

House Bill 595

By: Representative DeLoach of the 167<sup>th</sup>

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 revise the manner of holding certain primaries and  
3 elections; to provide for the dates of such primaries and elections; to provide for the setting  
4 of qualifying fees; to provide for the manner and method of qualifying candidates; to provide  
5 for the forms of ballots; to provide for the conduct of such primaries and elections; to provide  
6 for the determination of successful candidates; to provide for certifications and contests; to  
7 provide for related matters; to provide for an effective date; to repeal conflicting laws; and  
8 for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and  
12 elections generally, is amended by adding a new article to read as follows:

13 "ARTICLE 16

14 21-2-701.

15 Notwithstanding any provision of law to the contrary, all elections to fill expiring terms of  
16 federal, state, and county offices in this state shall be conducted in accordance with this  
17 article.

18 21-2-702.

19 There shall be a general primary held on the Tuesday after the first Monday in August of  
20 each even-numbered year followed by a general election held on the Tuesday after the first  
21 Monday in November of each even-numbered year to elect candidates for federal, state,  
22 and county offices which are expiring.

23 21-2-703.

24 Qualifying fees for public offices shall be fixed and published as follows:

25 (1)(A) The governing authority of each county, not later than March 1 of any year in  
26 which a general primary and general election is to be held pursuant to this article, shall  
27 fix and publish a qualifying fee for each county office to be filled in the upcoming  
28 primary or election. Except as otherwise provided in subparagraph (B) of this  
29 paragraph, such fee shall be 3 percent of the total gross salary of the office paid in the  
30 preceding calendar year, including all supplements authorized by law if a salaried  
31 office.

32 (B) For the offices of clerk of the superior court, judge of the probate court, chief  
33 magistrate, sheriff, and tax commissioner, the qualifying fee shall be, respectively, 3  
34 percent of the minimum salary specified in subsection (a) of Code Section 15-6-88,  
35 paragraph (1) of subsection (a) of Code Section 15-9-63, subsection (a) of Code Section  
36 15-10-23, paragraph (1) of subsection (a) of Code Section 15-16-20, and paragraph (1)

37 of subsection (b) of Code Section 48-5-183, exclusive of supplements, cost-of-living  
38 increases, and longevity increases. For the offices of members of the county governing  
39 authority, the qualifying fee shall be 3 percent of the base salary established by local  
40 Act of the General Assembly or by Code Section 36-5-25 as adjusted pursuant to Code  
41 Section 36-5-24, if applicable, exclusive of supplements for training provided for in  
42 Code Section 36-5-27 and cost-of-living adjustments pursuant to Code Section 36-5-28.  
43 If not a salaried office, a reasonable fee shall be set by the governing authority of such  
44 county, such fee not to exceed 3 percent of the income derived from such county office  
45 by the person holding the office for the preceding year;

46 (2) Within the same time limitation as provided in subparagraph (A) of paragraph (1) of  
47 this Code section, the Secretary of State shall fix and publish a qualifying fee for any  
48 federal or state candidate qualifying with the Secretary of State. Such fee shall be 3  
49 percent of the annual salary of the office if a salaried office, except that the fee for  
50 candidates for the General Assembly shall be \$400.00. If not a salaried office, a  
51 reasonable fee shall be set by the Secretary of State, such fee not to exceed 3 percent of  
52 the income derived from such federal or state office by the person holding the office for  
53 the preceding year;

54 (3) Qualifying fees shall be paid to the election superintendent or the Secretary of State  
55 at the time the notice of candidacy is filed by a candidate;

56 (4)(A) Qualifying fees paid to the county election superintendent shall be transmitted  
57 as soon as practicable by the superintendent to the governing authority of the county,  
58 to be applied toward the cost of the primary and election.

59 (B) Qualifying fees paid to the Secretary of State shall be transmitted as soon as  
60 practicable by the Secretary of State as follows: one-third to the state treasury and  
61 two-thirds divided among the governing authorities of the counties in proportion to the  
62 population of each county according to the most recent United States decennial census,  
63 such fees to be applied to the cost of holding the election.

64 21-2-704.

65 (a) Candidates seeking election in the general primary shall comply with the requirements  
66 of this Code section by the date prescribed and shall by the same date pay to the proper  
67 authority the qualifying fees prescribed by Code Section 21-2-703 in order to be eligible  
68 to have their names placed on the general primary ballot.

