

ENROLLMENT

March 31 19 99

The Committee of the House on Journals has examined the within and finds the same properly enrolled.

Robert Hoey
Chairman

Thomas Murphy
Speaker of the House

Robert Rivers
Clerk of the House

[Signature]
President of the Senate

Frank Eldridge Jr.
Secretary of the Senate

[Signature]
Secretary, Executive Department

This 31 day of March 19 99

Approved
Roy E. Bamber
Governor

This 1st day of April 19 99

H. B. No. 530 Act No. 32

General Assembly



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 change provisions relating to qualifying fees; to clarify the computation of time provision; to provide that persons who hold elective or party office cannot simultaneously serve as an election superintendent; and for other purposes.

IN HOUSE

Read 1st time 2-9-99
Read 2nd time 2-10-99
Read 3rd time 2-17-99
And Passed
Ayes 139 Nays 28

Robert Rivers
Clerk of the House

IN SENATE

Read 1st time 2-22-99
Read 2nd time 3-16-99
Read 3rd time 3-23-99
And Passed
Ayes 50 Nays 0

Frank Eldridge Jr.
Secretary of the Senate
Report of Conference Committee
Adopted By House and Senate 3-24-99
By: Reps. Holmes of the 53rd, Hudson of the 120th, Scott of the 165th and others

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 change provisions relating to qualifying fees; to clarify the computation of time provision; to provide that certain persons who hold elective office cannot simultaneously serve as an election superintendent; to provide that in municipal special elections certain notice requirements shall not apply; to provide that notice of write-in candidacy shall be filed and published; to clarify provisions relating to designation of office sought in certain elections; to limit the number of offices an individual may run for in a primary, election, or special election; to change provisions relating to the determination of the residence of a person registering to vote; to change provisions relating to mailing notice to ineligible or deceased electors; to clarify provisions relating to the way to qualify as an absentee elector; to change certain provisions relating to requesting absentee ballots; to provide that the board of registrars may establish other government buildings generally accessible to the public as additional registrar's offices or places of registration for the purpose of receiving absentee ballots and for the purpose of voting absentee ballots; to provide for the disposition of rejected absentee ballots; to change provisions relating to permissible activities of poll watchers; to change provisions relating to the counting of ballots in counties using vote recorders; to change provisions relating to the number of votes required for election in certain municipalities; to provide that offering or receiving something of value for the purpose of voting or registering is a felony; to make conforming and housekeeping changes relating the 1998 merger to the general and municipal election codes; to provide for related matters; to repeal conflicting laws; and for the 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 striking subsection (d) of Code Section 21-2-5,

relating to qualifications of candidates, and inserting in lieu thereof the following:

“(d) In the event that a candidate pays his or her qualifying fees with a check that is subsequently returned for insufficient funds, the Secretary of State shall automatically find that such candidate has not met the qualifications for holding the office being sought, unless the bank, credit union, or other financial institution returning the check certifies in writing by an officer’s or director’s oath that the bank, credit union, or financial institution erred in returning the check.

(e) The elector filing the challenge or the candidate challenged shall have the right to appeal the decision of the Secretary of State by filing a petition in the Superior Court of Fulton County within ten days after the entry of the final decision by the Secretary of State. The filing of the petition shall not itself stay the decision of the Secretary of State; however, the reviewing court may order a stay upon appropriate terms for good cause shown. As soon as possible after service of the petition, the Secretary of State shall transmit the original or a certified copy of the entire record of the proceedings under review to the reviewing court. The review shall be conducted by the court without a jury and shall be confined to the record. The court shall not substitute its judgment for that of the Secretary of State as to the weight of the evidence on questions of fact. The court may affirm the decision or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the findings, inferences, conclusions, or decisions of the Secretary of State are:

- (1) In violation of the Constitution or laws of this state;
- (2) In excess of the statutory authority of the Secretary of State;
- (3) Made upon unlawful procedures;
- (4) Affected by other error of law;
- (5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or

(6) Arbitrary or capricious or characterized by an abuse of discretion or a clearly unwarranted exercise of discretion.

An aggrieved party may obtain a review of any final judgment of the superior court by the Court of Appeals or the Supreme Court, as provided by law.”

Section 2.

