

House Bill 933

By: Representatives Blackmon of the 146th, Roberts of the 52nd, Jones of the 47th, Clark of the 108th, and Wade of the 9th

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 provisions related to the retention and
3 preservation of ballots and other election documents; to remove provisions for keeping such
4 ballots and documents under seal; to provide for the inspection of such ballots and documents
5 under certain conditions; to repeal conflicting laws; 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 elections and
9 primaries generally, is amended by revising Code Section 21-2-496, relating to preparation
10 and filing by superintendent of four copies of consolidated return of primary, electronic
11 filing, and superintendent to furnish final copy of each ballot used for primary, as follows:
12 "21-2-496.

13 (a) Each county and municipal superintendent shall prepare four copies of the consolidated
14 return of the primary to be certified by the superintendent on forms furnished by the
15 Secretary of State, such consolidated returns to be filed immediately upon certification as
16 follows:

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- 17 (1) One copy to be posted at the office of the election superintendent for the information
18 of the public;
- 19 (2) One copy to be filed in the superintendent's office;
- 20 (3) One copy to be forwarded to the Secretary of State together with a copy of each
21 precinct return, the numbered list of voters of each precinct, and the returns and the
22 numbered list of voters for absentee electors; and
- 23 (4) One copy to be ~~sealed and~~ filed with the clerk of the superior court, in the case of a
24 county election, or with the city clerk, in the case of a municipal election, as required by
25 Code Section 21-2-500.
- 26 (b) The Secretary of State is authorized to provide a method by which the election
27 superintendent can file the results of primaries and elections electronically. Once the
28 Secretary of State provides such a method of filing, the election superintendent shall file
29 a copy of the election returns electronically in the manner prescribed by the Secretary of
30 State in addition to the filing provided in subsection (a) of this Code section. The Secretary
31 of State is authorized to promulgate such rules and regulations as necessary to provide for
32 such an electronic filing.
- 33 (c) Each county and municipal superintendent shall, upon certification, furnish to the
34 Secretary of State in a manner determined by the Secretary of State a final copy of each
35 ballot used for such primary."

36

SECTION 2.

37 Said chapter is further amended by revising Code Section 21-2-497, relating to preparation
38 and filing by superintendent of four copies of consolidated return of elections, and
39 superintendent to furnish final copy of each ballot used for election, as follows:

40 "21-2-497.

41 (a) Each county and municipal superintendent shall prepare four copies of the consolidated
42 return of the election to be certified by the superintendent on forms furnished by the

43 Secretary of State, such consolidated returns to be filed immediately upon certification as
44 follows:

45 (1) One copy to be posted at the office of the election superintendent for the information
46 of the public;

47 (2) One copy to be filed and recorded as a permanent record in the minutes of the
48 superintendent's office;

49 (3) One copy to be ~~sealed and~~ filed with the clerk of the superior court, in the case of a
50 county election, or with the city clerk, in the case of a municipal election, as required by
51 Code Section 21-2-500; and

52 (4) One copy to be returned immediately to the Secretary of State unless required as
53 follows:

54 (A) In the case of election of federal and state officers, a separate return showing totals
55 of the votes cast for each of such officers respectively shall be forwarded by the
56 superintendent to the Secretary of State on forms furnished by the Secretary of State;

57 (B) In the case of referendum elections provided for by an Act of the General
58 Assembly, the returns shall immediately be certified by the authority holding such
59 election to the Secretary of State, along with the precinct returns and numbered list of
60 voters for each precinct. In addition thereto, the official citation of the Act involved
61 and the purpose of such election shall be sent to the Secretary of State at the same time.
62 The Secretary of State shall maintain a permanent record of such certifications;

63 (C) In the case of elections on constitutional amendments, the returns shall be certified
64 immediately to the Secretary of State. Upon receiving the certified returns from the
65 various superintendents, the Secretary of State shall immediately proceed to canvass
66 and tabulate the votes cast on such amendments and certify the results to the Governor;
67 and

68 (D) In the case of election for presidential electors, a separate return shall be prepared
69 by each superintendent and certified immediately to the Secretary of State.