69 (b) All candidates seeking election shall file their notice of candidacy and pay the  
70 prescribed qualifying fees by the date prescribed in this Code section in the following  
71 manner:

72 (1) Each candidate for a federal or state office, or such candidate's agent, except for  
73 candidates for presidential electors desiring to have his or her name placed on the general  
74 primary ballot shall file a notice of candidacy, giving his or her name, residence address,  
75 and the office sought, in the office of the Secretary of State no earlier than 9:00 A.M. on  
76 the first Monday in May immediately prior to the general primary and no later than 12:00  
77 Noon on the Friday immediately following such Monday, notwithstanding the fact that  
78 any such days may be legal holidays;

79 (2) Each candidate for a county office or an office of a consolidated government, or such  
80 candidate's agent, desiring to have his or her name placed on the general primary ballot  
81 shall file a notice of candidacy in the office of the county election superintendent no  
82 earlier than 9:00 A.M. on the first Monday in May immediately prior to the general  
83 election and no later than 12:00 Noon on the Friday immediately following such Monday,  
84 notwithstanding the fact that any such days may be legal holidays; and

85 (3) In any case where an incumbent has filed a notice of candidacy and paid the  
86 prescribed qualifying fee in a general primary to succeed himself or herself in office but  
87 withdraws as a candidate for such office prior to the close of the applicable qualifying  
88 period prescribed in this Code section, qualifying for candidates other than such  
89 incumbent shall be reopened at 9:00 A.M. on the Monday next following the close of the  
90 preceding qualifying period and shall cease at 5:00 P.M. on the Tuesday immediately

91 following such Monday, notwithstanding the fact that any such days may be legal  
92 holidays.

93 (c) Each elector for President or Vice President of the United States, or his or her agent,  
94 desiring to have the names of his or her candidates for President and Vice President placed  
95 on the general election ballot shall file a notice of his or her candidacy, giving his or her  
96 name, residence address, and the office sought, along with the name of the currently and  
97 properly registered political party or body or independent candidates for President and Vice  
98 President with which such candidate for presidential elector is affiliated, in the office of the  
99 Secretary of State during the period beginning at 9:00 A.M. on the fourth Monday in June  
100 immediately prior to the election and ending at 12:00 Noon on the Friday following the  
101 fourth Monday in June, notwithstanding the fact that any such days may be legal holidays.

102 (d) Each candidate required by this Code section to file a notice of candidacy shall  
103 accompany the notice of candidacy with an affidavit stating:

104 (1) His or her full name and the name as the candidate desires it to be listed on the ballot.  
105 The surname of the candidate shall be the surname of the candidate as it appears on the  
106 candidate's voter registration card unless the candidate provides proof that his or her  
107 surname as it appears on the candidate's registration card is incorrect, in which event the  
108 correct name shall be listed. After such name is submitted to the Secretary of State or the  
109 county election superintendent, the form of such name shall not be changed during the  
110 election for which such notice of candidacy is submitted;

111 (2) His or her residence, with street and number, if any, and his or her post office  
112 address;

113 (3) His or her profession, business, or occupation, if any;

114 (4) The name of his or her precinct;

115 (5) That he or she is an elector of the county or municipality of his or her residence  
116 eligible to vote in the election in which he or she is a candidate;

117 (6) The name of the office sought;

- 118 (7) That he or she is eligible to hold such office;  
119 (8) That the candidate has never been convicted and sentenced in any court of competent  
120 jurisdiction for fraudulent violation of primary or election laws, malfeasance in office,  
121 or felony involving moral turpitude or conviction of domestic violence under the laws of  
122 this state or any other state or of the United States, or that the candidate's civil rights have  
123 been restored and that at least ten years have elapsed from the date of the completion of  
124 the sentence without a subsequent conviction of another felony involving moral turpitude;  
125 (9) That he or she will not knowingly violate this chapter or rules and regulations  
126 adopted under this chapter;  
127 (10) The name of the currently and properly registered political party or body in this  
128 state, if any, with which such candidate identifies; and  
129 (11) Any other information as may be determined by the Secretary of State to be  
130 necessary to comply with federal and state law.

131 The affidavit shall contain such other information as may be prescribed by the officer with  
132 whom the candidate files his or her notice of candidacy.

