting compartment or booth while another voting, interfering with elector, inducing elector to reveal or revealing elector's vote, and influencing voter while assisting, as follows:

"21-2-568.

(a) Any person who knowingly:

(1) Goes into the voting compartment or ~~voting machine~~ booth while another is voting or marks the ballot or registers the vote for another, except in strict accordance with this chapter;

(2) Interferes with any elector marking his or her ballot or registering his or her vote;

(3) Attempts to induce any elector before depositing his or her ballot to show how he or she marks or has marked his or her ballot; or

(4) Discloses to anyone how another elector voted, without said elector's consent, except when required to do so in any legal proceeding

shall be guilty of a felony.

(b) Any person who, while giving lawful assistance to another, attempts to influence the vote of the elector he or she is assisting or marks a ballot or registers a vote in any other way than that requested by the voter he or she is assisting shall be guilty of a felony and, upon conviction thereof, shall be sentenced to imprisonment for not less than one nor more than ten years or to pay a fine not to exceed $100,000.00, or both."

SECTION 25.

Said chapter is further amended by revising Code Section 21-2-579, relating to fraudulently allowing ballot or voting machine to be seen, casting unofficial ballot, and receiving unauthorized assistance in voting, as follows:

"21-2-579.

Any voter at any primary or election who:

(1) Allows his or her ballot ~~or the face of the voting machine used by him or her~~ to be seen by any person with the apparent intention of letting it be known for a fraudulent purpose how he or she is about to vote;

(2) Casts or attempts to cast any <u>ballot</u> other than the official ballot which has been given to him or her by the proper poll officer, or advises or procures another to do so;

(3) Without having made the affirmation under oath or declaration required by Code Section 21-2-409, or when the disability which he or she declared at the time of registration no longer exists, permits another to accompany him or her into the voting compartment or ~~voting machine~~ booth or to mark his or her ballot or to ~~register his or her~~

~~vote on the voting machine or direct recording electronic (DRE) equipment~~ use an electronic ballot marker; or

(4) States falsely to any poll officer that because of his or her inability to read the English language or because of blindness, near-blindness, or other physical disability he or she cannot mark the ballot ~~or operate the voting machine~~ without assistance

shall be guilty of a misdemeanor."

SECTION 26.

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

"21-2-580.

Any person who:

(1) Unlawfully opens, tampers with, or damages any ~~voting machine~~ electronic ballot marker or tabulating machine to be used or being used at any primary or election;

(2) Willfully prepares ~~a voting machine~~ an electronic ballot marker or tablulating machine for use in a primary or election in improper order for voting; or

(3) Prevents or attempts to prevent the correct operation of such electronic ballot marker or tabulating machine

shall be guilty of a felony."

SECTION 27.

Said chapter is further amended by repealing and reserving Code Section 21-2-581, relating to unauthorized making or possession of voting machine key.

SECTION 28.

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

"21-2-582.

Any person who tampers with or damages any ~~direct recording electronic (DRE) equipment~~ electronic ballot marker or tabulating ~~computer~~ machine or device to be used or being used at or in connection with any primary or election or who prevents or attempts to prevent the correct operation of any ~~direct recording electronic (DRE) equipment~~ electronic ballot marker or tabulating ~~computer~~ machine or device shall be guilty of a felony."

SECTION 29.

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

"21-2-582.1.

(a) For the purposes of this Code section, the term 'voting equipment' shall mean a ~~voting machine,~~ tabulating machine, ~~optical scanning~~ ballot scan voting system, or ~~direct recording electronic voting system~~ electronic ballot marker.

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

SECTION 30.

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

"21-2-587.

Any poll officer who willfully:

(1) Makes a false return of the votes cast at any primary or election;

(2) Deposits fraudulent ballots in the ballot box or certifies as correct a false return of ballots;

(3) ~~Registers fraudulent votes upon any voting machine or certifies as correct a return of fraudulent votes cast upon any voting machine~~ Reserved;

(4) Makes any false entries in the electors list;

(5) Destroys or alters any ballot, voter's certificate, or electors list;

(6) Tampers with any ~~voting machine, direct recording electronic (DRE) equipment~~ electronic ballot marker, or tabulating ~~computer~~ machine or device;

(7) Prepares or files any false voter's certificate not prepared by or for an elector actually voting at such primary or election; or

(8) Fails to return to the officials prescribed by this chapter, following any primary or election, any ~~keys of a voting machine,~~ ballot box, general or duplicate return sheet, tally paper, oaths of poll officers, affidavits of electors and others, record of assisted voters, numbered list of voters, electors list, voter's certificate, spoiled and canceled ballots, ~~ballots deposited, written, or affixed in or upon a voting machine, DRE~~ electronic ballot marker or tabulating machine memory cards, or any certificate or any other paper or record required to be returned under this chapter

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

1003 **SECTION 31.**

1004 Said chapter is further amended by revising Code Section 21-2-591, relating to poll officers
1005 permitting unlawful assistance to voters, as follows:

1006 ″21-2-591.

1007 Any poll officer who permits a voter to be accompanied by another into the voting
1008 compartment or ~~voting machine~~ booth when such poll officer knows that the disability
1009 which the voter declared at the time of registration no longer exists or that the disability
1010 which the voter declared at the time of voting did not exist shall be guilty of a
1011 misdemeanor.″

1012 **SECTION 32.**

1013 Section 7 and this section of this Act shall become effective upon its approval by the
1014 Governor or upon its becoming law without such approval. The remaining sections of this
1015 Act shall become effective on January 1, 2019.

1016 **SECTION 33.**

1017 All laws and parts of laws in conflict with this Act are repealed.

Exhibit C

HOUSE BILL 848

HOUSE BILL 848 and

SENATE BILL 403 NOTES

To amend Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and elections generally, so as to provide for uniform election equipment in this state; to provide that direct recording electronic (DRE) voting systems shall not be used in primaries or elections in this state after January 1, 2024; to provide for definitions; to provide for ballot marking devises and standards and procedures therefor; to provide for conforming changes; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Overview:

- These bills were originally drafted word for word.
- Since their drafting, **Senate Bill 403** passed out of committee on Thursday, February 22, 2018. It was noted prior to passing out of committee that changes were made to the Senate Bill. Some of the changes were specifically spoken about prior to passage while others were only acknowledged with no specificity of what changes were made. Currently, the amended bill is not available.
- Senator Josh McKoon, who is running for the office of Secretary of State, cast one of the votes in favor of moving **Senate Bill 403** with noted changes out of committee.

Section 5 (a) (1-4): The equipment used for casting and counting votes in county, state, and federal elections shall be the same in each county in this state and shall be provided to each county by the state, as determined by the Secretary of State. Notwithstanding any provision of law to the contrary, on and after January 1, 2024, only optical scanning voting system equipment shall be used in federal, state, and county primaries and elections in the State of Georgia. Not later than ~~August 1, 2018~~ January 31, 2019, the Secretary of State shall issue a competitive public solicitation to select optical scanning voting system equipment and supporting services for use in primaries and elections in each county in this state. A vendor selection shall be made, price and contract negotiations shall be completed, and the selection shall be announced by ~~December 31, 2018~~ June 1, 2019. Provided that the General Assembly specifically appropriates funding to implement this subsection by not later than July 1, 2019, the Secretary of State shall provide optical scanning voting equipment to counties in Georgia for use in all federal, state, and county primaries and elections by no later than the 2020 presidential preference primary. Notwithstanding any provision of law to the contrary, the Secretary of State is authorized to conduct pilot programs to test and evaluate the use of optical scanning voting systems and voter-verifiable ballots in primaries and elections in this state.

*(**Note:** The dates for issuing a competive public solicitation and announcing the selection were changed from those striken out in red and replaced by those dates in blue print. The reason for the change, as discussed in the committee hearing, was to ensure that the incoming Secretary of State would have responsibility for the changes as opposed to the current Secretary of State who is leaving office in order to run for office of Governor.)*

Section 15- O.C.G.A. 21-2-498(a-f): As used in this Code section, the term 'risk-limiting audit' means an audit protocol that makes use of statistical methods to limit to acceptable levels the risk of certifying a preliminary election outcome that is inconsistent with the election outcome that would be obtained by conducting a full manual tally count. Beginning with the 2020 presidential preference primary, the Secretary of State in conjunction with local election superintendents shall be authorized to conduct post-election, manual tally audits or risk-limiting audits for any primary, general, or special election, any runoffs of such elections, or any ballot question, in accordance with requirements set forth by rule or regulation of the Secretary of State. On or after January 1, 2024, the Secretary of State in conjunction with local election superintendents shall conduct post-election, risk-limiting audits for all federal and gubernatorial primary and general elections, any runoffs of such elections, and any state-wide ballot questions, in accordance with requirements set forth by rule or regulation by the Secretary of State. In conducting each audit, the Secretary of State and local election superintendents shall:

1) **Complete the audit prior to final certification of the contest;**
2) Ensure that all ballots are included in the audit, whether cast in person, by absentee ballot, advance voting, provisional ballot, or otherwise;
3) Provide to the public a report of the unofficial final tabulated vote results of the contest prior to conducting the audit;
4) Complete the audit in public view;
5) Provide to the public details of the audit within 48 hours of completion.
6) If the audit of any contest leads to a full manual tally count of the ballots cast, the results of such manual tally count shall determine the official contest results.
7) The State Election Board shall promulgate rules, regulations, and procedures to implement and administer the provisions of this code section.

Additional changes made: Language was added or amended to **Senate Bill 403** that would allow ballots to have barcoding. The reason for this change was because, by specifying that ballots not be barcoded, it limits the number of vendors able to compete in the competitive bidding process. In other words barcoding is now permitted so more vendors can participate in the Request for Proposals (RFP) process.

As noted earlier, it is uncertain whether the same changes have been made to the House Bill version or if other changes have been made to the House Bill version.