70 (b) Each county and municipal superintendent shall, upon certification, furnish to the
71 Secretary of State in a manner determined by the Secretary of State a final copy of each
72 ballot used for such election."

73 **SECTION 3.**

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

77 "21-2-500.

78 (a) Immediately upon completing the returns required by this article, in the case of
79 elections other than municipal elections, the superintendent shall deliver in sealed
80 containers to the clerk of the superior court or, if designated by the clerk of the superior
81 court, to the county records manager or other office or officer under the jurisdiction of a
82 county governing authority which maintains or is responsible for records, as provided in
83 Code Section 50-18-99, the used and void ballots and the stubs of all ballots used; one copy
84 of the oaths of poll officers; and one copy of each numbered list of voters, tally paper,
85 voting machine paper proof sheet, and return sheet involved in the primary or election. In
86 addition, the superintendent shall deliver copies of the voting machine ballot labels,
87 computer chips containing ballot tabulation programs, copies of computer records of ballot
88 design, and similar items or an electronic record of the program by which votes are to be
89 recorded or tabulated, which is captured prior to the election, and which is stored on some
90 alternative medium such as a CD-ROM or floppy disk simultaneously with the
91 programming of the PROM or other memory storage device. The clerk, county records
92 manager, or the office or officer designated by the clerk shall ~~hold~~ retain and preserve such
93 ballots and other documents for at least 24 months ~~under seal, unless otherwise directed by~~
94 ~~the superior court,~~ in a manner so as to limit access to and prevent such ballots or other
95 documents from being altered, amended, damaged, modified, or mutilated, after which time

96 they shall be presented to the grand jury for inspection at its next meeting. Such ballots
97 and other documents shall be retained and preserved in the office of the clerk, county
98 records manager, or officer designated by the clerk until the adjournment of such grand
99 jury, and then they may be destroyed, unless otherwise provided by order of the superior
100 court.

101 (a.1) Unless otherwise provided by this chapter or directed by the superior court, while
102 such ballots and other documents are retained and preserved in the office of the clerk,
103 county records manager, or officer designated by the clerk pursuant to subsection (a) of this
104 Code section they shall be subject to inspection pursuant to Article 4 of Chapter 18 of
105 Title 50, provided that no person other than the clerk, county records manager, officer
106 designated by the clerk, election superintendent, or designated employee of such officer
107 shall touch or physically handle the ballots or other documents and such inspection shall
108 be conducted in a manner that does not alter, amend, damage, modify, or mutilate such
109 ballot or other document. The clerk, county records manager, or officer designated by the
110 clerk retaining and preserving such ballots and other documents shall be authorized to
111 impose a reasonable charge for the inspection of such ballots and other documents in a
112 manner consistent with the requirements of this subsection.

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

119 (c)(1) Immediately upon completing the returns required by this article, the municipal
120 superintendent shall deliver in sealed containers to the city clerk the used and void ballots
121 and the stubs of all ballots used; one copy of the oaths of poll officers; and one copy of
122 each numbered list of voters, tally paper, voting machine paper proof sheet, and return

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

135 (2) While such ballots and other documents are retained and preserved pursuant to
136 paragraph (1) of this subsection they shall be subject to inspection pursuant to Article 4
137 of Chapter 18 of Title 50, provided that no person other than the city clerk or a designated
138 employee of the clerk shall touch or physically handle the ballots or other documents and
139 such inspection shall be conducted in a manner that does not alter, amend, damage, or
140 modify such ballot or other document. The city clerk shall be authorized to impose a
141 reasonable charge for the inspection of such ballots and other documents in a manner
142 consistent with the requirements of this subsection."

143

SECTION 4.

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