Said charter is further amended by striking Code Section 21-2-14, relating to the computation of time, and inserting in lieu thereof the following:

“21-2-14,

Unless otherwise stated in a specific Code section of this chapter, time periods under this chapter include Saturdays, Sundays, and legal holidays. When the last day for the exercise of any privilege or the discharge of any duty prescribed or required by this chapter shall fall on a Saturday, Sunday, or legal holiday, the next succeeding business day shall be the last day for the exercise of such privilege or the discharge of such duty.”

Section 3.

Said chapter is further amended by striking Code Section 21-2-76, relating to eligibility of persons holding elective office or office in a political party to serve as an election superintendent, and inserting in lieu thereof the following:

“21-2-76,

No person who holds elective office, as defined in this chapter and including every municipal office to which persons can be elected by a vote of the electors under the laws of this state but excluding the office of probate judge, shall be eligible to serve as county or municipal election superintendent during the term of such elective office; and the position of any election superintendent other than a probate judge shall be deemed vacant upon such superintendent’s qualifying as a candidate for elective public office, as defined in this chapter and including any municipal office to which persons can be elected by a vote of the electors under the laws of this state.”

Section 4.

Said chapter is further amended by striking subsection (a) of Code Section 21-2-131, relating to the fixing, publishing, and manner of payment of qualifying fees, and inserting in lieu thereof the following:

“(a) Qualification fees for party and public offices shall be fixed and published as follows:

(1) The governing authority of any county or municipality, not later than February 1 of any year in which a general primary, nonpartisan primary, or general election is to be held, and at least 20 days prior to the special primary or election in the case of a special primary or special election, shall fix and publish a qualifying fee for each county and municipal office to be filled in the upcoming primary or election. Such fee shall be 3 percent of the total gross salary of the office paid in the preceding calendar year including all supplements authorized by law if a salaried office; provided, however, that for the offices of clerk of the superior court, judge of the probate court, sheriff, tax commissioner, and magistrate, the qualifying fee shall be 3 percent of the minimum salary provided by general law for the office, exclusive of cost-of-living increases and longevity increases. If not a salaried office, a reasonable fee shall be set by the governing authority of such county or municipality, such fee not to exceed 3 percent of the income derived from such county office by the person holding the office for the preceding year or more than \$35.00 for a municipal office;

(2) Within the same time limitation as provided in paragraph (1) of this subsection, the Secretary of State shall fix and publish a qualifying fee for any candidate qualifying by this method with a state political party and for any candidate qualifying with the Secretary of State for a nonpartisan primary and for any candidate filing with the Secretary of State his or her notice of candidacy for a general or special election. Such fee shall be 3 percent of the annual salary of the office if a salaried office, except that the fee for members of the General Assembly shall be \$400.00. If not a salaried office, a reasonable fee shall be set by the

Secretary of State, such fee not to exceed 3 percent of the income derived from such office by the person holding the office for the preceding year;

(3) A reasonable qualifying fee may be set according to party rule for each political party office to be filled in a primary. Such fees shall be set and published by the county or state political party not later than February 1 of the year in which the primary is to be held for the filling of such party office.”

Section 5.

Said chapter is further amended by striking subsection (c) of Code Section 21-2-132, relating to filing a notice of candidacy, and inserting in lieu thereof a new subsection (c) to read as follows:

“(c) All other candidates shall file their notice of candidacy and pay the prescribed qualifying fee by the date prescribed in this subsection in order to be eligible to have their names placed on the election ballot by the Secretary of State or election superintendent, as the case may be, in the following manner:

(1) Each candidate for federal or state office, or his or her agent, desiring to have his or her name placed on the election ballot shall file a notice of his or her candidacy, giving his or her name, residence address, and the office he or she is seeking, in the office of the Secretary of State no earlier than 9:00 A.M. on the fourth Monday in June immediately prior to the election and no later than 12:00 Noon on the Friday following the fourth Monday in June in the case of a general election and no earlier than the date of the call of the election and no later than 25 days prior to the election in the case of a special election;

(2) Each candidate for a county office, or his or her agent, desiring to have his or her name placed on the election ballot shall file notice of his or her candidacy in the office of the superintendent of his or her county no earlier than 9:00 A.M. on the fourth Monday in June immediately prior to the election and no later than 12:00 Noon on the Friday following the fourth Monday in June in the case of a general election and no earlier than the date of the call of the election and no

later than 25 days prior to the election in the case of a special election;