Georgia General Assembly

Legislation

2017-2018 Regular Session - HB 848
Elections; uniform election equipment; provisions

Sponsored By

(1) Setzler, Ed 35th
(2) Smyre, Calvin 135th
(3) Coomer, Christian 14th
(4) Beskin, Beth 54th
(5) Rynders, Ed 152nd
(6) Oliver, Mary Margaret 8

Committees

HC: Governmental Affairs

SC:

First Reader Summary

A BILL to be entitled an Act to amend Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to elections generally, so as to provide for uniform election equipment in this state; to provide that direct recording voting systems shall not be used in primaries or elections in this state after January 1, 2024; to provide for defin provide for ballot marking devices and standards and procedures for such devices; to provide for audits of electi procedures therefor; to provide for conforming changes; to provide for related matters; to provide for an effectiv repeal conflicting laws; and for other purposes.

Status History

Feb/08/2018 - House Second Readers
Feb/07/2018 - House First Readers
Feb/06/2018 - House Hopper

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primaries and
electronic
itions; to
on results and
ve date; to

House Bill 848

By: Representatives Setzler of the 35th, Smyre of the 135th, Coomer of the 14th, Beskin of the 54th, Rynders of the 152nd, and others

A BILL TO BE ENTITLED

AN ACT

To amend Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and elections generally, so as to provide for uniform election equipment in this state; to provide that direct recording electronic voting systems shall not be used in primaries or elections in this state after January 1, 2024; to provide for definitions; to provide for ballot marking devices and standards and procedures for such devices; to provide for audits of election results and procedures therefor; to provide for conforming changes; to provide for related matters; to provide for an effective date; 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 primaries and elections generally, is amended by revising paragraphs (2), (4.1), and (18) of Code Section 21-2-2, relating to definitions, and adding new paragraphs to read as follows:

"(.3) 'Automatic tabulating equipment' means apparatus, including ballot scanning machines, that are utilized to ascertain the manner by which paper ballots have been marked by electors, whether by hand or by means of electronic ballot markers, and that count the votes marked on such ballots."

"(2) 'Ballot ~~labels~~ marking device' means ~~the cards, paper, or other material placed on the front of a voting machine containing the names of offices and candidates and statements of questions to be voted on~~ a pen, pencil, or similar writing tool, or an electronic device designed for use in marking paper ballots so that its mark may be detected as a vote so cast and then counted by automatic tabulating equipment.

(2.1) 'Ballot scanner' means an electronic recording device which receives an elector's ballot and tabulates the votes on the ballot by its own devices; also known as a 'tabulating machine.'"

"(4.1) 'Direct recording electronic' or 'DRE' voting equipment means a computer driven unit for casting and counting votes on which an elector touches a video screen or a button adjacent to a video screen to cast his or her vote. Such term shall not encompass ballot marking devices or electronic ballot markers."

"(7.1) 'Electronic ballot marker' means an electronic device that does not compute or retain votes; may integrate components such as a ballot scanner, printer, touch screen monitor, audio output, and a navigational keypad; and uses electronic technology to independently and privately mark a paper ballot at the direction of an elector, interpret ballot selections, communicate such interpretation for elector verification, and print an elector-verifiable paper ballot."

"(18) 'Official ballot' means a ballot, whether paper, mechanical, or electronic, which is furnished by the superintendent or governing authority in accordance with Code Section 21-2-280, including ballots ~~read by optical scanning tabulators~~ that are read by ballot scanners."

"(19.1) 'Optical scanning voting system' means a system employing paper ballots on which electors cast votes with a ballot marking device or electronic ballot marker after which votes are counted by automatic tabulating equipment."

"(28.1) 'Precinct ballot scanner' is a ballot scanner."

"(32.1) 'Scanning ballot' means a printed paper ballot designed to be marked by an elector with a ballot marking device or electronic ballot marker and then inserted for casting into a ballot scanner."

SECTION 2.

Said chapter is further amended by revising paragraph (15) of subsection (a) of Code Section 21-2-50, relating to the powers and duties of the Secretary of State and prohibition against serving in a fiduciary capacity, as follows:

"(15) To develop, program, build, and review ballots for use by counties and municipalities on ~~direct recording electronic (DRE)~~ voting systems in use in the state."

SECTION 3.

Said chapter is further amended by revising subsection (a) of Code Section 21-2-267, relating to equipment, arrangement, and storage at polling places, as follows:

"(a) The governing authority of each county and municipality shall provide and the superintendent shall cause all rooms used as polling places to be provided with suitable heat and light and, in precincts in which ballots are used, with a sufficient number of voting compartments or booths with proper supplies in which the electors may conveniently mark their ballots, with a curtain, screen, or door in the upper part of the front of each

compartment or booth so that in the marking thereof they may be screened from the observation of others. A curtain, screen, or door shall not be required, however, for the self-contained units used as voting booths in which direct recording electronic (DRE) voting units or electronic ballot markers are located if such booths have been designed so as to ensure the privacy of the elector. When practicable, every polling place shall consist of a single room, every part of which is within the unobstructed view of those present therein and shall be furnished with a guardrail or barrier closing the inner portion of such room, which guardrail or barrier shall be so constructed and placed that only such persons as are inside such rail or barrier can approach within six feet of the ballot box and voting compartments, or booths, or voting machines, as the case may be. The ballot box and voting compartments or booths shall be so arranged in the voting room within the enclosed space as to be in full view of those persons in the room outside the guardrail or barrier. The voting machine or machines shall be placed in the voting rooms within the enclosed space so that, unless its construction shall otherwise require, the ballot labels on the face of the machine can be plainly seen by the poll officers when the machine is not occupied by an elector. In the case of direct recording electronic (DRE) voting units or electronic ballot markers, the ~~units~~ devices shall be arranged in such a manner as to ensure the privacy of the elector while voting on such ~~units~~ devices, to allow monitoring of the ~~units~~ devices by the poll officers while the polls are open, and to permit the public to observe the voting without affecting the privacy of the electors as they vote."

SECTION 4.

Said chapter is further amended by revising Code Section 21-2-293, relating to correction of mistakes and omissions on ballots, as follows:

"21-2-293.

(a) If the election superintendent discovers that a mistake or omission has occurred in the printing of official ballots or in the programming of the display of the official ballot on DRE voting equipment or electronic ballot markers for any primary or election, the superintendent is authorized on his or her own motion to take such steps as necessary to correct such mistake or omission if the superintendent determines that such correction is feasible and practicable under the circumstances; provided, however, that the superintendent gives at least 24 hours notice to the Secretary of State and any affected candidates of the mistake or omission prior to making such correction.

(b) When it is shown by affidavit that a mistake or omission has occurred in the printing of official ballots or in the programming of the display of the official ballot on DRE voting equipment or electronic ballot markers for any primary or election, the superior court of the proper county may, upon the application of any elector of the county or municipality,

97 require the superintendent to correct the mistake or omission or to show cause why he or
98 she should not do so."

99 **SECTION 5.**

100 Said chapter is further amended by revising subsection (a) of Code Section 21-2-300, relating
101 to provision of new voting equipment by state, contingent upon appropriations, county
102 responsibilities, education, and county and municipal contracts for equipment, as follows:.

103 "(a)(1) ~~Provided that the General Assembly specifically appropriates funding to the~~
104 ~~Secretary of State to implement this subsection, the~~ The equipment used for casting and
105 counting votes in county, state, and federal elections shall~~, by the July, 2004, primary~~
106 ~~election and afterwards,~~ be the same in each county in this state and shall be provided to
107 each county by the state, as determined by the Secretary of State. Notwithstanding any
108 provision of law to the contrary, on and after January 1, 2024, only optical scanning
109 voting system equipment shall be used in federal, state, and county primaries and
110 elections in the State of Georgia.

111 (2) Not later than August 1, 2018, the Secretary of State shall issue a competitive public
112 solicitation to select optical scanning voting system equipment and supporting services
113 for use in primaries and elections in each county in this state. A vendor selection shall
114 be made, price and contract negotiations shall be completed, and the selection shall be
115 announced by December 31, 2018.

116 (3) Provided that the General Assembly specifically appropriates funding to implement
117 this subsection by not later than July 1, 2019, the Secretary of State shall provide optical
118 scanning voting equipment to counties in Georgia for use in all federal, state, and county
119 primaries and elections by no later than the 2020 presidential preference primary.

120 (4) Notwithstanding any provision of law to the contrary, the Secretary of State is
121 authorized to conduct pilot programs to test and evaluate the use of optical scanning
122 voting systems and voter-verifiable ballots in primaries and elections in this state."

123 **SECTION 6.**

124 Said chapter is further amended by revising paragraph (5) of Code Section 21-2-365, relating
125 to requirements for use of optical scanning voting systems, as follows:

126 "(5) ~~An optical scanning tabulator~~ A ballot scanner shall preclude the counting of votes
127 for any candidate or upon any question for whom or upon which an elector is not entitled
128 to vote; shall preclude the counting of votes for more persons for any office than he or
129 she is entitled to vote for; and shall preclude the counting of votes for any candidate for
130 the same office or upon any question more than once;".

SECTION 7.

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

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

SECTION 8.

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

"21-2-372.

Ballots shall be of suitable design, size, and stock to permit processing by a ~~tabulating machine~~ ballot scanner and shall be printed in black ink on clear, white, or colored material. ~~In counties using a central count tabulating system, a serially numbered strip shall be attached to each ballot in a manner and form similar to that prescribed in this chapter for paper ballots.~~"

SECTION 9.

Said chapter is further amended by revising subsections (a) and (b) of Code Section 21-2-374, relating to proper programming, proper order, testing, and supplies, as follows:

"21-2-374.

(a) The superintendent of each county or municipality shall order the proper programming to be placed in each ~~tabulator~~ ballot scanner used in any precinct or central tabulating location.

