

Senate Bill 226

By: Senators Harbin of the 16th, Williams of the 25th, Burns of the 23rd, Moore of the 53rd,
Brass of the 28th 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 require unique bar codes and alphanumeric
3 accountability numbers on individual absentee ballots; to revise provisions regarding the
4 preparation and mailing of absentee ballot envelopes; to revise provisions regarding the
5 opening of absentee ballots; to revise provisions relating to validation of provisional ballots;
6 to provide for related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and
10 elections generally, is amended in Code Section 21-2-383, relating to preparation and
11 delivery of ballots, form of ballots, casting ballot in person using DRE unit, and casting
12 ballot in person or as absentee using electronic ballot markers, by revising subsection (a) as
13 follows:

14 "(a) Ballots for use by absentee electors shall be prepared sufficiently in advance by the
15 superintendent and shall be delivered to the board of registrars or absentee ballot clerk as
16 provided in Code Section 21-2-384. Such ballots shall be marked 'Official Absentee Ballot'

17 and shall be in substantially the form for ballots required by Article 8 of this chapter,
 18 except that in counties using voting machines or direct recording electronic (DRE) units
 19 the ballots may be in substantially the form for the ballot labels required by Article 9 of this
 20 chapter. Each such ballot shall have printed thereon a unique bar code and alphanumeric
 21 accountability number that allow for the tracking and identification of each such individual
 22 ballot. Every such ballot shall have printed with other instructions thereon the following:
 23 'I understand that the offer or acceptance of money or any other object of value to vote
 24 for any particular candidate, list of candidates, issue, or list of issues included in this
 25 election constitutes an act of voter fraud and is a felony under Georgia law.'
 26 The form for either ballot shall be determined and prescribed by the Secretary of State,
 27 except in municipal primaries or elections, in which the form of absentee ballots which
 28 follows the paper ballot format shall be determined and prescribed by the superintendent."

29

SECTION 2.

30 Said chapter is further amended in Code Section 21-2-384, relating to preparation and
 31 delivery of supplies, mailing of ballots, oath of absentee electors and persons assisting
 32 absentee electors, master list of ballots sent, challenges, and electronic transmission of
 33 ballots, by revising subsection (b) as follows:

34 "(b)(1) Except for ballots voted within the confines of the registrar's or absentee ballot
 35 clerk's office, in addition to the mailing envelope addressed to the elector, the
 36 superintendent, board of registrars, or absentee ballot clerk shall provide ~~two~~ three
 37 envelopes for each official absentee ballot, of such size and shape as shall be determined
 38 by the Secretary of State, in order to permit the placing of ~~one~~ the smallest within the
 39 ~~other next smallest~~ and then both within the larger third envelope, and then all three
 40 within the mailing envelope.

41 (2) On the ~~smaller~~ smallest of the ~~two~~ three envelopes to be enclosed in the mailing
 42 envelope shall be printed a unique bar code and alphanumeric accountability number that

43 match the bar code and alphanumeric accountability number required by subsection (a)
44 of Code Section 21-2-383 on the absentee ballot to be enclosed in the envelope. Such
45 envelope shall be orange in color.

46 (3) On the next smallest of the three envelopes shall be printed the words 'Official
47 Absentee Ballot' and nothing else.

48 (4) The larger largest of the two three envelopes to be enclosed within the mailing
49 envelope shall contain the form of the oath of the elector and the oath for persons
50 assisting electors, as provided for in Code Section 21-2-409, and the penalties provided
51 for in Code Sections 21-2-568, 21-2-573, 21-2-579, and 21-2-599 for violations of oaths;
52 a place for the elector to print his or her name; a signature line; a space for the elector to
53 print the number of his or her Georgia driver's license or identification card issued
54 pursuant to Article 5 of Chapter 5 of Title 40; a space for the elector to mark to affirm
55 that he or she does not have a Georgia driver's license or identification card issued
56 pursuant to Article 5 of Chapter 5 of Title 40; a space for the elector to print his or her
57 date of birth; and a space for the elector to print the last four digits of his or her social
58 security number, if the elector does not have a Georgia driver's license or state
59 identification card issued pursuant to Article 5 of Chapter 5 of Title 40. The envelope
60 shall be designed so that the number of the elector's Georgia driver's license or
61 identification card issued pursuant to Article 5 of Chapter 5 of Title 40, the last four digits
62 of the elector's social security number, and the elector's date of birth shall be hidden from
63 view when the envelope is correctly sealed. Any person other than the elector who
64 requested the ballot, an authorized person who is assisting the elector entitled to
65 assistance in voting pursuant to Code Section 21-2-409, an absentee ballot clerk,
66 registrar, or law enforcement officer in the course of an investigation who knowingly
67 unseals a sealed absentee ballot envelope shall be guilty of a felony. On the face of such
68 envelope shall be printed the name and address of the board of registrars or absentee