(3) Each candidate for municipal office or a designee shall file a notice of candidacy in the office of the municipal superintendent of such candidate's municipality during the municipality's qualifying period. Each municipal superintendent shall designate the days of the qualifying period, which shall be no less than three days and no more than five days. The days of the qualifying period shall be consecutive days. Qualifying periods shall comply with the following:

(A) In the case of a general election held in an (odd-numbered year), the municipal qualifying period shall commence no earlier than 8:30 A.M. on the second Monday in September immediately preceding the general election and shall end no later than 4:30 P.M. on the following Friday;

(B) In the case of a general election held in an even-numbered year, the municipal qualifying period shall commence no earlier than 8:30 A.M. on the last Monday in August immediately preceding the general election and shall end no later than 4:30 P.M. on the following Friday; and

(C) In the case of a special election, the municipal qualifying period shall commence no earlier than the date of the call and shall end no later than 25 days prior to the election.

The hours of qualifying each day shall be from 8:30 A.M. until 4:30 P.M. with one hour allowed for the lunch break; provided, however, that municipalities which have normal business hours which cover a lesser period of time shall conduct qualifying during normal business hours for each such municipality. Except in the case of a special election, notice of the opening and closing dates and the hours for candidates to qualify shall be published at least two weeks prior to the opening of the qualifying period.”

Section 6.

Said chapter is further amended by striking subsection (a) of Code Section 21-2-133, relating to notice of intent of

write-in candidacy and inserting in lieu thereof the following:

“(a) No person elected on a write-in vote shall be eligible to hold office unless notice of his or her intention of candidacy was filed and published no earlier than January 1 and no later than the Tuesday after the first Monday in September prior to the election in the case of a general election or at least 20 or more days prior to a special election by the person to be a write-in candidate or by some other person or group of persons qualified to vote in the subject election, as follows:

(1) In a state general or special election, notice shall be filed with the Secretary of State and published in a paper of general circulation in the state;

(2) In a general or special election of county officers, notice shall be filed with the superintendent of elections in the county in which he or she is to be a candidate and published in the official organ of the same county; or

(3) In a municipal general or special election, notice shall be filed with the superintendent and published in the official gazette of the municipality holding the election.”

Section 7.

Said chapter is further amended by striking code Section 21-2-135, relating to the designation of specific office sought when the office has multiple officeholders with the same title, and inserting in lieu thereof the following:

“21-2-135,

(a)(1) In the case of a public office having multiple officeholders with the same title, each candidate, including write-in candidates, shall designate the specific office he or she is seeking, name the person such candidate is seeking to succeed, and give such other appropriate designation as may be required by the Secretary of State or election superintendent each time such candidate qualifies with his or her party in the case of a primary, files a notice of candidacy in the case of an election or a nonpartisan primary, or files a notice of candidacy as a write-in candidate. The

designation of the specific office and the name of the person whom a candidate is seeking to succeed in the case of a public office having multiple officeholders shall be entered on the ballot and ballot labels in such manner that in the ensuing primary or election such candidate shall only oppose the other candidate or candidates, if any, who designated the same specific office and the same name.

(2) In the case of a candidate, including a write-in candidate, seeking one of two or more municipal public offices, each having the same title and each being filled at the same election by the vote of the same electors, the applicable municipal charter or ordinance provisions shall govern whether such candidate shall designation the specific office he or she is seeking. If required to designate the specific office, the candidate shall name his or her incumbent or give other appropriate designation as specified in the charter or ordinance. Such designation shall be entered on the ballot and ballot labels in such manner that in the ensuing municipal primary or election such candidate shall only oppose the other candidate or candidates, if any, designating the same specific office.

(b) In the case of the office of judge of a state court, judge of a superior court, Judge of the Court of Appeals, or Justice of the Supreme Court, the name of the person such candidate is seeking to succeed and such other designation as may be required by the Secretary of State or election superintendent shall be included in the title of the office on the ballot in all nonpartisan primaries and elections.”

Section 8.