133 (e) A pauper's affidavit may be filed along with a qualifying petition as provided for in  
134 subsection (f) of this Code section in lieu of paying the qualifying fee otherwise required  
135 by this Code section and Code Section 21-2-703 of any candidate. A candidate filing a  
136 pauper's affidavit and petition instead of paying a qualifying fee shall under oath affirm his  
137 or her poverty and his or her resulting inability to pay the qualifying fee otherwise required.

138 The form of the affidavit shall be prescribed by the Secretary of State and shall include a  
139 financial statement which lists the total income, assets, liabilities, and other relevant  
140 financial information of the candidate and shall indicate on its face that the candidate has  
141 neither the assets nor the income to pay the qualifying fee otherwise required. The  
142 affidavit shall contain an oath that such candidate has neither the assets nor the income to  
143 pay the qualifying fee otherwise required. The following warning shall be printed on the  
144 affidavit form prepared by the Secretary of State, to wit: 'WARNING: Any person

145 knowingly making any false statement on this affidavit commits the offense of false  
146 swearing and shall be guilty of a felony.' The name of any candidate who subscribes and  
147 swears to an oath that such candidate has neither the assets nor the income to pay the  
148 qualifying fee otherwise required shall be placed on the ballot by the Secretary of State or  
149 election superintendent, as the case may be.

150 (f) No candidate shall be authorized to file a pauper's affidavit in lieu of paying the  
151 qualifying fee otherwise required by this Code section and Code Section 21-2-703 unless  
152 such candidate also timely files a qualifying petition which complies with the following  
153 requirements:

154 (1) A qualifying petition of a candidate seeking an office which is voted upon state wide  
155 shall be signed by a number of voters equal to one-fourth of 1 percent of the total number  
156 of registered voters eligible to vote in the last election for the filling of the office the  
157 candidate is seeking and the signers of such petition shall be registered and eligible to  
158 vote in the election at which such candidate seeks to be elected. A qualifying petition of  
159 a candidate for any other office shall be signed by a number of voters equal to 1 percent  
160 of the total number of registered voters eligible to vote in the last election for the filling  
161 of the office the candidate is seeking and the signers of such petition shall be registered  
162 and eligible to vote in the election at which such candidate seeks to be elected. However,  
163 in the case of a candidate seeking an office for which there has never been an election or  
164 seeking an office in a newly constituted constituency, the percentage figure shall be  
165 computed on the total number of registered voters in the constituency who would have  
166 been qualified to vote for such office had the election been held at the last general  
167 election and the signers of such petition shall be registered and eligible to vote in the  
168 election at which such candidate seeks to be elected;

169 (2) Each person signing a qualifying petition shall declare therein that he or she is a duly  
170 qualified and registered elector of the state entitled to vote in the next election for the  
171 filling of the office sought by the candidate supported by the petition and shall add to his

172 or her signature his or her residence address, giving municipality, if any, and county, with  
173 street and number, if any. No person shall sign the same petition more than once. Each  
174 petition shall support the candidacy of only a single candidate. A signature shall be  
175 stricken from the petition when the signer so requests prior to the presentation of the  
176 petition to the appropriate officer for filing, but such a request shall be disregarded if  
177 made after such presentation. Each sheet shall bear on the bottom or back thereof the  
178 affidavit of the circulator of such sheet, which shall be subscribed and sworn to by such  
179 circulator before a notary public and shall set forth:

180 (A) His or her residence address, giving municipality with street and number, if any;

181 (B) That each signer manually signed his or her own name with full knowledge of the  
182 contents of the qualifying petition;

183 (C) That each signature on such sheet was signed within 180 days of the last day on  
184 which such petition may be filed; and

185 (D) That, to the best of the affiant's knowledge and belief, the signers are registered  
186 electors of the state qualified to sign the petition, that their respective residences are  
187 correctly stated in the petition, and that they all reside in the county named in the  
188 affidavit;

189 (3) A qualifying petition shall be in the form and manner determined by the Secretary  
190 of State and approved by the State Election Board;

191 (4) No qualifying petition shall be circulated prior to 180 days before the last day on  
192 which such petition may be filed, and no signature shall be counted unless it was signed  
193 within 180 days of the last day for filing the same; and

194 (5) A qualifying petition shall not be amended or supplemented after its presentation to  
195 the appropriate officer for filing.