(b) On or before the third day preceding a primary or election, including special primaries, special elections, and referendum elections, the superintendent shall have the ~~optical scanning tabulators~~ ballot scanners tested to ascertain that they will correctly count the votes cast for all offices and on all questions. Public notice of the time and place of the test shall be made at least five days prior thereto; provided, however, that, in the case of a runoff, the public notice shall be made at least three days prior thereto. Representatives of political parties and bodies, candidates, news media, and the public shall be permitted to observe such tests. The test shall be conducted by processing a preaudited group of ballots so marked as to record a predetermined number of valid votes for each candidate and on each question and shall include for each office one or more ballots which are improperly

marked and one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the ~~optical scanning tabulator~~ ballot scanner to reject such votes. The ~~optical scanning tabulator~~ ballot scanner shall not be approved unless it produces an errorless count. If any error is detected, the cause therefor shall be ascertained and corrected; and an errorless count shall be made before the ~~tabulator~~ ballot scanner is approved. The superintendent shall cause the pretested ~~tabulators~~ ballot scanners to be placed at the various polling places to be used in the primary or election. The superintendent shall require that each ~~optical scanning tabulator~~ ballot scanner be thoroughly tested and inspected prior to each primary and election in which it is used and shall keep such tested material as certification of an errorless count on each ~~tabulator~~ ballot scanner. In counties using central count ~~optical scanning tabulators~~ ballot scanners, the same test shall be repeated immediately before the start of the official count of the ballots and at the conclusion of such count. Precinct ~~tabulators~~ ballot scanners shall produce a zero tape prior to any ballots being inserted on the day of any primary or election."

SECTION 10.

Said chapter is further amended by revising Code Section 21-2-375, relating to delivery of equipment to polling places, protection for equipment, and required accessories, as follows:

"21-2-375.

(a) In counties using precinct count ~~optical scanning tabulators~~ ballot scanners, the superintendent shall deliver the proper ~~optical scanning tabulator~~ ballot scanner to the polling places at least one hour before the time set for opening of the polls at each primary or election and shall cause each to be set up in the proper manner for use in voting.

(b) The superintendent shall provide ample protection against molestation of and injury to the ~~optical scanning tabulator~~ ballot scanner and, for that purpose, shall call upon any law enforcement officer to furnish such assistance as may be necessary; and it shall be the duty of the law enforcement officer to furnish such assistance when so requested by the superintendent.

(c) The superintendent shall at least one hour before the opening of the polls:

(1) Provide sufficient lighting to enable electors, while in the voting booth, to read the ballot, which lighting shall be suitable for the use of poll officers in examining the booth; and such lighting shall be in good working order before the opening of the polls;

(2) Prominently post directions for voting ~~on the optical scanning ballot~~ within the voting booth; at least two sample ballots in use for the primary or election shall be posted prominently outside the enclosed space within the polling place;

(3) Ensure that the precinct count ~~optical scanning tabulator~~ ballot scanner shall have a seal securing the memory pack in use throughout the election day; such seal shall not be broken unless the ~~tabulator~~ ballot scanner is replaced due to malfunction; and

(4) Provide such other materials and supplies as may be necessary or as may be required by law."

SECTION 11.

Said chapter is further amended by revising Code Section 21-2-377, relating to custody and storage when not in use, as follows:

"21-2-377.

(a) The superintendent shall designate a person or persons who shall have custody of the ~~optical scanning tabulators~~ ballot scanners of the county or municipality when they are not in use at a primary or election and shall provide for his or her compensation and for the safe storage and care of the ~~optical scanning tabulators~~ ballot scanners.

(b) All ~~optical scanning tabulators~~ ballot scanners, when not in use, shall be properly covered and stored in a suitable place or places."

SECTION 12.

Said chapter is further amended by revising Part 5 of Article 9, relating to electronic recording voting systems, by repealing the part and inserting in lieu thereof the following:

"Part 6

21-2-379.21.

Each polling place in this state utilizing optical scanning voting systems shall be equipped with at least one electronic ballot marker that meets the requirements as set forth in this part.

21-2-379.22.

No electronic ballot marker shall be adopted or used in primaries or elections in this state unless it shall, at the time, satisfy the following requirements:

(1) Provide facilities for marking ballots for all such candidates and questions for which the elector shall be entitled to vote in a primary or election;

(2) Permit each elector, in one operation, to mark a vote for presidential electors for all the candidates of one party or body for the office of presidential elector;

(3) Permit each elector to mark votes, at any election, for any person and for any office for whom and for which he or she is lawfully entitled to vote, whether or not the name

232 of such person or persons appears as a candidate for election; to mark votes for as many
233 persons for an office as he or she is entitled to vote for; and to mark votes for or against
234 any question upon which he or she is entitled to vote;
235 (4) Preclude the marking of votes for any candidate or upon any question for whom or
236 upon which an elector is not entitled to vote; preclude the marking of votes for more
237 persons for any office than the elector is entitled to vote for; and preclude the marking of
238 votes for any candidate for the same office or upon any question more than once;
239 (5) Permit voting in absolute secrecy so that no person can see or know for whom any
240 other elector has voted or is voting, save an elector whom he or she has assisted or is
241 assisting in voting, as prescribed by law;
242 (6) Be constructed of material of good quality in a neat and workmanlike manner;
243 (7) When properly operated, mark correctly and accurately every vote cast;
244 (8) Be so constructed that an elector may readily learn the method of operating it; and
245 (9) Be safely transportable.

246 21-2-379.23.
247 (a) Any person or organization owning, manufacturing, or selling, or being interested in
248 the manufacture or sale of, any electronic ballot marker may request that the Secretary of
249 State examine the device. Any ten or more electors of this state may, at any time, request
250 that the Secretary of State reexamine any such device previously examined and approved
251 by him or her. Before any such examination or reexamination, the person, persons, or
252 organization requesting such examination or reexamination shall pay to the Secretary of
253 State the reasonable expenses of such examination or reexamination. The Secretary of
254 State shall publish and maintain on his or her website the cost of such examination or
255 reexamination. The Secretary of State may, at any time, in his or her discretion, reexamine
256 any such device.
257 (b) The Secretary of State shall thereupon examine or reexamine such device and shall
258 make and file in his or her office a report, attested by his or her signature and the seal of
259 his or her office, stating whether, in his or her opinion, the kind of device so examined can
260 be safely and accurately used by electors at primaries and elections as provided in this
261 chapter. If this report states that the device can be so used, the device shall be deemed
262 approved, and devices of its kind may be adopted for use at primaries and elections as
263 provided in this chapter.
264 (c) Any device that is not so approved shall not be used at any primary or election and if,
265 upon the reexamination of any such device previously approved, it shall appear that the
266 device can no longer be safely or accurately used by electors at primaries or elections as
267 provided in this chapter because of an inability to accurately record votes, the approval of

268 the same shall immediately be revoked by the Secretary of State, and no such device shall
269 thereafter be purchased for use or be used in this state.
270 (d) Any vendor who completes a sale of an electronic ballot marker that has not been
271 certified by the Secretary of State to a governmental body in this state shall be subject to
272 a penalty of $100,000.00, payable to the State of Georgia, plus reimbursement of all costs
273 and expenses incurred by the governmental body in connection with the sale. The State
274 Election Board shall have the authority to impose such penalty upon a finding that such a
275 sale has occurred.
276 (e) When a device has been so approved, no improvement or change that does not impair
277 its accuracy, efficiency, or capacity shall render necessary a reexamination or reapproval
278 of such device, or of its kind.
279 (f) Neither the Secretary of State, nor any custodian, nor the governing authority of any
280 county or municipality or a member of such governing authority nor any other person
281 involved in the examination process shall have any pecuniary interest in any device or in
282 the manufacture or sale thereof.

283 21-2-379.24.
284 (a) The superintendent of each county or municipality shall cause the proper ballot design
285 and style to be programmed for each electronic ballot marker which is to be used in any
286 precinct within such county or municipality, cause each such device to be placed in proper
287 order for voting, and examine each unit before it is sent to a polling place for use in a
288 primary or election to verify that each device is properly recording votes and producing
289 proper ballots.
290 (b) The superintendent may appoint, with the approval of the county or municipal
291 governing authority, as appropriate, a custodian of the electronic ballot markers, and deputy
292 custodians as may be necessary, whose duty shall be to prepare the devices to be used in
293 the county or municipality at the primaries and elections to be held therein. Each custodian
294 and deputy custodian shall receive from the county or municipality such compensation as
295 shall be fixed by the governing authority of such county or municipality. Such custodian
296 shall, under the direction of the superintendent, have charge of and represent the
297 superintendent during the preparation of the devices as required by this chapter. The
298 custodian and deputy custodians shall serve at the pleasure of the superintendent. Each
299 custodian and deputy custodian shall take an oath of office prepared by the Secretary of
300 State before each primary or election which shall be filed with the superintendent.
301 (c) On or before the third day preceding a primary or election, including special primaries,
302 special elections, and referendum elections, the superintendent shall have each electronic
303 ballot marker tested to ascertain that it will correctly record the votes cast for all offices and

304 on all questions and produce a ballot reflecting such choices of the elector in a manner that
305 the State Election Board shall prescribe by rule or regulation. Public notice of the time and
306 place of the test shall be made at least five days prior thereto; provided, however, that, in
307 the case of a runoff, the public notice shall be made at least three days prior thereto.
308 Representatives of political parties and bodies, news media, and the public shall be
309 permitted to observe such tests.

310 21-2-379.25.
311 (a) All electronic ballot markers and related equipment, when not in use, shall be properly
312 stored and secured under conditions as shall be specified by the Secretary of State.
313 (b) The superintendent shall store the devices and related equipment under his or her
314 supervision or shall designate a person or entity who shall provide secure storage of such
315 devices and related equipment when it is not in use at a primary or election. The
316 superintendent shall provide compensation for the safe storage and care of such devices and
317 related equipment if the devices and related equipment are stored by a person or entity
318 other than the superintendent."

319 **SECTION 13.**

320 Said chapter is further amended by revising subsection (e) of Code Section 21-2-413, relating
321 to conduct of voters, campaigners, and others at polling places generally, as follows:
322 "(e) No person shall use photographic or other electronic monitoring or recording devices,
323 cameras, or cellular telephones while such person is in a polling place while voting is
324 taking place; provided, however, that a poll manager, in his or her discretion, may allow
325 the use of photographic devices in the polling place under such conditions and limitations
326 as the election superintendent finds appropriate, and provided, further, that no photography
327 shall be allowed of a ballot or the face of a voting machine or DRE unit or electronic ballot
328 marker while an elector is voting such ballot or machine or DRE unit or using such
329 electronic ballot marker and no photography shall be allowed of an electors list, electronic
330 electors list, or the use of an electors list or electronic electors list. This subsection shall
331 not prohibit the use of photographic or other electronic monitoring or recording devices,
332 cameras, or cellular telephones by poll officials for official purposes."

