

House Bill 419

By: Representatives Draper of the 90th, Burnough of the 77th, Oliver of the 82nd, Anulewicz of the 42nd, Schofield of the 63rd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to
2 primaries and elections generally, so as to provide for election by plurality of votes instead
3 of majority in general elections; to provide for a definition; to exclude elections of
4 presidential electors from majority and plurality vote requirement; to repeal conflicting laws;
5 and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and
9 elections generally, is amended by revising paragraph (22) of Code Section 21-2-2, relating
10 to definitions, as follows:

11 "(22) 'Plurality' means the receiving by one candidate alone of the highest number of
12 votes cast for eligible candidates in a general election among the candidates for the same
13 office; provided, however, that such number of votes exceeds 45 percent of the total
14 number of votes cast in such general election for such office. In the case when two or
15 more persons tie in receiving the highest number of votes cast or no candidate receives

16 more than 45 percent of the total votes cast for eligible candidates in the general election
17 for the office sought, there is no plurality. Reserved."

18 **SECTION 2.**

19 Said chapter is further amended by revising Code Section 21-2-285.1, relating to nonpartisan
20 elections – form of ballot, run-off election, and declaration of prevailing candidates as duly
21 elected, as follows:

22 "21-2-285.1.

23 The names of all candidates for offices which the General Assembly has by general law or
24 local Act provided for election in a nonpartisan election shall be printed on each official
25 primary ballot; and insofar as practicable such offices to be filled in the nonpartisan
26 election shall be separated from the names of candidates for party nomination to other
27 offices by being listed last on each ballot, with the top of that portion of each official
28 primary ballot relating to the nonpartisan election to have printed in prominent type the
29 words 'OFFICIAL NONPARTISAN ELECTION BALLOT.' In addition, there shall be a
30 ballot that contains just the official nonpartisan election ballot available for electors who
31 choose not to vote in a party primary. Such ballot shall have printed at the top the name
32 and designation of the precinct. Directions that explain how to cast a vote, how to write
33 in a candidate, and how to obtain a new ballot after the elector spoils his or her ballot shall
34 appear immediately under the caption, as specified by rule or regulation of the State
35 Election Board. Immediately under the directions, the name of each such nonpartisan
36 candidate shall be arranged alphabetically by last name under the title of the office for
37 which they are candidates and be printed thereunder. The incumbency of a candidate
38 seeking election for the public office he or she then holds shall be indicated on the ballot.
39 No party designation or affiliation shall appear beside the name of any candidate for
40 nonpartisan office. An appropriate space shall also be placed on the ballot for the casting
41 of write-in votes for such offices. In the event that no candidate in such nonpartisan

42 election receives a ~~majority~~ plurality of the total votes cast for such office, there shall be
43 a nonpartisan election runoff between the candidates receiving the two highest numbers of
44 votes; and the names of such candidates shall be placed on the official ballot at the general
45 primary runoff in the same manner as prescribed in this Code section for the nonpartisan
46 election and there shall be a separate official nonpartisan election run-off ballot for those
47 electors who do not choose or are not eligible to vote in the general primary runoff. In the
48 event that only nonpartisan candidates are to be placed on a run-off ballot, the form of the
49 ballot shall be as prescribed by the Secretary of State or election superintendent in
50 essentially the same format as prescribed for the nonpartisan election. Except as provided
51 in subsection (g) of Code Section 21-2-134, the candidate having a ~~majority~~ plurality of the
52 votes cast in the nonpartisan election or the candidate receiving the highest number of votes
53 cast in the nonpartisan election runoff shall be declared duly elected to such office."

54

SECTION 3.

55 Said chapter is further amended by revising subsections (a) and (f) of Code Section 21-2-501,
56 relating to number of votes required for election and runoff, as follows:

57 "(a)(1) Except as otherwise provided in this Code section, no candidate shall be
58 nominated for public office in any primary or special primary or elected to public office
59 in any ~~election~~ or special election or shall take or be sworn into such elected public office
60 unless such candidate shall have received a majority of the votes cast to fill such
61 nomination or public office. In instances where no candidate receives a majority of the
62 votes cast, a run-off primary, special primary runoff, ~~run-off election~~, or special election
63 runoff between the candidates receiving the two highest numbers of votes shall be held.
64 Unless such date is postponed by a court order, such runoff shall be held on the
65 twenty-eighth day after the day of holding the preceding general or special primary ~~or~~
66 ~~general~~ or special election.

67 (1.1) Except as otherwise provided in this Code section, no candidate shall be elected to
68 public office in any general election or shall take or be sworn into such elected public
69 office unless such candidate shall have received a plurality of the votes cast to fill such
70 public office. In instances where no candidate receives a plurality of the votes cast, a
71 run-off election between the candidates receiving the two highest numbers of votes shall
72 be held. Unless such date is postponed by a court order, such runoff shall be held on the
73 twenty-eighth day after the day of holding the preceding general election.

74 (2) If any candidate eligible to be in a runoff withdraws, dies, or is found to be ineligible,
75 the remaining candidates receiving the two highest numbers of votes shall be the
76 candidates in the runoff.

77 (3) The candidate receiving the highest number of the votes cast in such run-off primary,
78 special primary runoff, run-off election, or special election runoff to fill the nomination
79 or public office sought shall be declared the winner.

80 (4) The name of a write-in candidate eligible for election in a runoff shall be printed on
81 the election or special election run-off ballot in the independent column.

82 (5) The run-off primary, special primary runoff, run-off election, or special election
83 runoff shall be a continuation of the primary, special primary, election, or special election
84 for the particular office concerned. Only the electors who are duly registered to vote and
85 not subsequently deemed disqualified to vote in the runoff for candidates for that
86 particular office shall be entitled to vote therein, and only those votes cast for the persons
87 designated as candidates in such run-off primary, special primary runoff, run-off election,
88 or special election runoff shall be counted in the tabulation and canvass of the votes cast.
89 No elector shall vote in a run-off primary or special primary runoff in violation of Code
90 Section 21-2-224."

91 "(f) Except for presidential electors, to be elected to public office in a general election, a
92 candidate must receive a ~~majority~~ plurality of the votes cast in an election to fill such
93 public office. To be elected to the office of presidential electors, no slate of candidates

94 shall be required to receive a majority or plurality of the votes cast, but that slate of
95 candidates shall be elected to such office which receives the highest number of votes cast."

96 **SECTION 4.**

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