196 No notary public may sign the petition as an elector or serve as a circulator of any petition  
197 which he or she notarized. Any and all sheets of a petition that have the circulator's  
198 affidavit notarized by a notary public who also served as a circulator of one or more sheets



199 of the petition or who signed one of the sheets of the petition as an elector shall be  
200 disqualified and rejected.

201 (g)(1) Notwithstanding any provision of law to the contrary, any elected public officer  
202 who is performing ordered military duty, as defined in Code Section 38-2-279, shall be  
203 eligible for reelection in any primary or general election which may be held to elect a  
204 successor for the next term of office, and may qualify in absentia as a candidate for  
205 reelection to such office. The performance of ordered military duty shall not create a  
206 vacancy in such office during the term for which such public officer was elected.

207 (2) Where the giving of written notice of candidacy is required, any elected public officer  
208 who is performing ordered military duty may deliver such notice by mail, agent, or  
209 messenger to the proper election official. Any other act required by law of a candidate  
210 may, during the time such officer is on ordered military duty, be performed by an agent  
211 designated in writing by the absent public officer.

212 (h)(1) Not later than 12:00 Noon on the second Monday in August of each year in which  
213 a presidential election is to be held, each currently and properly registered political party  
214 or body desiring to have presidential electors shall deliver a certified copy of the names  
215 of its duly nominated slate of candidates for the office of presidential elector to the  
216 Secretary of State. Such certification shall be by the highest officer of such party or body  
217 in this state.

218 (2) An independent candidate for the office of President or Vice President of the United  
219 States shall certify and file with the Secretary of State not later than 12:00 Noon on the  
220 second Monday in August of the year in which a presidential election is to be held a slate  
221 of candidates for the office of presidential elector which such independent candidate has  
222 certified as being the presidential electors for such independent candidate. The  
223 candidates for presidential electors certified by an independent candidate for the office  
224 of President or Vice President of the United States shall qualify for election to such office  
225 in accordance with this Code section. An independent candidate for the office of

226 President or Vice President of the United States may certify a number of candidates for  
227 the office of presidential elector that is equal to or less than the number of presidential  
228 electors who may be elected from the State of Georgia.

229 21-2-705.

230 (a) At the top of each general primary ballot shall be printed in prominent type the words  
231 'OFFICIAL GENERAL PRIMARY BALLOT,' followed by the name and designation of  
232 the precinct for which it is prepared and the date of the general primary.

233 (b) The State Election Board shall by rule and regulation determine the appropriate  
234 wording for directions as to how a vote should be cast on each type of voting equipment  
235 used in the state and how a new ballot should be issued when a ballot is spoiled.

236 (c) Immediately under the directions, the names of all candidates who have qualified in  
237 accordance with this article and who have been certified as having so qualified shall be  
238 printed on the ballots. The names of the candidates shall in all cases be arranged under the  
239 title of the office for which they are candidates and be printed thereunder in alphabetical  
240 order. The incumbency of a candidate seeking reelection for the public office he or she  
241 then holds shall be indicated on the ballots. For offices other than judge of a state court,  
242 judge of a superior court, Judge of the Court of Appeals, Justice of the Supreme Court, and  
243 those offices which have been made nonpartisan by local Act of the General Assembly  
244 pursuant to Code Section 21-2-139, following each candidate's name on the ballot shall be  
245 the designation of the name of the currently and properly registered political party or body  
246 with which such candidate identifies as specified on such candidate's notice of candidacy.  
247 Candidates who do not list a political party or body with which they identify on their  
248 notices of candidacy shall be identified as 'Independent.' Candidates for the office of judge  
249 of a state court, judge of a superior court, Judge of the Court of Appeals, Justice of the  
250 Supreme Court, and those offices which have been made nonpartisan by local Act of the  
251 General Assembly pursuant to Code Section 21-2-139 shall be designated as "Nonpartisan"

252 and no political party or body designation shall be listed on the ballot. Under the title of  
253 each office shall be placed a direction as to the number of candidates to be voted for.

254 (d) Each ballot shall have printed thereon the following:

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

258 (e) The ballots shall vary in form only as the names of precincts, offices, candidates, or  
259 this chapter may require.

260 21-2-706.

261 (a) At the top of each general election ballot shall be printed in prominent type the words  
262 'OFFICIAL GENERAL ELECTION BALLOT,' followed by the name and designation of  
263 the precinct for which it is prepared and the date of the election.