SECTION 14.

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

"21-2-482.

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

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

The form for either ballot shall be determined and prescribed by the Secretary of State."

SECTION 15.

Said chapter is further amended by revising Code Section 21-2-498, which was previously reserved, as follows:

"21-2-498.

(a) As used in this Code section, the term 'risk-limiting audit' means an audit protocol that makes use of statistical methods to limit to acceptable levels the risk of certifying a preliminary election outcome that is inconsistent with the election outcome that would be obtained by conducting a full manual tally count.

(b) Beginning with the 2020 presidential preference primary, the Secretary of State in conjunction with local election superintendents shall be authorized to conduct post-election, manual tally audits or risk-limiting audits for any primary, general, or special election, any runoffs of such elections, or any ballot question, in accordance with requirements set forth by rule or regulation of the State Election Board.

(c) On and after January 1, 2024, the Secretary of State in conjunction with local election superintendents shall conduct post-election, risk-limiting audits for all federal and gubernatorial primary and general elections, any runoffs of such elections, and any state-wide ballot question, in accordance with requirements set forth by rule or regulation of the State Election Board.

368 (d) In conducting each audit, the Secretary of State and local election superintendents
369 shall:
370 (1) Complete the audit prior to final certification of the contest;
371 (2) Ensure that all ballots are included in the audit, whether cast in person, by absentee
372 ballot, advance voting, provisional ballot, or otherwise;
373 (3) Provide to the public a report of the unofficial final tabulated vote results for the
374 contest prior to conducting the audit;
375 (4) Complete the audit in public view; and
376 (5) Provide to the public details of the audit within 48 hours of completion.
377 (e) If the audit of any contest leads to a full manual tally count of the ballots cast, the
378 results of such manual tally count shall determine the official contest results.
379 (f) The State Election Board shall promulgate rules, regulations, and procedures to
380 implement and administer the provisions of this Code section. ~~Reserved.~~"

381 **SECTION 16.**

382 Said chapter is further amended by revising paragraph (8) of Code Section 21-2-566, relating
383 to interference with primaries and elections generally, as follows:
384 "(8) Willfully tampers with any electors list, voter's certificate, numbered list of voters,
385 ballot box, voting machine, direct recording electronic (DRE) equipment, electronic
386 ballot marker, or tabulating machine"

387 **SECTION 17.**

388 Said chapter is further amended by revising paragraph (3) of Code Section 21-2-579, relating
389 to fraudulently allowing ballot or voting machine to be seen, casting unofficial ballot, and
390 receiving unauthorized assistance in voting, as follows:
391 "(3) Without having made the affirmation under oath or declaration required by Code
392 Section 21-2-409, or when the disability which he or she declared at the time of
393 registration no longer exists, permits another to accompany him or her into the voting
394 compartment or voting machine booth or to mark his or her ballot or to register his or her
395 vote on the voting machine or direct recording electronic (DRE) equipment or use an
396 electronic ballot marker; or"

397 **SECTION 18.**

398 Said chapter is further amended by revising Code Section 21-2-580, relating to tampering
399 with, damaging, improper preparation of, or prevention of proper operation of voting
400 machines, as follows:
401 "21-2-580.

402 Any person who:

403 (1) Unlawfully opens, tampers with, or damages any voting machine or electronic ballot
404 marker or tabulating machine to be used or being used at any primary or election;

405 (2) Willfully prepares a voting machine or an electronic ballot marker or tabulating
406 machine for use in a primary or election in improper order for voting; or

407 (3) Prevents or attempts to prevent the correct operation of such electronic ballot marker
408 or tabulating machine or voting machine

409 shall be guilty of a felony."

410 **SECTION 19.**

411 Said chapter is further amended by revising Code Section 21-2-582, relating to tampering
412 with, damaging, or preventing of proper operation of direct recording electronic equipment
413 or tabulating device, as follows:

414 "21-2-582.

415 Any person who tampers with or damages any direct recording electronic (DRE)
416 equipment or electronic ballot marker or tabulating ~~computer~~ machine or device to be used
417 or being used at or in connection with any primary or election or who prevents or attempts
418 to prevent the correct operation of any direct recording electronic (DRE) equipment or
419 electronic ballot marker or tabulating ~~computer~~ machine or device shall be guilty of a
420 felony."

421 **SECTION 20.**

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

424 "21-2-582.1.

425 (a) For the purposes of this Code section, the term 'voting equipment' shall mean a voting
426 machine, tabulating machine, optical scanning voting system, ~~or~~ direct recording electronic
427 voting system, or electronic ballot marker.

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

431 **SECTION 21.**

432 Said chapter is further amended by revising Code Section 21-2-587, relating to frauds by poll
433 workers, as follows:

434 "21-2-587.

435 Any poll officer who willfully:

(1) Makes a false return of the votes cast at any primary or election;

(2) Deposits fraudulent ballots in the ballot box or certifies as correct a false return of ballots;

(3) Registers fraudulent votes upon any voting machine or certifies as correct a return of fraudulent votes cast upon any voting machine;

(4) Makes any false entries in the electors list;

(5) Destroys or alters any ballot, voter's certificate, or electors list;

(6) Tampers with any voting machine, direct recording electronic (DRE) equipment, electronic ballot marker, or tabulating ~~computer~~ machine or device;

(7) Prepares or files any false voter's certificate not prepared by or for an elector actually voting at such primary or election; or

(8) Fails to return to the officials prescribed by this chapter, following any primary or election, any keys of a voting machine~~,~~; ballot box~~,~~; general or duplicate return sheet~~,~~; tally paper~~,~~; oaths of poll officers~~,~~; affidavits of electors and others~~,~~; record of assisted voters~~,~~; numbered list of voters~~,~~; electors list~~,~~; voter's certificate~~,~~; spoiled and canceled ballots~~,~~; ballots deposited, written, or affixed in or upon a voting machine~~,~~; DRE, electronic ballot marker, or tabulating machine memory cards~~,~~; or any certificate or any other paper or record required to be returned under this chapter

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

SECTION 22.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 23.

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

Exhibit D

SENATE BILL 403

HOUSE BILL 848 and

SENATE BILL 403 NOTES

To amend Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and elections generally, so as to provide for uniform election equipment in this state; to provide that direct recording electronic (DRE) voting systems shall not be used in primaries or elections in this state after January 1, 2024; to provide for definitions; to provide for ballot marking devises and standards and procedures therefor; to provide for conforming changes; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

Overview:

- These bills were originally drafted word for word.

- Since their drafting, **Senate Bill 403** passed out of committee on Thursday, February 22, 2018. It was noted prior to passing out of committee that changes were made to the Senate Bill. Some of the changes were specifically spoken about prior to passage while others were only acknowledged with no specificity of what changes were made. Currently, the amended bill is not available.

- Senator Josh McKoon, who is running for the office of Secretary of State, cast one of the votes in favor of moving **Senate Bill 403** with noted changes out of committee.

Section 5 (a) (1-4): The equipment used for casting and counting votes in county, state, and federal elections shall be the same in each county in this state and shall be provided to each county by the state, as determined by the Secretary of State. Notwithstanding any provision of law to the contrary, on and after January 1, 2024, only optical scanning voting system equipment shall be used in federal, state, and county primaries and elections in the State of Georgia. Not later than ~~August 1, 2018~~ January 31, 2019, the Secretary of State shall issue a competitive public solicitation to select optical scanning voting system equipment and supporting services for use in primaries and elections in each county in this state. A vendor selection shall be made, price and contract negotiations shall be completed, and the selection shall be announced by ~~December 31, 2018~~ June 1, 2019. Provided that the General Assembly specifically appropriates funding to implement this subsection by not later than July 1, 2019, the Secretary of State shall provide optical scanning voting equipment to counties in Georgia for use in all federal, state, and county primaries and elections by no later than the 2020 presidential preference primary. Notwithstanding any provision of law to the contrary, the Secretary of State is authorized to conduct pilot programs to test and evaluate the use of optical scanning voting systems and voter-verifiable ballots in primaries and elections in this state.

*(**Note:** The dates for issuing a competive public solicitation and announcing the selection were changed from those striken out in red and replaced by those dates in blue print. The reason for the change, as discussed in the committee hearing, was to ensure that the incoming Secretary of State would have responsibility for the changes as opposed to the current Secretary of State who is leaving office in order to run for office of Governor.)*

Section 15- O.C.G.A. 21-2-498(a-f): As used in this Code section, the term 'risk-limiting audit' means an audit protocol that makes use of statistical methods to limit to acceptable levels the risk of certifying a preliminary election outcome that is inconsistent with the election outcome that would be obtained by conducting a full manual tally count. Beginning with the 2020 presidential preference primary, the Secretary of State in conjunction with local election superintendents shall be authorized to conduct post-election, manual tally audits or risk-limiting audits for any primary, general, or special election, any runoffs of such elections, or any ballot question, in accordance with requirements set forth by rule or regulation of the Secretary of State. On or after January 1, 2024, the Secretary of State in conjunction with local election superintendents shall conduct post-election, risk-limiting audits for all federal and gubernatorial primary and general elections, any runoffs of such elections, and any state-wide ballot questions, in accordance with requirements set forth by rule or regulation by the Secretary of State. In conducting each audit, the Secretary of State and local election superintendents shall:

1) **Complete the audit prior to final certification of the contest;**
2) Ensure that all ballots are included in the audit, whether cast in person, by absentee ballot, advance voting, provisional ballot, or otherwise;
3) Provide to the public a report of the unofficial final tabulated vote results of the contest prior to conducting the audit;
4) Complete the audit in public view;
5) Provide to the public details of the audit within 48 hours of completion.
6) If the audit of any contest leads to a full manual tally count of the ballots cast, the results of such manual tally count shall determine the official contest results.
7) The State Election Board shall promulgate rules, regulations, and procedures to implement and administer the provisions of this code section.