69 ballot clerk. The ~~larger~~ largest of the ~~two~~ three envelopes shall also display the elector's
70 name and voter registration number.

71 (5) The mailing envelope addressed to the elector shall contain the ~~two~~ three envelopes,
72 the official absentee ballot, the uniform instructions for the manner of preparing and
73 returning the ballot, in form and substance as provided by the Secretary of State,
74 provisional absentee ballot information, if necessary, and a notice in the form provided by
75 the Secretary of State of all withdrawn, deceased, and disqualified candidates and any
76 substitute candidates pursuant to Code Sections 21-2-134 and 21-2-155 and nothing else.
77 The uniform instructions shall include information specific to the voting system used for
78 absentee voting concerning the effect of overvoting or voting for more candidates than one
79 is authorized to vote for a particular office and information concerning how the elector may
80 correct errors in voting the ballot before it is cast including information on how to obtain
81 a replacement ballot if the elector is unable to change the ballot or correct the error. The
82 uniform instructions shall prominently include specific instructions stating that the elector
83 shall mark his or her ballot in private and sign the oath by writing his or her usual signature
84 with a pen and ink under penalty of false swearing that the elector has not allowed any
85 person to observe the marking of his or her ballot other than an authorized person lawfully
86 assisting the elector if the elector is entitled to assistance, the elector's child under 18 years
87 of age, or any child under 12 years of age and that the elector will not permit any
88 unauthorized person to deliver or return the voted ballot to the board of registrars. The
89 uniform instructions shall include a list of authorized persons who may deliver or return
90 the voted ballot to the board of registrars on behalf of the elector as provided in
91 subsection (a) of Code Section 21-2-385. The uniform instructions shall include the
92 contact information of the Secretary of State which may be used by the elector to report
93 any unauthorized person requesting to observe the elector voting his or her ballot or the
94 elector's voted ballot or any unauthorized person offering to deliver or return the voted
95 ballot to the board of registrars."

96

SECTION 3.

97 Said chapter is further amended in Code Section 21-2-385, relating to procedure for voting
98 by absentee ballot and advance voting, by revising subsection (a) as follows:

99 "(a) At any time after receiving an official absentee ballot, but before the day of the
100 primary or election, except electors who are confined to a hospital on the day of the
101 primary or election, the elector shall vote his or her absentee ballot, then fold the ballot and
102 enclose and securely seal the same in the orange envelope on which is printed the bar code
103 and alphanumeric accountability number. The envelope with such bar code and
104 alphanumeric accountability number shall be placed in the envelope on which is printed
105 'Official Absentee Ballot.' This envelope shall then be placed in the ~~second one~~, envelope
106 on which is printed the form of the oath of the elector; the name and oath of the person
107 assisting, if any; and other required identifying information. The elector shall then fill out,
108 subscribe, and swear to the oath printed on such envelope. In order to verify that the
109 absentee ballot was voted by the elector who requested the ballot, the elector shall print the
110 number of his or her Georgia driver's license number or identification card issued pursuant
111 to Article 5 of Chapter 5 of Title 40 in the space provided on the outer oath envelope. The
112 elector shall also print his or her date of birth in the space provided in the outer oath
113 envelope. If the elector does not have a Georgia driver's license or state identification card
114 issued pursuant to Article 5 of Chapter 5 of Title 40, the elector shall so affirm in the space
115 provided on the outer oath envelope and print the last four digits of his or her social
116 security number in the space provided on the outer oath envelope. If the elector does not
117 have a Georgia driver's license, identification card issued pursuant to Article 5 of Chapter
118 5 of Title 40, or a social security number, the elector shall so affirm in the space provided
119 on the outer oath envelope and place a copy of one of the forms of identification set forth
120 in subsection (c) of Code Section 21-2-417 in the outer envelope. Such envelope shall then
121 be securely sealed and the elector shall then personally mail or personally deliver same to
122 the board of registrars or absentee ballot clerk, provided that mailing or delivery may be

