

The House Committee on Governmental Affairs offers the following substitute to HB 757:

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 the determination of qualifying periods  
3 for special elections; to provide for voter registration deadlines for special primary runoffs  
4 and any other election or runoff held in conjunction with a special primary runoff; to provide  
5 that, in those instances in which a special election is required to fill a partisan office and such  
6 partisan office is being filled on a temporary basis by appointment, a special primary and a  
7 special election shall be conducted for such office; to provide for the filling of vacancies in  
8 the General Assembly; to provide for related matters; to provide for effective dates; to repeal  
9 conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 style="text-align:center">**SECTION 1.**

12 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and  
13 elections generally, is amended by revising subsection (d) of Code Section 21-2-132, relating  
14 to filing notice of candidacy, nomination petition, and affidavit; payment of qualifying fee;  
15 pauper's affidavit and qualifying petition for exemption from qualifying fee; and military  
16 service, as follows:

17 "(d) All political body and independent candidates shall file their notice of candidacy and  
18 pay the prescribed qualifying fee by the date prescribed in this subsection in order to be  
19 eligible to have their names placed on the election ballot by the Secretary of State or  
20 election superintendent, as the case may be, in the following manner:

21 (1) Each elector for President or Vice President of the United States, or his or her agent,  
22 desiring to have the names of his or her candidates for President and Vice President  
23 placed on the election ballot shall file a notice of his or her candidacy, giving his or her  
24 name, residence address, and the office he or she is seeking, in the office of the Secretary  
25 of State during the period beginning at 9:00 A.M. on the fourth Monday in June  
26 immediately prior to the election and ending at 12:00 Noon on the Friday following the

27 fourth Monday in June, notwithstanding the fact that any such days may be legal  
28 holidays;

29 (2) Each candidate for United States Senate, United States House of Representatives, or  
30 state office, or his or her agent, desiring to have his or her name placed on the election  
31 ballot shall file a notice of his or her candidacy, giving his or her name, residence  
32 address, and the office he or she is seeking, in the office of the Secretary of State during  
33 the period beginning at 9:00 A.M. on the Monday of the thirty-fifth week immediately  
34 prior to the election and ending at 12:00 Noon on the Friday immediately following such  
35 Monday, notwithstanding the fact that any such days may be legal holidays, in the case  
36 of a general election. In the case of a special election to fill a federal office listed in this  
37 subsection, each candidate shall file a notice of his or her candidacy, giving his or her  
38 name, residence address, and the office he or she is seeking, in the office of the Secretary  
39 of State during a period designated by the Secretary of State which shall be at least two  
40 and one-half days in length and shall commence no earlier than the date of the call of the  
41 special election and no later than 60 days prior to the special election. In the case of a  
42 special election to fill a state office, each candidate shall file a notice of his or her  
43 candidacy, giving his or her name, residence address, and the office he or she is seeking,  
44 in the office of the Secretary of State during a period designated by the Secretary of State  
45 which shall be at least two and one-half days in length and shall commence no earlier  
46 than the date of the call of the special election and no later than 25 days prior to the  
47 special election;

48 (3) ~~Each~~ In the case of a general election, each candidate for a county office, or his or  
49 her agent, desiring to have his or her name placed on the election ballot shall file notice  
50 of his or her candidacy in the office of the superintendent of his or her county during the  
51 period beginning at 9:00 A.M. on the Monday of the thirty-fifth week immediately prior  
52 to the election and ending at 12:00 Noon on the Friday immediately following such  
53 Monday, notwithstanding the fact that any such days may be legal holidays, ~~in the case~~  
54 ~~of a general election and.~~ In the case of a special election, each candidate for a county  
55 office, or his or her agent, desiring to have his or her name placed on the election ballot  
56 shall file notice of his or her candidacy in the office of the superintendent of his or her  
57 county during a period designated by the superintendent which shall be at least two and  
58 one-half days in length and shall commence no earlier than the date of the call of the  
59 election and no later than 25 days prior to the election ~~in the case of a special election;~~

60 (4) Each candidate for municipal office or a designee shall file a notice of candidacy in  
61 the office of the municipal superintendent of such candidate's municipality during the  
62 municipality's qualifying period. Each municipal superintendent shall designate the days  
63 of the qualifying period, which shall be no less than three days and no more than five

64 days. The days of the qualifying period shall be consecutive days. Qualifying periods  
 65 shall commence no earlier than 8:30 A.M. on the third Monday in August immediately  
 66 preceding the general election and shall end no later than 4:30 P.M. on the following  
 67 Friday; and, in the case of a special election, the municipal qualifying period shall  
 68 commence no earlier than the date of the call and shall end no later than 25 days prior to  
 69 the election; and

70 (5)(A) In extraordinary circumstances as described in Code Section 21-2-543.1, each  
 71 candidate, or his or her agent, desiring to have his or her name placed on the election  
 72 ballot shall file a notice of his or her candidacy, giving his or her name, residence  
 73 address, and the office he or she is seeking, with the office of the Secretary of State no  
 74 earlier than the date of the call of the special election and no later than ten days after the  
 75 announcement of such extraordinary circumstances.