Additional changes made: Language was added or amended to **Senate Bill 403** that would allow ballots to have barcoding. The reason for this change was because, by specifying that ballots not be barcoded, it limits the number of vendors able to compete in the competitive bidding process. In other words barcoding is now permitted so more vendors can participate in the Request for Proposals (RFP) process.

As noted earlier, it is uncertain whether the same changes have been made to the House Bill version or if other changes have been made to the House Bill version.

Floyd Jones

From: Tonnie Adams <tadams@heardcountyga.com>
Sent: Friday, February 23, 2018 1:19 PM
To: Floyd Jones
Subject: SB 403

Hearing video for SB 403 (Senate version of HB 848) - use Google Chrome to view

It was passed out of committee yesterday

https://livestream.com/accounts/25225511/events/7946722/videos/170585768

Charles Tonnie Adams
Heard County Elections Supervisor
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Georgia General Assembly

Legislation

2017-2018 Regular Session - SB 403

Primaries and Elections; uniform election equipment in this state;

Sponsored By

(1) Thompson, Bruce 14th
(2) Brass, Matt 28th
(3) Mullis, Jeff 53rd
(4) Albers, John 56th
(5) Beach, Brandon 21st
(6) Hufstetler, Chuck 52nd

Committees

SC: Ethics

HC:

First Reader Summary

A BILL to be entitled an Act to amend Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to elections generally, so as to provide for uniform election equipment in this state; to provide that direct recording voting systems shall not be used in primaries or elections in this state after January 1, 2024; to provide for defi provide for ballot marking devices and standards and procedures for such devices; to provide for audits of electi procedures therefor; to provide for conforming changes; to provide for related matters; to provide for an effecti repeal conflicting laws; and for other purposes.

Status History

Feb/23/2018 - Senate Committee Favorably Reported By Substitute
Feb/12/2018 - Senate Read and Referred
Feb/08/2018 - Senate Hopper

Current Version Open Current Version in New Window

provide

primaries and
electronic
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Senate Bill 403

By: Senators Thompson of the 14th, Brass of the 28th, Mullis of the 53rd, Albers of the 56th, Beach of the 21st and others

A BILL TO BE ENTITLED

AN ACT

To amend Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and elections generally, so as to provide for uniform election equipment in this state; to provide that direct recording electronic voting systems shall not be used in primaries or elections in this state after January 1, 2024; to provide for definitions; to provide for ballot marking devices and standards and procedures for such devices; to provide for audits of election results and procedures therefor; to provide for conforming changes; to provide for related matters; to provide for an effective date; 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 primaries and elections generally, is amended by revising paragraphs (2), (4.1), and (18) of Code Section 21-2-2, relating to definitions, and adding new paragraphs to read as follows:

"(.3) 'Automatic tabulating equipment' means apparatus, including ballot scanning machines, that are utilized to ascertain the manner by which paper ballots have been marked by electors, whether by hand or by means of electronic ballot markers, and that count the votes marked on such ballots."

"(2) 'Ballot ~~labels~~ marking device' means ~~the cards, paper, or other material placed on the front of a voting machine containing the names of offices and candidates and statements of questions to be voted on~~ a pen, pencil, or similar writing tool, or an electronic device designed for use in marking paper ballots so that its mark may be detected as a vote so cast and then counted by automatic tabulating equipment.

(2.1) 'Ballot scanner' means an electronic recording device which receives an elector's ballot and tabulates the votes on the ballot by its own devices; also known as a 'tabulating machine.'"

"(4.1) 'Direct recording electronic' or 'DRE' voting equipment means a computer driven unit for casting and counting votes on which an elector touches a video screen or a button adjacent to a video screen to cast his or her vote. Such term shall not encompass ballot marking devices or electronic ballot markers."

"(7.1) 'Electronic ballot marker' means an electronic device that does not compute or retain votes; may integrate components such as a ballot scanner, printer, touch screen monitor, audio output, and a navigational keypad; and uses electronic technology to independently and privately mark a paper ballot at the direction of an elector, interpret ballot selections, communicate such interpretation for elector verification, and print an elector-verifiable paper ballot."

"(18) 'Official ballot' means a ballot, whether paper, mechanical, or electronic, which is furnished by the superintendent or governing authority in accordance with Code Section 21-2-280, including ballots ~~read by optical scanning tabulators~~ that are read by ballot scanners."

"(19.1) 'Optical scanning voting system' means a system employing paper ballots on which electors cast votes with a ballot marking device or electronic ballot marker after which votes are counted by automatic tabulating equipment."

"(28.1) 'Precinct ballot scanner' is a ballot scanner."

"(32.1) 'Scanning ballot' means a printed paper ballot designed to be marked by an elector with a ballot marking device or electronic ballot marker and then inserted for casting into a ballot scanner."

SECTION 2.

Said chapter is further amended by revising paragraph (15) of subsection (a) of Code Section 21-2-50, relating to the powers and duties of the Secretary of State and prohibition against serving in a fiduciary capacity, as follows:

"(15) To develop, program, build, and review ballots for use by counties and municipalities on ~~direct recording electronic (DRE)~~ voting systems in use in the state."

SECTION 3.

Said chapter is further amended by revising subsection (a) of Code Section 21-2-267, relating to equipment, arrangement, and storage at polling places, as follows:

"(a) The governing authority of each county and municipality shall provide and the superintendent shall cause all rooms used as polling places to be provided with suitable heat and light and, in precincts in which ballots are used, with a sufficient number of voting compartments or booths with proper supplies in which the electors may conveniently mark their ballots, with a curtain, screen, or door in the upper part of the front of each

compartment or booth so that in the marking thereof they may be screened from the observation of others. A curtain, screen, or door shall not be required, however, for the self-contained units used as voting booths in which direct recording electronic (DRE) voting units or electronic ballot markers are located if such booths have been designed so as to ensure the privacy of the elector. When practicable, every polling place shall consist of a single room, every part of which is within the unobstructed view of those present therein and shall be furnished with a guardrail or barrier closing the inner portion of such room, which guardrail or barrier shall be so constructed and placed that only such persons as are inside such rail or barrier can approach within six feet of the ballot box and voting compartments, or booths, or voting machines, as the case may be. The ballot box and voting compartments or booths shall be so arranged in the voting room within the enclosed space as to be in full view of those persons in the room outside the guardrail or barrier. The voting machine or machines shall be placed in the voting rooms within the enclosed space so that, unless its construction shall otherwise require, the ballot labels on the face of the machine can be plainly seen by the poll officers when the machine is not occupied by an elector. In the case of direct recording electronic (DRE) voting units or electronic ballot markers, the ~~units~~ devices shall be arranged in such a manner as to ensure the privacy of the elector while voting on such ~~units~~ devices, to allow monitoring of the ~~units~~ devices by the poll officers while the polls are open, and to permit the public to observe the voting without affecting the privacy of the electors as they vote."

SECTION 4.

Said chapter is further amended by revising Code Section 21-2-293, relating to correction of mistakes and omissions on ballots, as follows:

"21-2-293.

(a) If the election superintendent discovers that a mistake or omission has occurred in the printing of official ballots or in the programming of the display of the official ballot on DRE voting equipment or electronic ballot markers for any primary or election, the superintendent is authorized on his or her own motion to take such steps as necessary to correct such mistake or omission if the superintendent determines that such correction is feasible and practicable under the circumstances; provided, however, that the superintendent gives at least 24 hours notice to the Secretary of State and any affected candidates of the mistake or omission prior to making such correction.

(b) When it is shown by affidavit that a mistake or omission has occurred in the printing of official ballots or in the programming of the display of the official ballot on DRE voting equipment or electronic ballot markers for any primary or election, the superior court of the proper county may, upon the application of any elector of the county or municipality,

require the superintendent to correct the mistake or omission or to show cause why he or she should not do so."

SECTION 5.

Said chapter is further amended by revising subsection (a) of Code Section 21-2-300, relating to provision of new voting equipment by state, contingent upon appropriations, county responsibilities, education, and county and municipal contracts for equipment, as follows:.

"(a)(1) ~~Provided that the General Assembly specifically appropriates funding to the Secretary of State to implement this subsection, the~~ The equipment used for casting and counting votes in county, state, and federal elections shall~~, by the July, 2004, primary election and afterwards,~~ be the same in each county in this state and shall be provided to each county by the state, as determined by the Secretary of State. Notwithstanding any provision of law to the contrary, on and after January 1, 2024, only optical scanning voting system equipment shall be used in federal, state, and county primaries and elections in the State of Georgia.

(2) Not later than August 1, 2018, the Secretary of State shall issue a competitive public solicitation to select optical scanning voting system equipment and supporting services for use in primaries and elections in each county in this state. A vendor selection shall be made, price and contract negotiations shall be completed, and the selection shall be announced by December 31, 2018.

(3) Provided that the General Assembly specifically appropriates funding to implement this subsection by not later than July 1, 2019, the Secretary of State shall provide optical scanning voting equipment to counties in Georgia for use in all federal, state, and county primaries and elections by no later than the 2020 presidential preference primary.

(4) Notwithstanding any provision of law to the contrary, the Secretary of State is authorized to conduct pilot programs to test and evaluate the use of optical scanning voting systems and voter-verifiable ballots in primaries and elections in this state."

SECTION 6.

Said chapter is further amended by revising paragraph (5) of Code Section 21-2-365, relating to requirements for use of optical scanning voting systems, as follows:

"(5) ~~An optical scanning tabulator~~ A ballot scanner shall preclude the counting of votes for any candidate or upon any question for whom or upon which an elector is not entitled to vote; shall preclude the counting of votes for more persons for any office than he or she is entitled to vote for; and shall preclude the counting of votes for any candidate for the same office or upon any question more than once;".

SECTION 7.

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

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

SECTION 8.

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

"21-2-372.