Said chapter is further amended by striking Code Section 21-2-136, relating to the restriction on the number of offices for which an individual may be nominated or a candidate in any one election, and inserting in lieu thereof the following:

“21-2-136,

No person shall be nominated, nor shall any person be a candidate in a primary, election, or special election, for more than one of the following public offices to be filled

at any one election or special election: Governor, Lieutenant Governor, Secretary of State, Attorney General, State School Superintendent, Commissioner of Insurance, Commissioner of Agriculture, Commissioner of Labor, United States senator or representative in Congress, Public Service Commissioner, Justice of the Supreme Court, Judge of the Court of Appeals, members of the Senate and House of Representatives of the General Assembly, any elected county officer, and any elected municipal officer.”

Section 9.

Said chapter is further amended by striking paragraphs (12) and (13) of subsection (a) of Code Section 21-2-217, relating to rules for determining the residence of a person desiring to register to vote, and inserting in lieu thereof the following:

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

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

(14) The county or municipality in which a person has declared a homestead exemption, if a homestead exemption has been claimed, shall be deemed the county or municipality of the person’s residence.”

Section 10.

Said chapter is further amended by striking Code Section 21-2-231, relating to lists of persons unqualified to vote and removal of and notice to such persons, and inserting in lieu thereof a new Code section to read as follows:

“21-2-231,

(a) The clerk of the superior court of each county shall, on or before the tenth day of each month, prepare and transmit to the Secretary of State, in a format as prescribed by the Secretary of State, a complete list of all persons, including addresses, ages, and other

identifying information as prescribed by the Secretary of State, who were convicted of a felony involving moral turpitude during the preceding calendar month in the county.

- (b) The judge of the probate court of each county shall, on or before the tenth day of each month, prepare and transmit to the Secretary of State, in a format as prescribed by the Secretary of State, a complete list of all persons, including addresses, ages, and other identifying information as prescribed by the Secretary of State, who were declared mentally incompetent during the preceding calendar month in the county and whose voting rights were removed.
- (c) The local registrar of vital statistics of each county shall, on or before the tenth day of each month, prepare and transmit to the Secretary of State, in a format as prescribed by the Secretary of State, a complete list of all persons, including addresses, ages, and other identifying information as prescribed by the Secretary of State, who died during the preceding calendar month in the county. The Secretary of State may, by agreement with the commissioner of human resources, obtain such information from the state registrar of vital statistics.
- (d) Upon receipt of such lists and the lists of person convicted of felonies in federal courts received pursuant to 42 U.S.C. Section 1973gg-6(g), the Secretary of State shall transmit the names of such persons whose names appear on the list of electors to the appropriate county board of registrars who shall remove all such names from the list of electors and shall mail a notice of such action and the reason therefor to the last known address of such persons, other than those persons who are deceased, by first-class mail.
- (e) County registrars shall initiate appropriate action regarding the right of an elector to remain on the list of qualified registered voters within 60 days after receipt of the information described in this Code section. Failure to take such action may subject the registrars or the governing authority for whom the registrars are acting to a fine by the State Election Board.”

Section 11.

Said chapter is further amended by striking subsection (a) of Code Section 21-2-381, relating to application and eligibility for absentee ballots, and inserting in lieu thereof the following:

“(a) (1) Not more than 180 days prior to the date of the primary or election, or runoff of either, in which the elector desires to vote, any absentee elector may make, either by mail, or facsimile transmission, or in person in the registrar’s or absentee ballot clerk’s office, an application for an official ballot of the elector’s precinct to be voted at such primary, election, or runoff. In the case of an elector residing temporarily out of the county or municipality or a physically disabled elector residing within the county or municipality, the application for the elector’s absentee ballot may, upon satisfactory proof of relationship, be made by such elector’s mother, father, grandparent, aunt, uncle, sister, brother, spouse, son, daughter, niece, nephew, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, or sister-in-law of the age of 18 or over. The application shall be in writing and shall contain sufficient information for proper identification of the elector; the permanent or temporary address of the elector to which the absentee ballot shall be mailed; the identity of the primary, election, or runoff in which the elector wishes to vote; the reason for requesting the absentee ballot; and the name and relationship of the person requesting the ballot if other than the elector. Except in the case of physically disabled electors residing in the county or municipality, no absentee ballot shall be mailed to an address other than the permanent mailing address of the elector as recorded on the elector’s voter registration record or a temporary out-of-country or out-of-municipality address. Relatives applying for absentee ballots for electors must also sign an oath stating that facts in the application are true. If the elector is unable to fill out or sign each elector’s own application because of illiteracy or physical disability, the elector shall make such elector’s mark, and the person filling in the rest of the application shall sign such person’s name below it as a witness.