123 made by the elector's mother, father, grandparent, aunt, uncle, brother, sister, spouse, son,
 124 daughter, niece, nephew, grandchild, son-in-law, daughter-in-law, mother-in-law,
 125 father-in-law, brother-in-law, sister-in-law, or an individual residing in the household of
 126 such elector. The absentee ballot of a disabled elector may be mailed or delivered by the
 127 caregiver of such disabled elector, regardless of whether such caregiver resides in such
 128 disabled elector's household. The absentee ballot of an elector who is in custody in a jail
 129 or other detention facility may be mailed or delivered by any employee of such jail or
 130 facility having custody of such elector. An elector who is confined to a hospital on a
 131 primary or election day to whom an absentee ballot is delivered by the registrar or absentee
 132 ballot clerk shall then and there vote the ballot, seal it properly, and return it to the registrar
 133 or absentee ballot clerk. If the elector registered to vote for the first time in this state by
 134 mail and has not previously provided the identification required by Code Section 21-2-220
 135 and votes for the first time by absentee ballot and fails to provide the identification required
 136 by Code Section 21-2-220 with such absentee ballot, such absentee ballot shall be treated
 137 as a provisional ballot and shall be counted only if the registrars are able to verify the
 138 identification and registration of the elector during the time provided pursuant to Code
 139 Section 21-2-419."

140

SECTION 4.

141 Said chapter is further amended in Code Section 21-2-386, relating to safekeeping,
 142 certification, and validation of absentee ballots, rejection of ballot, delivery of ballots to
 143 manager, duties of managers, precinct returns, and notification of challenged elector, by
 144 revising paragraph (3) of subsection (a) as follows:

145 "(3) A county election superintendent may, in his or her discretion, after 7:00 A.M. on
 146 the day of the primary, election, or runoff begin tabulating the absentee ballots. If the
 147 county election superintendent chooses to open the ~~inner~~ envelopes marked 'Official
 148 Absentee Ballot' and the orange envelopes with the bar codes and alphanumeric

149 accountability numbers and begin tabulating such ballots prior to the close of the polls
150 on the day of the primary, election, or runoff, the superintendent shall notify in writing,
151 at least seven days prior to the primary, election, or runoff, the Secretary of State of the
152 superintendent's intent to begin the absentee ballot tabulation prior to the close of the
153 polls. The county executive committee or, if there is no organized county executive
154 committee, the state executive committee of each political party and political body having
155 candidates whose names appear on the ballot for such election in such county shall have
156 the right to designate two persons and each independent and nonpartisan candidate whose
157 name appears on the ballot for such election in such county shall have the right to
158 designate one person to act as monitors for such process. In the event that the only issue
159 to be voted upon in an election is a referendum question, the superintendent shall also
160 notify in writing the chief judge of the superior court of the county who shall appoint two
161 electors of the county to monitor such process."

162 **SECTION 5.**

163 Said chapter is further amended in Code Section 21-2-419, relating to validation of
164 provisional ballots and reporting to Secretary of State, by revising subsection (a) as follows:
165 "(a) A person shall cast a provisional ballot on the same type of ballot that is utilized by
166 the county or municipality. Such provisional ballot shall be sealed in ~~double~~ triple
167 envelopes as provided in Code Section 21-2-384 and shall be deposited by the person
168 casting such ballot in a secure, sealed ballot box."

169 **SECTION 6.**

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