Ballots shall be of suitable design, size, and stock to permit processing by a ~~tabulating machine~~ ballot scanner and shall be printed in black ink on clear, white, or colored material. ~~In counties using a central count tabulating system, a serially numbered strip shall be attached to each ballot in a manner and form similar to that prescribed in this chapter for paper ballots.~~"

SECTION 9.

Said chapter is further amended by revising subsections (a) and (b) of Code Section 21-2-374, relating to proper programming, proper order, testing, and supplies, as follows:

"21-2-374.

(a) The superintendent of each county or municipality shall order the proper programming to be placed in each ~~tabulator~~ ballot scanner used in any precinct or central tabulating location.

(b) On or before the third day preceding a primary or election, including special primaries, special elections, and referendum elections, the superintendent shall have the ~~optical scanning tabulators~~ ballot scanners tested to ascertain that they will correctly count the votes cast for all offices and on all questions. Public notice of the time and place of the test shall be made at least five days prior thereto; provided, however, that, in the case of a runoff, the public notice shall be made at least three days prior thereto. Representatives of political parties and bodies, candidates, news media, and the public shall be permitted to observe such tests. The test shall be conducted by processing a preaudited group of ballots so marked as to record a predetermined number of valid votes for each candidate and on each question and shall include for each office one or more ballots which are improperly

marked and one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the ~~optical scanning tabulator~~ ballot scanner to reject such votes. The ~~optical scanning tabulator~~ ballot scanner shall not be approved unless it produces an errorless count. If any error is detected, the cause therefor shall be ascertained and corrected; and an errorless count shall be made before the ~~tabulator~~ ballot scanner is approved. The superintendent shall cause the pretested ~~tabulators~~ ballot scanners to be placed at the various polling places to be used in the primary or election. The superintendent shall require that each ~~optical scanning tabulator~~ ballot scanner be thoroughly tested and inspected prior to each primary and election in which it is used and shall keep such tested material as certification of an errorless count on each ~~tabulator~~ ballot scanner. In counties using central count ~~optical scanning tabulators~~ ballot scanners, the same test shall be repeated immediately before the start of the official count of the ballots and at the conclusion of such count. Precinct ~~tabulators~~ ballot scanners shall produce a zero tape prior to any ballots being inserted on the day of any primary or election."

SECTION 10.

Said chapter is further amended by revising Code Section 21-2-375, relating to delivery of equipment to polling places, protection for equipment, and required accessories, as follows:

"21-2-375.

(a) In counties using precinct count ~~optical scanning tabulators~~ ballot scanners, the superintendent shall deliver the proper ~~optical scanning tabulator~~ ballot scanner to the polling places at least one hour before the time set for opening of the polls at each primary or election and shall cause each to be set up in the proper manner for use in voting.

(b) The superintendent shall provide ample protection against molestation of and injury to the ~~optical scanning tabulator~~ ballot scanner and, for that purpose, shall call upon any law enforcement officer to furnish such assistance as may be necessary; and it shall be the duty of the law enforcement officer to furnish such assistance when so requested by the superintendent.

(c) The superintendent shall at least one hour before the opening of the polls:

(1) Provide sufficient lighting to enable electors, while in the voting booth, to read the ballot, which lighting shall be suitable for the use of poll officers in examining the booth; and such lighting shall be in good working order before the opening of the polls;

(2) Prominently post directions for voting ~~on the optical scanning ballot~~ within the voting booth; at least two sample ballots in use for the primary or election shall be posted prominently outside the enclosed space within the polling place;

(3) Ensure that the precinct count ~~optical scanning tabulator~~ ballot scanner shall have a seal securing the memory pack in use throughout the election day; such seal shall not be broken unless the ~~tabulator~~ ballot scanner is replaced due to malfunction; and

(4) Provide such other materials and supplies as may be necessary or as may be required by law."

SECTION 11.

Said chapter is further amended by revising Code Section 21-2-377, relating to custody and storage when not in use, as follows:

"21-2-377.

(a) The superintendent shall designate a person or persons who shall have custody of the ~~optical scanning tabulators~~ ballot scanners of the county or municipality when they are not in use at a primary or election and shall provide for his or her compensation and for the safe storage and care of the ~~optical scanning tabulators~~ ballot scanners.

(b) All ~~optical scanning tabulators~~ ballot scanners, when not in use, shall be properly covered and stored in a suitable place or places."

SECTION 12.

Said chapter is further amended by revising Part 5 of Article 9, relating to electronic recording voting systems, by repealing the part and inserting in lieu thereof the following:

"Part 6

21-2-379.21.

Each polling place in this state utilizing optical scanning voting systems shall be equipped with at least one electronic ballot marker that meets the requirements as set forth in this part.

21-2-379.22.

No electronic ballot marker shall be adopted or used in primaries or elections in this state unless it shall, at the time, satisfy the following requirements:

(1) Provide facilities for marking ballots for all such candidates and questions for which the elector shall be entitled to vote in a primary or election;

(2) Permit each elector, in one operation, to mark a vote for presidential electors for all the candidates of one party or body for the office of presidential elector;

(3) Permit each elector to mark votes, at any election, for any person and for any office for whom and for which he or she is lawfully entitled to vote, whether or not the name

232 of such person or persons appears as a candidate for election; to mark votes for as many
233 persons for an office as he or she is entitled to vote for; and to mark votes for or against
234 any question upon which he or she is entitled to vote;
235 (4) Preclude the marking of votes for any candidate or upon any question for whom or
236 upon which an elector is not entitled to vote; preclude the marking of votes for more
237 persons for any office than the elector is entitled to vote for; and preclude the marking of
238 votes for any candidate for the same office or upon any question more than once;
239 (5) Permit voting in absolute secrecy so that no person can see or know for whom any
240 other elector has voted or is voting, save an elector whom he or she has assisted or is
241 assisting in voting, as prescribed by law;
242 (6) Be constructed of material of good quality in a neat and workmanlike manner;
243 (7) When properly operated, mark correctly and accurately every vote cast;
244 (8) Be so constructed that an elector may readily learn the method of operating it; and
245 (9) Be safely transportable.

246 21-2-379.23.
247 (a) Any person or organization owning, manufacturing, or selling, or being interested in
248 the manufacture or sale of, any electronic ballot marker may request that the Secretary of
249 State examine the device. Any ten or more electors of this state may, at any time, request
250 that the Secretary of State reexamine any such device previously examined and approved
251 by him or her. Before any such examination or reexamination, the person, persons, or
252 organization requesting such examination or reexamination shall pay to the Secretary of
253 State the reasonable expenses of such examination or reexamination. The Secretary of
254 State shall publish and maintain on his or her website the cost of such examination or
255 reexamination. The Secretary of State may, at any time, in his or her discretion, reexamine
256 any such device.
257 (b) The Secretary of State shall thereupon examine or reexamine such device and shall
258 make and file in his or her office a report, attested by his or her signature and the seal of
259 his or her office, stating whether, in his or her opinion, the kind of device so examined can
260 be safely and accurately used by electors at primaries and elections as provided in this
261 chapter. If this report states that the device can be so used, the device shall be deemed
262 approved, and devices of its kind may be adopted for use at primaries and elections as
263 provided in this chapter.
264 (c) Any device that is not so approved shall not be used at any primary or election and if,
265 upon the reexamination of any such device previously approved, it shall appear that the
266 device can no longer be safely or accurately used by electors at primaries or elections as
267 provided in this chapter because of an inability to accurately record votes, the approval of

268 the same shall immediately be revoked by the Secretary of State, and no such device shall
269 thereafter be purchased for use or be used in this state.
270 (d) Any vendor who completes a sale of an electronic ballot marker that has not been
271 certified by the Secretary of State to a governmental body in this state shall be subject to
272 a penalty of $100,000.00, payable to the State of Georgia, plus reimbursement of all costs
273 and expenses incurred by the governmental body in connection with the sale. The State
274 Election Board shall have the authority to impose such penalty upon a finding that such a
275 sale has occurred.
276 (e) When a device has been so approved, no improvement or change that does not impair
277 its accuracy, efficiency, or capacity shall render necessary a reexamination or reapproval
278 of such device, or of its kind.
279 (f) Neither the Secretary of State, nor any custodian, nor the governing authority of any
280 county or municipality or a member of such governing authority nor any other person
281 involved in the examination process shall have any pecuniary interest in any device or in
282 the manufacture or sale thereof.

283 21-2-379.24.
284 (a) The superintendent of each county or municipality shall cause the proper ballot design
285 and style to be programmed for each electronic ballot marker which is to be used in any
286 precinct within such county or municipality, cause each such device to be placed in proper
287 order for voting, and examine each unit before it is sent to a polling place for use in a
288 primary or election to verify that each device is properly recording votes and producing
289 proper ballots.
290 (b) The superintendent may appoint, with the approval of the county or municipal
291 governing authority, as appropriate, a custodian of the electronic ballot markers, and deputy
292 custodians as may be necessary, whose duty shall be to prepare the devices to be used in
293 the county or municipality at the primaries and elections to be held therein. Each custodian
294 and deputy custodian shall receive from the county or municipality such compensation as
295 shall be fixed by the governing authority of such county or municipality. Such custodian
296 shall, under the direction of the superintendent, have charge of and represent the
297 superintendent during the preparation of the devices as required by this chapter. The
298 custodian and deputy custodians shall serve at the pleasure of the superintendent. Each
299 custodian and deputy custodian shall take an oath of office prepared by the Secretary of
300 State before each primary or election which shall be filed with the superintendent.
301 (c) On or before the third day preceding a primary or election, including special primaries,
302 special elections, and referendum elections, the superintendent shall have each electronic
303 ballot marker tested to ascertain that it will correctly record the votes cast for all offices and

304 on all questions and produce a ballot reflecting such choices of the elector in a manner that
305 the State Election Board shall prescribe by rule or regulation. Public notice of the time and
306 place of the test shall be made at least five days prior thereto; provided, however, that, in
307 the case of a runoff, the public notice shall be made at least three days prior thereto.
308 Representatives of political parties and bodies, news media, and the public shall be
309 permitted to observe such tests.