One timely and proper application for an absentee ballot for use in a primary shall be sufficient to require the mailing of the absentee ballot for such primary as well as for any runoffs resulting therefrom and for the election for which such primary shall nominate candidates and any runoffs resulting therefrom to an eligible absentee elector who lives outside the county or municipality in which the election is held and is also a member of the armed forces of the United States, a member of the merchant marine of the United States, or a spouse or dependent of a member of the armed forces or the merchant marine residing with or accompanying said member or overseas citizen. Any elector meeting criteria of advanced age or disability specified by rule or regulation of the Secretary of State may request in writing on one application a ballot for a primary as well as for any runoffs resulting therefrom and for the election for which such primary shall nominate candidates as well as any runoffs resulting therefrom. If not so requested by such person a separate and distinct application shall be required for each primary, run-off primary, election and run-off election. Notwithstanding the foregoing, a separate and distinct application for an absentee ballot shall always be required for the presidential preference primary held pursuant to Article 5 of this chapter and for any special election or special primary.

(2) A properly executed registration card submitted under the provisions of subsection (b) of Code Section 21-2-219, if submitted within 180 days of a primary or election in which the registrant is entitled to vote, shall be considered to be an application for an absentee ballot under this Code section, or for a special absentee ballot under Code Section 21-2-381.1, as appropriate.

(3) Any application for an official absentee ballot that is distributed by a person, entity, or organization shall require a voter to identify thereon which one of the legally acceptable categories of absentee electors listed in Code Section 21-2-380 authorizes the voter to vote by absentee ballot.”

Section 11A.

Said chapter is further amended by striking subsection (a) of Code Section 21-2-382, relating to additional sites as additional registrar's office or place of registration for absentee ballots, and inserting in lieu thereof the following:

“(a) Any other provisions of this chapter to the contrary notwithstanding, the board of registrars may establish additional sites as additional registrar's offices or places of registration for the purpose of receiving absentee ballots under Code Section 21-2-381 and for the purpose of voting absentee ballots under Code Section 21-2-385, provided that any such site is a branch of the county courthouse, a courthouse annex, a government service center providing general government services, or another government building generally accessible to the public.”

Section 12.

Said chapter is further amended by striking Code Section 21-2-384, relating to preparations and delivery of absentee ballot supplies, and inserting in lieu thereof the following:

“21-2-384,

(a) The superintendent shall, as soon as practicable prior to each primary or election, but at least 45 days prior to any primary or general election other than a municipal primary or election, and at least 21 days prior to any municipal primary or general election, prepare, obtain, and deliver an adequate supply of official absentee ballots to the board of registrars or absentee ballot clerk for use in the primary or election. Envelopes and other supplies as required by this article may be ordered by the superintendent, the board of registrars, or the absentee ballot clerk for use in the primary or election. The board of registrars or absentee ballot clerk shall, within two days after the receipt of such ballots and supplies, mail or issue official absentee ballots to all eligible applicants; and, as additional applicants are determined to be eligible, the board or clerk shall mail or issue official absentee ballots to such additional applicants immediately upon determining their eligibility;

provided, however, that no absentee ballot shall be mailed by the registrars or absentee ballot clerk on the day prior to a primary or election. The date a ballot is voted in the registrars' or absentee ballot clerk's office or the date a ballot is mailed to an elector and the date it is returned shall be entered on the application record therefor. The delivery of an absentee ballot to a person confined in a hospital may be made by the registrar or clerk on the day of a primary or election or during a five-day period immediately preceding the day of such primary or election. In the event an absentee ballot which has been mailed by the board of registrars or absentee ballot clerk is not received by the applicant, the applicant may notify the board of registrars or absentee ballot clerk and sign an affidavit stating that the absentee ballot has not been received. The board of registrars or absentee ballot clerk shall then issue a second absentee ballot to the applicant and cancel the original ballot issued. The affidavit shall be attached to the original application. A second application for an absentee ballot shall not be required.