264 (b)(1) Directions that explain how to cast a vote and how to obtain a new ballot after one  
265 is spoiled shall appear immediately under this caption on a ballot presenting the names  
266 of candidates for election to office as specified by the rules and regulations of the State  
267 Election Board.

268 (2) Marks made in violation of these directions shall be disregarded in the counting of  
269 the votes cast. The names of persons inserted on the ballot by the elector shall be written  
270 only within the write-in space provided and the insertion of such names outside such  
271 column or by the use of a sticker, paster, stamp, or other printed or written matter is  
272 prohibited.

273 (c) Immediately under the directions, the names of all candidates who received the  
274 requisite number of votes in accordance with the requirements of this article shall be  
275 printed on the ballot and the names of the candidates shall in all cases be arranged under  
276 the titles of the respective offices they are seeking. The incumbency of a candidate seeking  
277 election for the public office he or she then holds shall be indicated on the ballot.

278 Following each candidate's name on the ballot shall be the designation of the name of the  
279 currently and properly registered political party or body with which such candidate  
280 identifies as specified on such candidate's notice of candidacy. Candidates who do not list  
281 a political party or body with which they identify on their notices of candidacy shall be  
282 identified as 'Independent.' In the case of two or more candidates seeking the same office,  
283 their names shall be arranged under the title of the office in alphabetical order. For each  
284 office, there shall be printed a blank sufficient for the insertion of a write-in vote.

285 (d) When presidential electors are to be elected, the ballot shall not list the individual  
286 names of the candidates for presidential electors but shall list the names of each political  
287 party or body and the names of the candidates of the party or body for the offices of  
288 President and Vice President of the United States. The individual names or the nominees  
289 of each political party or body for such offices shall be posted at each polling place  
290 arranged alphabetically under the names of the candidates of the party or body for  
291 President and Vice President of the United States. A vote for the candidates for President  
292 and Vice President of a political party or body shall be deemed to be a vote for each of the  
293 candidates for presidential electors of such political party or body.

294 (e) When proposed constitutional amendments or other questions are submitted to a vote  
295 of the electors, each amendment or other question so submitted may be printed upon the  
296 ballot following the groups of candidates for the various offices. Proposed constitutional  
297 amendments so submitted shall be printed in the order determined by the Constitutional  
298 Amendments Publication Board and in brief form as directed by the General Assembly  
299 and, in the event of a failure to so direct, the form shall be determined by the Secretary of  
300 State and shall include the short title or heading provided for in subsection (c) of Code  
301 Section 50-12-101. Unless otherwise provided by law, any other state-wide questions or  
302 questions to be presented to the electors of more than one county so submitted shall be  
303 printed in brief form as directed by the General Assembly and, in the event of a failure to  
304 so direct, the form shall be determined by the Secretary of State and shall include a short

305 title or heading in bold face at the beginning of each such question on the ballot and any  
306 local questions so submitted shall be printed in brief form as directed by the General  
307 Assembly and, in the event of a failure to so direct, the form shall be determined by the  
308 county election superintendent.

309 (f) Each ballot shall have printed thereon the following:

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

313 (g) The ballots shall vary in form only as the names of precincts, offices, candidates, or  
314 this chapter may require.

315 21-2-707.

316 (a) The general primary and general election shall be conducted on the voting equipment  
317 provided by the Secretary of State pursuant to Article 8A of this chapter and in accordance  
318 with the procedures of this chapter and the rules and regulations of the State Election  
319 Board.

320 (b) The ballots shall be counted as provided in this chapter and the rules and regulations  
321 of the State Election Board.

322 (c) In the general primary, the candidates receiving the two highest numbers of votes cast  
323 shall be placed on the general election ballot; provided, however, that, if a candidate  
324 receives a majority of the votes cast for the office for which he or she is a candidate, only  
325 the name of the candidate receiving such majority of the votes cast shall be placed on the  
326 general election ballot.

327 (d) In the general election, the candidate receiving the highest number of votes cast shall  
328 be deemed elected and eligible to take or be sworn into the office which such candidate  
329 sought.

330 (e) The results of the general primary and general election shall be certified in accordance  
331 the procedures set forth in this chapter.

332 (f) Challenges to the qualification of candidates shall be handled in accordance with Code  
333 Sections 21-2-5 and 21-2-6. Challenges to the general primary and general election shall  
334 be handled in accordance with Article 13 of this chapter."

335 **SECTION 2.**

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

338 **SECTION 3.**

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