310 21-2-379.25.
311 (a) All electronic ballot markers and related equipment, when not in use, shall be properly
312 stored and secured under conditions as shall be specified by the Secretary of State.
313 (b) The superintendent shall store the devices and related equipment under his or her
314 supervision or shall designate a person or entity who shall provide secure storage of such
315 devices and related equipment when it is not in use at a primary or election. The
316 superintendent shall provide compensation for the safe storage and care of such devices and
317 related equipment if the devices and related equipment are stored by a person or entity
318 other than the superintendent."

319 **SECTION 13.**

320 Said chapter is further amended by revising subsection (e) of Code Section 21-2-413, relating
321 to conduct of voters, campaigners, and others at polling places generally, as follows:
322 "(e) No person shall use photographic or other electronic monitoring or recording devices,
323 cameras, or cellular telephones while such person is in a polling place while voting is
324 taking place; provided, however, that a poll manager, in his or her discretion, may allow
325 the use of photographic devices in the polling place under such conditions and limitations
326 as the election superintendent finds appropriate, and provided, further, that no photography
327 shall be allowed of a ballot or the face of a voting machine or DRE unit or electronic ballot
328 marker while an elector is voting such ballot or machine or DRE unit or using such
329 electronic ballot marker and no photography shall be allowed of an electors list, electronic
330 electors list, or the use of an electors list or electronic electors list. This subsection shall
331 not prohibit the use of photographic or other electronic monitoring or recording devices,
332 cameras, or cellular telephones by poll officials for official purposes."

333 **SECTION 14.**

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

336 ″21-2-482.

337 Ballots in a precinct using optical scanning voting equipment for ~~use~~ voting by absentee
338 electors shall be prepared sufficiently in advance by the superintendent and shall be
339 delivered to the board of registrars as provided in Code Section 21-2-384. Such ballots
340 shall be marked 'Official Absentee Ballot' and shall be in substantially the form for ballots
341 required by Article 8 of this chapter, except that in counties or municipalities using voting
342 machines, direct recording electronic (DRE) units, or ~~optical~~ ballot scanners, the ballots
343 may be in substantially the form for the ballot labels required by Article 9 of this chapter
344 or in such form as will allow the ballot to be machine tabulated. Every such ballot shall
345 have printed on the face thereof the following:

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

349 The form for either ballot shall be determined and prescribed by the Secretary of State.″

350 **SECTION 15.**

351 Said chapter is further amended by revising Code Section 21-2-498, which was previously
352 reserved, as follows:

353 ″21-2-498.

354 (a) As used in this Code section, the term 'risk-limiting audit' means an audit protocol that
355 makes use of statistical methods to limit to acceptable levels the risk of certifying a
356 preliminary election outcome that is inconsistent with the election outcome that would be
357 obtained by conducting a full manual tally count.

358 (b) Beginning with the 2020 presidential preference primary, the Secretary of State in
359 conjunction with local election superintendents shall be authorized to conduct
360 post-election, manual tally audits or risk-limiting audits for any primary, general, or special
361 election, any runoffs of such elections, or any ballot question, in accordance with
362 requirements set forth by rule or regulation of the Secretary of State.

363 (c) On and after January 1, 2024, the Secretary of State in conjunction with local election
364 superintendents shall conduct post-election, risk-limiting audits for all federal and
365 gubernatorial primary and general elections, any runoffs of such elections, and any
366 state-wide ballot question, in accordance with requirements set forth by rule or regulation
367 of the Secretary of State.

368 (d) In conducting each audit, the Secretary of State and local election superintendents
369 shall:

370 (1) Complete the audit prior to final certification of the contest;

371 (2) Ensure that all ballots are included in the audit, whether cast in person, by absentee
372 ballot, advance voting, provisional ballot, or otherwise;
373 (3) Provide to the public a report of the unofficial final tabulated vote results for the
374 contest prior to conducting the audit;
375 (4) Complete the audit in public view; and
376 (5) Provide to the public details of the audit within 48 hours of completion.
377 (e) If the audit of any contest leads to a full manual tally count of the ballots cast, the
378 results of such manual tally count shall determine the official contest results.
379 (f) The State Election Board shall promulgate rules, regulations, and procedures to
380 implement and administer the provisions of this Code section. ~~Reserved.~~″

381 **SECTION 16.**

382 Said chapter is further amended by revising paragraph (8) of Code Section 21-2-566, relating
383 to interference with primaries and elections generally, as follows:
384 ″(8) Willfully tampers with any electors list, voter's certificate, numbered list of voters,
385 ballot box, voting machine, direct recording electronic (DRE) equipment, electronic
386 ballot marker, or tabulating machine″

387 **SECTION 17.**

388 Said chapter is further amended by revising paragraph (3) of Code Section 21-2-579, relating
389 to fraudulently allowing ballot or voting machine to be seen, casting unofficial ballot, and
390 receiving unauthorized assistance in voting, as follows:
391 ″(3) Without having made the affirmation under oath or declaration required by Code
392 Section 21-2-409, or when the disability which he or she declared at the time of
393 registration no longer exists, permits another to accompany him or her into the voting
394 compartment or voting machine booth or to mark his or her ballot or to register his or her
395 vote on the voting machine or direct recording electronic (DRE) equipment or use an
396 electronic ballot marker; or″

397 **SECTION 18.**

398 Said chapter is further amended by revising Code Section 21-2-580, relating to tampering
399 with, damaging, improper preparation of, or prevention of proper operation of voting
400 machines, as follows:
401 ″21-2-580.
402 Any person who:
403 (1) Unlawfully opens, tampers with, or damages any voting machine or electronic ballot
404 marker or tabulating machine to be used or being used at any primary or election;

(2) Willfully prepares a voting machine or an electronic ballot marker or tabulating machine for use in a primary or election in improper order for voting; or

(3) Prevents or attempts to prevent the correct operation of such electronic ballot marker or tabulating machine or voting machine

shall be guilty of a felony."

SECTION 19.

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

"21-2-582.

Any person who tampers with or damages any direct recording electronic (DRE) equipment or electronic ballot marker or tabulating ~~computer~~ machine or device to be used or being used at or in connection with any primary or election or who prevents or attempts to prevent the correct operation of any direct recording electronic (DRE) equipment or electronic ballot marker or tabulating ~~computer~~ machine or device shall be guilty of a felony."

SECTION 20.

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

"21-2-582.1.

(a) For the purposes of this Code section, the term 'voting equipment' shall mean a voting machine, tabulating machine, optical scanning voting system, ~~or~~ direct recording electronic voting system, or electronic ballot marker.

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

SECTION 21.

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

"21-2-587.

Any poll officer who willfully:

(1) Makes a false return of the votes cast at any primary or election;

(2) Deposits fraudulent ballots in the ballot box or certifies as correct a false return of ballots;

(3) Registers fraudulent votes upon any voting machine or certifies as correct a return of fraudulent votes cast upon any voting machine;

(4) Makes any false entries in the electors list;

(5) Destroys or alters any ballot, voter's certificate, or electors list;

(6) Tampers with any voting machine, direct recording electronic (DRE) equipment, electronic ballot marker, or tabulating ~~computer~~ machine or device;

(7) Prepares or files any false voter's certificate not prepared by or for an elector actually voting at such primary or election; or

(8) Fails to return to the officials prescribed by this chapter, following any primary or election, any keys of a voting machine~~,~~; ballot box~~,~~; general or duplicate return sheet~~,~~; tally paper~~,~~; oaths of poll officers~~,~~; affidavits of electors and others~~,~~; record of assisted voters~~,~~; numbered list of voters~~,~~; electors list~~,~~; voter's certificate~~,~~; spoiled and canceled ballots~~,~~; ballots deposited, written, or affixed in or upon a voting machine~~,~~; DRE, electronic ballot marker, or tabulating machine memory cards~~,~~; or any certificate or any other paper or record required to be returned under this chapter

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

SECTION 22.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 23.

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

Exhibit E

SENATE BILL 59

Georgia General Assembly

Legislation

2017-2018 Regular Session - SB 59
Elections; direct recording electronic voting systems used in this stat for requirements

Sponsored By

(1) Tate, Horacena 38th
(2) Jones, Emanuel 10th
(3) Lucas, David 26th
(4) Parent, Elena 42nd
(5) Jones II, Harold 22nd
(6) Rhett, Michael 'Doc' 33

Committees

SC: Ethics
HC:

First Reader Summary

A BILL to be entitled an Act to amend Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries generally, so as to provide for requirements for direct recording electronic voting systems used in this provide for voter verified paper audit trails; to provide a definition; to provide for related matters; to repeal con and for other purposes.

Status History

Jan/25/2017 - Senate Read and Referred
Jan/24/2017 - Senate Hopper

Current Version Open Current Version in New Window

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state; to
flicting laws;

Senate Bill 59

By: Senators Tate of the 38th, Jones of the 10th, Lucas of the 26th, Parent of the 42nd, Jones II of the 22nd and others

A BILL TO BE ENTITLED

AN ACT

To amend Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to elections and primaries generally, so as to provide for requirements for direct recording electronic voting systems used in this state; to provide for voter verified paper audit trails; to provide a definition; to provide for related matters; 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 by revising Code Section 21-2-379.1, relating to requirements for use of direct recording electronic voting systems, as follows:

"21-2-379.1.

