

House Bill 786

By: Representatives Mainor of the 56<sup>th</sup>, Lim of the 99<sup>th</sup>, and Thomas of the 65<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 elections and primaries generally, so as to revise the manner of filling vacancies in party  
3 nominations resulting from the death or disqualification of a candidate after nomination but  
4 prior to the date of an election; to provide for related matters; to repeal conflicting laws; and  
5 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 elections and  
9 primaries generally, is amended by revising subsection (b) of Code Section 21-2-134,  
10 relating to withdrawal, death, or disqualification of candidate for office, return of qualifying  
11 fee, and nomination certificate, as follows:

12 "(b)(1) Any vacancy in any party nomination filled by a primary created by reason of the  
13 death or disqualification of a candidate occurring after nomination ~~may be filled in the~~  
14 ~~following manner:~~ but prior to the election shall be filled by a special primary open to the  
15 party of the nominee who died or was disqualified. The election for such office shall be  
16 delayed and shall be conducted as a special election in accordance with Code

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17 Section 21-2-540, provided that only those candidates other than the deceased or  
18 disqualified candidate who would have been on the election ballot shall be on the special  
19 election ballot. No new candidates shall be qualified.

20 ~~(A) In the case of a public office to be filled by the vote of the electors of this entire~~  
21 ~~state in which the vacancy occurs after nomination but at least ten days prior to the~~  
22 ~~election to fill the public office sought by such candidate, the vacancy may be filled by~~  
23 ~~a substitute nomination made by a convention composed of the delegates of the county~~  
24 ~~executive committee of such party in each county of this state. Immediately upon such~~  
25 ~~vacancy occurring, the state executive committee or a subcommittee thereof appointed~~  
26 ~~for the purpose shall fix a time within six days of the occurrence of such vacancy; shall~~  
27 ~~select and provide a convenient place for the holding of such a convention, which shall~~  
28 ~~be open to the public; and shall give notice thereof to the chairperson and secretary of~~  
29 ~~each county executive committee. Each county executive committee shall be entitled~~  
30 ~~to select the number of delegates apportioned to it by the state executive committee;~~  
31 ~~provided, however, that each county executive committee shall be entitled to select at~~  
32 ~~least one delegate. Such apportionment of delegates among the counties shall be based~~  
33 ~~substantially upon the population of this state according to the last United States~~  
34 ~~decennial census or upon the number of votes cast within this state for the party's~~  
35 ~~candidates for presidential electors in the last presidential election. A two-thirds'~~  
36 ~~majority of the delegates of such county executive committees shall constitute a~~  
37 ~~quorum for the transaction of business, and a majority of the delegates present while~~  
38 ~~a quorum exists shall be sufficient to fill such nomination by a substitute nomination.~~  
39 ~~Each delegate shall have one vote, and all votes taken shall be by a roll-call vote. The~~  
40 ~~records of the convention shall be filed with the state executive committee. In the event~~  
41 ~~such a vacancy in party nomination shall occur during the ten days preceding the day~~  
42 ~~of such an election, such vacancy may be filled by a substitute nomination made by the~~  
43 ~~state executive committee or a subcommittee thereof appointed for that purpose;~~

44 ~~(B) In the case of a public office for which a candidate must qualify with the state~~  
45 ~~executive committee, except a public office to be filled by the vote of the electors of the~~  
46 ~~entire state, the nomination may remain vacant or may be filled at the decision of the~~  
47 ~~state executive committee of the party. The decision whether to fill such vacancy shall~~  
48 ~~be made by the state executive committee by 4:00 P.M. on the next business day~~  
49 ~~following the actual knowledge of the death or disqualification of the candidate. The~~  
50 ~~decision of the state executive committee shall be immediately transmitted to the~~  
51 ~~Secretary of State. If the Secretary of State has not been notified of the decision of the~~  
52 ~~state executive committee by 4:30 P.M. on the next business day following the actual~~  
53 ~~knowledge of the vacancy, it shall be conclusively presumed that the state executive~~  
54 ~~committee has decided not to fill the vacancy. If the state executive committee decides~~  
55 ~~not to fill the vacancy, the nomination shall remain vacant. If the state executive~~  
56 ~~committee decides to fill the vacancy, the vacancy shall be filled by a substitute~~  
57 ~~nomination made by the state executive committee or a subcommittee thereof appointed~~  
58 ~~for that purpose;~~