(b) In addition to the mailing envelope, the superintendent, board of registrars, or absentee ballot clerk shall provide two envelopes for each official absentee ballot, of such size and shape as shall be determined by the Secretary of State, in order to permit the placing of one within the other and both within the mailing envelope. On the smaller of the two envelopes to be enclosed in the mailing envelope shall be printed the words 'Official Absentee Ballot' and nothing else. On the back of the larger of the two envelopes to be enclosed within the mailing envelope shall be printed the form of oath of the elector and the oath for persons assisting electors, as provided for in Code Section 21-2-409, and the penalties provided for in Code Section 21-2-568, 21-2-573, 21-2-579, and 21-2-599 for violations of oaths; and on the face of such envelope shall be printed the name and address of the board of registrars or absentee ballot clerk. The mailing envelope addressed to the elector shall contain the two envelopes, the official absentee ballot, and the uniform instructions for the manner of preparing and returning the ballot, in form and substance as provided by the Secretary of State and nothing else.

(c) The oaths referred to in subsection (b) of this Code section shall be in substantially the following form:

I, the undersigned, do swear (or affirm) that I am a citizen of the United States and of the State of Georgia; that my residence address is _____ County, Georgia; that I possess the qualifications of an elector required by the laws of the State of Georgia; that I am entitled to vote in the precinct containing my residence in the primary or election in which this ballot is to be cast; that I am eligible to vote by absentee ballot; that I have not marked or mailed any other absentee ballot, nor will I mark or mail another absentee ballot for voting in such primary or election; nor shall I vote therein in person; and that I have read and understand the instructions accompanying this ballot; and that I have carefully complied with such instructions in completing this ballot. 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.

Elector's Residence
Address

Elector's Place of Birth

Month and Day of
Elector's Birth

Signature or Mark of Elector

Oath of Person Assisting Elector (if any):

I, the undersigned, do swear (or affirm) that I assisted the above-named elector in marking such elector's absentee ballot as such elector personally communicated such elector's preference to me; that I am satisfied that such elector presently possesses the disability noted below; and that by reason of such disability such elector is entitled to receive assistance in voting under provisions of subsection (a) of Code section 21-2-409.

This, the _____ day of _____.

Signature of Person Assisting
Elector – Relationship

Reason for assistance (Check appropriate square):

() Elector is unable to read the English language.

() Elector has following physical disability _____.

The forms upon which such oaths are printed shall contain the following information:

Georgia law provides, in subsection (b) of Code section 21-2-409, that no person shall assist more than ten electors in any primary or election.

Georgia law further provides that any person who knowingly falsifies information so as to vote illegally by absentee ballot or who illegally gives or receives assistance in voting, as specified in Code Section 21-2-568, 21-2-573, or 21-2-579, shall be guilty of a misdemeanor.

(d) Each board of registrars or absentee ballot clerk shall maintain for public inspection a master list, arranged by precincts, setting forth the name and residence of every elector to whom an official absentee ballot has been sent. Absentee electors whose names appear on the master list may be challenged by any elector prior to closing of the polls on the day of the primary or election.”

Section 13.

Said chapter is further amended by striking Code Section 21-2-390, relating to delivery of election materials to clerk of superior court after the primary or election, and inserting in lieu thereof a new Code section to read as follows:

“21-2-390,

All official absentee ballots, applications for such ballots, and envelopes on which the forms of affidavits and jurats appear shall be delivered to the clerk of the superior court or the city clerk upon the conclusion of

the primary or election and shall be safely kept by him or her for the period required by law and then shall be destroyed. The applications for such ballots shall be retained by the absentee ballot clerk for at least 24 months and then may be destroyed. On the day following the primary or election, the board of registrars or the municipal absentee ballot clerk shall transmit all canceled, spoiled, and rejected absentee ballots and copies of requests for cancellation of absentee ballots to the clerk of the superior court or the city clerk to be held with other election materials as provided in Code Section 21-2-500. The registrars or the municipal absentee ballot clerk shall also transmit an accounting of all absentee ballots, including the number furnished by the registrars or the municipal absentee ballot clerk, the number issued to electors, the number spoiled, and the number rejected.”

Section 14.