(a) No direct recording electronic voting system shall be adopted or used unless it shall, at the time, satisfy the following requirements:

(1) It shall provide facilities for voting for such candidates as may be nominated and upon such questions as may be submitted;

(2) It shall permit each elector, in one operation, to vote for all the candidates of one party or body for presidential electors;

(3) Except as provided in paragraph (2) of this Code section for presidential electors, it shall permit each elector, at other than primaries, to vote a ticket selected from the nominees of any and all parties or bodies, from independent nominations, and from persons not in nomination;

(4) It shall permit each elector to vote, at any election, for any person and for any office for whom and for which he or she is lawfully entitled to vote, whether or not the name of such person or persons appears as a candidate for election; to vote for as many persons for an office as he or she is entitled to vote for; and to vote for or against any question upon which he or she is entitled to vote;

(5) It shall preclude the counting of votes for any candidate or upon any question for whom or upon which an elector is not entitled to vote; shall preclude the counting of votes for more persons for any office than he or she is entitled to vote for; and shall preclude the counting of votes for any candidate for the same office or upon any question more than once;

(6) It shall permit voting in absolute secrecy so that no person can see or know for whom any other elector has voted or is voting, save an elector whom he or she has assisted or is assisting in voting, as prescribed by law;

(7) It shall be constructed of material of good quality in a neat and workmanlike manner;

(8) It shall, when properly operated, record correctly and accurately every vote cast;

(9) It shall be so constructed that an elector may readily learn the method of operating it; ~~and~~

(10) It shall be safely transportable; and

(11) It shall produce a voter verified paper audit trail as provided in subsection (b) of this Code section.

(b)(1) As used in this Code section, the term 'voter verified paper audit trail' means a contemporaneous paper record of a ballot printed for the voter to confirm his or her votes before the voter casts his or her ballot.

(2) On and after January 1, 2018, neither the state nor any county or municipality in this state shall purchase a direct recording electronic voting machine that does not include a voter verified paper audit trail.

(3) All direct recording electronic voting machines in use on or after January 1, 2018, shall include a voter verified paper audit trail, except for those direct recording electronic voting machines which were in use during the 2016 general election.

(4) All direct recording electronic voting machines purchased on or after January 1, 2018, shall include a voter verified paper audit trail.

(5) A direct recording electronic voting machine with a voter verified paper audit trail shall meet the following conditions:

(A) The voter verified paper audit trail shall be verified by the elector before the casting of the elector's ballot;

(B) The voter verified paper audit trail shall not be retained by the elector;

(C) The voter verified paper audit trail shall not contain individual voter information;

(D) The paper used in producing the voter verified paper audit trail shall be sturdy, clean, and resistant to degradation; and

(E) The voter verified paper audit trail shall be readable in a manner that makes the elector's ballot choices obvious to the elector without the use of computer or electronic code.

64 (6)(A) For any recount of an election in which ballots are cast using a direct recording
65 electronic voting machine with a voter verified paper audit trail, the voter verified paper
66 audit trail shall serve as the official ballot to be recounted.
67 (B) Voter verified paper audit trails shall be preserved in the same manner and for the
68 same time period as ballots and certificates are preserved under Code
69 Section 21-2-500."

70 **SECTION 2.**

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

Exhibit F

(Date)

(Title and Address)

RE: Paper Ballot Legislation

The Fayette County Board of Elections and staff encourages the current discussion and consideration regarding potential changes to the electorial process in the State of Georgia.

The current system has served the citizens of Fayette County and of the state well. However, the technology driving the machines is dated. Given the current political atmosphere, now is an appropriate time to consider and implement changes that will provide greater assurance to the people of the election results. Fayette County supports changes that increase security, efficiency, accuracy, and transparency to the voting process.

While there are numbers of bills introduced each year seeking to modify how elections are conducted in Georgia, this year has brought a serious effort to move Georgia from a strictly electronic ballot process voting process back to a paper ballot process. The most prominent bills in consideration are: House Bill 680, House Bill 848, Senate Bill 403, and Senate Bill 59. Each of the bills are uniform in their effort to return to the paper ballot, however, they are not uniform in their processes or results.

Upon review of the noted bills, the Fayette County Board of Elections and staff recommend that House Bill 680 <u>not proceed further or pass in the General Assembly</u>. House Bill 680 is costly for Georgia's counties, limits the number of vendors who can compete with their election machinery, and ultimately may be used as a tool to return to manual tabulation of votes irrespective of current technological advances. It goes without saying that the manual tabulation of votes will take a longer time to produce electoral results, must involve human error and biases, and will cost counties more money. Furthermore, the January 1, 2019 timeline for implementing House Bill 680 places a great burden on the Secretary of State and the counties in meeting the obligations set forth.

The Fayette County Board of Elections recognizes that House Bill 848 and Senate Bill 403 are cut of the same cloth and are essentially word for word. The Board of Elections <u>supports Senate Bill 403 with certain changes discussed at the time it passed from committee on Thursday, February 22, 2017.</u> Senate Bill 403, as passed from committee, will provide for the incoming Secretary of State to be responsible for implementing the changes, will provide for a greater opportunity for vendors to compete in the elections process, and will be less costly for the counties. Furthermore, it allows time for the state and the counties to prepare for the training and implementation of the changes- something House Bill 680 does not do.

The Fayette County Board of Elections urges, however, that consideration be made to each of the bills under consideration with regard to the 'risk-limiting audit.' Each of the bills provide that the audit will be conducted prior to the certification of elections; meaning elections staffs across the state will have additional deadlines placed upon them during a time when they are meeting other legally required deadlines in preparation of certifying the election results. As was expressed in committee by public speakers, including the Election Supervisor from Richmond-Augusta Georgia, to place this burden on counties could be overbearing and problematic.

Finally, the Fayette County Board of Elections encourages legislators to closely consult with their professional election superintendents throughout the state and in each county. The Fayette County Board of Elections and its staff stand ready to meet with you with regard to these findings.

Sincerely,

Chairman

Fayette County Board of Elections

BOARD OF ELECTIONS AGENDA REQUEST FORM

MEETING DATE 02/27/2018 **AGENDA ITEM #** New Business #6

PRESENTER(S) Floyd L. Jones, Director

TYPE OF REQUEST New Business

WORDING FOR THE AGENDA

Discussion concerning the May 22, 2018 General Primary Election.

BACKGROUND / HISTORY / DETAILS

Fayette County will conduct a General Primary Election on May 22, 2018. This election may result in a runoff election to be held on July 24, 2018

This information is provided the Board for consideration.

SPECIFIC ACTION / DIRECTION SOUGHT

Staff seeks Board approval for certain recommendations made in the report.

Preparing for the May 22, 2018 General Primary Election

The May 22, 2018 General Primary Election is rapidly approaching. Beginning Monday, March 5 at 9:00 a.m. qualifying for office will begin. It will end on Friday, March 9 at noon.

FEDERAL OFFICES

United States House of Representatives- District 3

United States House of Representatives- District 13

STATE OFFICES

Governor

Lt. Governor

Secretary of State

Attorney General

Commissioner of Agriculture

Commissioner of Insurance

State School Superintendent

Commissioner of Labor

Public Service Commissioner- District 3

Public Service Commissioner- District 5

State Senate- District 16

State Senate- District 34

State House of Representatives- District 63

State House of Representatives- District 64

State House of Representatives- District 71

State House of Representatives- District 72

State House of Representatives- District 73

Judge of Superior Court

Supreme Court Justices – Five Positions

Court of Appeals Judges- Five Positions

LOCAL OFFICES

Board of Commissioners- District 3

Board of Commissioners- District 4

Board of Education- District 2

Board of Education- District 4

Fayette County State Court Judge

Note: The Georgia Soil and Water Conservation Commission District Supervisor will qualify at the local office, but it is a state office and will only appear on the November General Election ballot.

STATE OF GEORGIA DEADLINE

The Secretary of State has set a deadline of Friday, March 9, 2018 as the last day to submit ballot information for the May 22, 2018 General Primary Ballot.

GENERAL PRIMARY ELECTION

The General Primary Election will be held in all 36 precincts on May 22, 2018.

Advanced In-Person voting will begin on Monday, April 30, 2018 and will conclude on Friday, May 18. Voting hours for these days will be 8:00 a.m. until 5:00 p.m.

Saturday voting is mandatory based on State Law. Saturday Voting will be held, as required, on Saturday May 12 from 9:00 a.m. until 4:00 p.m.

Staff recommends Saturday voting only at the Fayetteville Location. This request is based on previous election history.

ELECTION MACHINES

Staff anticipates the general primary election and potential runoff will have a lighter turnout than will the November election. However, given the current political climate there is a good possibility that could be higher than anticipated. **This is truly a guessing game.**

If the Karen Handel / John Ossoff election is any indicator of what is coming then this election will be unprecedented.

The General Primary Election requires additional steps than a general election since the poll workers have to work with the voters on declaring their political party and maintaining separate stacks of paperwork.

There are plenty of voting machines to have a successful election.

STAFFING FOR ADVANCED VOTING

Early voting lasts for three weeks at three locations for approximately nine (9) hour days. Needless to say, overtime will be involved for some of the staff.

The Managers for Advanced Voting have made the following request for staffing:

Tyrone:

The Manager requests a manager, two assistant managers, and two clerks for the three weeks of early voting. The manager further requests that a sixth person be held in reserve should one of staff be out. The backup would receive training. This request allows staff to take a lunch break

Peachtree City:

The Manager requests a total of six people (manager, assistant manager, three clerks) and one additional trained substitute. These would allow for staff to take lunch two at a time.

Fayetteville:

Fayetteville has two managers and each manager has her own staff.

The morning manager is asking for herself, two assistant managers, and two clerks for the morning hours. This is five workers in the morning hours.

The afternoon manager is asking for herself, two assistant managers, and two clerks for the afternoon hours. This is five workers in the evening hours.

STAFFING FOR ELECTION DAY

Fayette County has 36 precincts that have to be opened for this election. This requires hiring 36 poll managers and 72 assistant poll managers.

The 2014 General Primary Election allowed for most precincts to have two clerks assigned to each precinct, however, records indicated that some of the larger precincts had three clerks.

Staff requests to maintain what was established in 2014 by providing at least two clerks for each of the 36 precincts with the Election Director's discretion to add a third clerk to precincts as needed.

RUNOFF ELECTION

The Primary Runoff Election will be held on July 24.

Advance voting for this runoff begins on July 2, 2018 and concludes on July 20, 2018.

State Law does not require Saturday Voting for a runoff election.

It is too early to estimate what kind of staffing will be needed for this election, however, if it has the same response as the Handel / Ossoff election in 2017 it may require a full complement of staff.

CONCLUSION

The information provided in this document is informative only with the intent of describing what may occur during the May 2018 election.