59 ~~(C) In the case of a public office for which a candidate must qualify with the county~~  
60 ~~executive committee, the nomination may remain vacant or may be filled at the~~  
61 ~~decision of the state executive committee of the party. The state executive committee~~  
62 ~~or a subcommittee thereof may determine on its own whether to fill the vacancy but is~~  
63 ~~authorized, though not required, to seek the recommendation of any of the following~~  
64 ~~persons for the purpose of determining whether to fill the vacancy: the county executive~~  
65 ~~committee, if any; persons from the area who are active in the party; persons who are~~  
66 ~~present or former officials of the party; persons who presently hold political office or~~  
67 ~~have sought political office as candidates of the party; or such other persons as the~~  
68 ~~committee or subcommittee may desire to consult. The decision whether to fill such~~  
69 ~~vacancy shall be made by the state executive committee by 4:00 P.M. on the next~~  
70 ~~business day following the actual knowledge of the death or disqualification of the~~

71 ~~candidate. The decision of the state executive committee shall be immediately~~  
72 ~~transmitted to the county superintendent. If the county superintendent has not been~~  
73 ~~notified of the decision of the state executive committee by 4:30 P.M. on the next~~  
74 ~~business day following the actual knowledge of the vacancy, it shall be conclusively~~  
75 ~~presumed that the state executive committee has decided not to fill the vacancy. If the~~  
76 ~~state executive committee decides not to fill the vacancy, the nomination shall remain~~  
77 ~~vacant. If the state executive committee decides to fill the vacancy, the vacancy shall~~  
78 ~~be filled by a substitute nomination made by the state executive committee or a~~  
79 ~~subcommittee thereof appointed for that purpose. The state executive committee or a~~  
80 ~~subcommittee thereof may determine on its own who shall fill the vacancy as a~~  
81 ~~substitute nominee but is authorized, though not required, to seek the recommendation~~  
82 ~~of any of the following persons for the purpose of determining the most suitable~~  
83 ~~substitute nomination: the county executive committee, if any; persons from the area~~  
84 ~~who are active in the party; persons who are present or former officials of the party;~~  
85 ~~persons who presently hold political office or have sought political office as candidates~~  
86 ~~of the party; or such other persons as the committee or subcommittee may desire to~~  
87 ~~consult; and~~

88 ~~(D) In the case of a public office for which a candidate must qualify with the municipal~~  
89 ~~executive committee, the nomination may remain vacant or may be filled at the~~  
90 ~~decision of the municipal executive committee of the party. The decision whether to~~  
91 ~~fill such vacancy shall be made by the municipal executive committee by 4:00 P.M. on~~  
92 ~~the next business day following the actual knowledge of the death or disqualification~~  
93 ~~of the candidate. The decision of the municipal executive committee shall be~~  
94 ~~immediately transmitted to the municipal superintendent. If the municipal~~  
95 ~~superintendent has not been notified of the decision of the municipal executive~~  
96 ~~committee by 4:30 P.M. on the next business day following the actual knowledge of the~~  
97 ~~vacancy, it shall be conclusively presumed that the municipal executive committee has~~

98 ~~decided not to fill the vacancy. If the municipal executive committee decides not to fill~~  
 99 ~~the vacancy, the nomination shall remain vacant. If the municipal executive committee~~  
 100 ~~decides to fill the vacancy, the vacancy shall be filled by a substitute nomination made~~  
 101 ~~by the municipal executive committee or a subcommittee thereof appointed for that~~  
 102 ~~purpose.~~

103 ~~(2) Any vacancy which occurs in any party nomination filled by a primary and which is~~  
 104 ~~created by reason of the withdrawal of a candidate 60 or more days prior to the date of~~  
 105 ~~the election shall be filled as follows:~~

106 ~~(A) By the person seeking nomination in such primary who received the second~~  
 107 ~~highest total of votes cast in such primary for that office, provided that such person~~  
 108 ~~received not less than 40 percent of the votes cast for that office; or~~

109 ~~(B) In the event no person received the vote total required under subparagraph (A) of~~  
 110 ~~this paragraph, such vacancy shall be filled in the same manner as provided in~~  
 111 ~~subparagraph (A), (B), (C), or (D) of paragraph (1) of this subsection, as appropriate.~~

112 ~~(2)(3) Any vacancy which occurs in any party nomination filled by a primary and which~~  
 113 ~~is created by reason of the withdrawal of a candidate less than 60 days prior to the date~~  
 114 ~~of the election shall not be filled. If the ballots have been printed, the Secretary of State,~~  
 115 ~~the county superintendent, or the municipal superintendent may reprint the ballots to omit~~  
 116 ~~the name of the withdrawn candidate. All votes cast for the withdrawn candidate shall~~  
 117 ~~be void and shall not be counted. Prominent notices shall be posted in all polling places~~  
 118 ~~in which the name of the withdrawn candidate appears on the ballot stating that such~~  
 119 ~~candidate has withdrawn and that all votes cast for such withdrawn candidate shall be~~  
 120 ~~void and shall not be counted."~~

121 **SECTION 2.**

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