Said chapter is further amended by striking subsection (d) of Code Section 21-2-408, relating to poll watchers, and inserting in lieu thereof the following:

“(d) Notwithstanding any other provisions of this chapter, a poll watcher may be permitted behind the enclosed space for the purpose of observing the conduct of the election and the counting and recording of votes. Such poll watcher shall in no way interfere with the conduct of the election, and the poll manager may make reasonable regulations to avoid such interference. Without in any way limiting the authority of poll managers, poll watchers are prohibited from talking to voters, checking electors lists, using photographic or other electronic monitoring or recording devices, or participating in any form of campaigning while they are behind the enclosed space. If a poll watcher persists in interfering with the conduct of the election or in violating any of the provisions of this Code section after being duly warned by the poll manager or superintendent, he or she may be removed by such official. Any infraction or irregularities observed by poll watchers shall be reported directly to the superintendent, not to the poll manager. The superintendent shall furnish a badge to each poll watcher bearing the words ‘Official Poll Watcher,’ the name of the poll watcher, the primary or election in which

watcher shall serve, and either the precinct or tabulating center in which the poll watcher shall serve or a statement that such poll watcher is a state-wide poll watcher. The poll watcher shall wear such badge at all times while serving as a poll watcher.”

Section 15.

Said chapter is further amended by striking Code Section 21-2-411, relating to the return and retention of checked lists of electors and voter’s certificates to the registrars, and inserting in lieu thereof the following:

“21-2-411,

The chief manager in each precinct shall return a checked list of electors, reflecting those who voted and those who received assistance in voting and the voter’s certificates to the superintendent, to be deposited with the registrars. The board of registrars shall keep such voter’s certificates for at least 24 months and such electors lists for at least five years, and the same shall be available for public inspection.”

Section 16.

Said chapter is further amended by striking subsections (a), (b), and (c) of Code Section 21-2-471, relating to the counting of ballots and the printing and posting of returns in precincts using vote recorders, and inserting in lieu thereof the following:

“(a) In primaries and elections in which vote recorders have been used, the ballot cards shall be counted at one or more tabulating machine centers under the direction of the superintendent. All persons who perform any duties at a tabulating machine center shall be deputized by the superintendent, and only persons so deputized shall touch any ballot card, container, paper, or machine utilized in the conduct of the count or be permitted to be inside the area designated for officers deputized to conduct the count.

(b) All proceedings at a tabulating machine center or other locations designated by the superintendent as provided in subsection (c) of this Code section shall be open to the view of the public, but no person except one employed and designated for the purpose by the

superintendent or his or her authorized deputy shall touch any ballot cards or ballot card container.

(c) At a tabulating machine center or such other location or locations designated by the superintendent for this purpose, the seal on each container of ballot cards shall be inspected, and it shall be certified that the seal has not been broken before the container is opened. In no event shall a ballot container be opened at such other location or locations. The ballot container shall only be opened and the ballots counted at a tabulating machine center. The ballot cards and other contents of the container shall then be removed, and the ballot cards shall be prepared for processing by the tabulating machine. The ballot cards of each polling place shall be plainly identified and not commingled with the ballot cards of other polling places.”

Section 17.

Said chapter is further amended by striking subsection (b) of Code Section 21-2-501, relating to the number of votes required for election, and inserting in lieu thereof the following:

“(b) For the purpose of this subsection and notwithstanding the provisions of paragraph (22) of Code Section 21-2-2, the word ‘plurality’ shall mean the receiving by one candidate alone of the highest number of votes cast. If the municipal charter or ordinances of a municipality as now existing or as amended subsequent to September 1, 1968, provide that a candidate may be nominated or elected by a plurality of the votes cast to fill such nomination or public office, such provision shall prevail. Otherwise, no municipal candidate shall be nominated for public office in any primary or elected to public office in any election unless such candidate shall have received a majority of the votes cast to fill such nomination or public office.”

Section 18.

Said chapter is further amended by striking Code Section 21-2-570, relating to vote buying and selling, and inserting in lieu thereof a new Code section to read as follows:

“21-2-570,

Any person who gives or receives, offers to give or receive, or participates in the giving or receiving of money or gifts for the purpose of registering as a voter, voting, or voting for a particular candidate in any primary or election shall be guilty of a felony.”

Section 19.

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

"21-2-570.

Any person who gives or receives, offers to give or receive, or participates in the giving or receiving of money or gifts for the purpose of registering as a voter, voting, or voting for a particular candidate in any primary or election shall be guilty of a felony."

SECTION 19.

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

APPROVED

APR 0 1 1999

BY GOVERNOR