76 (B) The provisions of this subsection shall not apply where, during the 75 day period  
 77 beginning on the date of the announcement of the vacancy:

78 (i) A regularly scheduled general election for the vacant office is to be held; or

79 (ii) Another special election for the vacant office is to be held pursuant to a writ for  
 80 a special election issued by the Governor prior to the date of the announcement of the  
 81 vacancy.

82 The hours of qualifying each day shall be from 8:30 A.M. until 4:30 P.M. with one hour  
 83 allowed for the lunch break; provided, however, that municipalities which have normal  
 84 business hours which cover a lesser period of time shall conduct qualifying during normal  
 85 business hours for each such municipality. Except in the case of a special election, notice  
 86 of the opening and closing dates and the hours for candidates to qualify shall be published  
 87 at least two weeks prior to the opening of the qualifying period."

## 88 SECTION 2.

89 Said chapter is further amended by revising subsection (c) of Code Section 21-2-152, relating  
 90 to conduct of primaries generally and run-off primary, as follows:

91 "(c) A run-off primary shall be a continuation of the primary ~~and only persons who were~~  
 92 ~~entitled to vote in the primary shall be entitled to vote therein;~~ and only those votes cast for  
 93 the persons designated for the runoff shall be counted in the tabulation and canvass of the  
 94 votes cast. Any elector who votes in the primary of one party shall not be eligible to vote  
 95 in a primary runoff of any other party other than a primary runoff of the party in whose  
 96 primary such elector voted. The deadline for persons to apply to register to vote before a  
 97 run-off primary or any primary, election, or runoff held in conjunction with such run-off  
 98 primary shall be the close of business on the fifth Monday prior to the date of such run-off

99 primary or, if such Monday is a legal holiday, by the close of business on the following  
 100 business day."

101 **SECTION 3.**

102 Said chapter is further amended by revising subsection (d) of Code Section 21-2-218, relating  
 103 to cancellation of registration in former state or county and address changes and corrections,  
 104 as follows:

105 "(d) In the event that an elector moves to a residence within the county or municipality but  
 106 into a different precinct or ~~who~~ moves to a residence in the same precinct but at a different  
 107 address and fails to notify the board of registrars of such fact by the fifth Monday prior to  
 108 an election or primary, such elector shall vote in the precinct of such elector's former  
 109 residence for such election or primary ~~and for any runoffs resulting therefrom~~. The  
 110 superintendent of an election shall make available at each polling place forms furnished by  
 111 the Secretary of State which shall be completed by each such elector to reflect such  
 112 elector's present legal residence. Such forms may also be used to notify the board of  
 113 registrars of a change in an elector's name. The board of registrars shall thereafter place  
 114 the elector in the proper precinct and voting districts and correct the list of electors  
 115 accordingly. If the elector is placed in a precinct other than the one in which such elector  
 116 has previously been voting, such elector shall be notified of the new polling place by  
 117 first-class mail."

118 **SECTION 4.**

119 Said chapter is further amended by revising paragraph (10) of subsection (a) and  
 120 subsection (c) of Code Section 21-2-501, relating to number of votes required for election,  
 121 as follows:

122 "(10) The ~~run-off primary, special primary runoff~~, run-off election; or special election  
 123 runoff shall be a continuation of the ~~primary, special primary~~, election; or special election  
 124 for the particular office concerned. ~~Only~~ Except as provided in subsection (c) of Code  
 125 Section 21-2-152, only the electors who were duly registered to vote and not  
 126 subsequently deemed disqualified to vote in the ~~primary, special primary~~, election; or  
 127 special election for candidates for that particular office shall be entitled to vote therein,  
 128 and only those votes cast for the persons designated as candidates in such ~~run-off~~  
 129 ~~primary, special primary runoff, run-off election, or special~~ election runoff shall be  
 130 counted in the tabulation and canvass of the votes cast. No elector shall vote in a run-off  
 131 primary or special primary runoff in violation of Code Section 21-2-224."

132 "(c) In instances in which no municipal candidate receives a majority of the votes cast and  
 133 the municipal charter or ordinances do not provide for nomination or election by a plurality

134 vote, a run-off primary or election shall be held between the candidates receiving the two  
 135 highest numbers of votes. Such runoff shall be held on the twenty-eighth day after the day  
 136 of holding the first primary or election, unless such run-off date is postponed by court  
 137 order; provided, however, that, in the case of a runoff from a municipal special election that  
 138 is held in conjunction with a special election for a federal office and not in conjunction  
 139 with a general primary or general election, the municipality may conduct such runoff from  
 140 such municipal special election on the date of the special election runoff for the federal  
 141 office. ~~Only~~ Except as provided in subsection (c) of Code Section 21-2-152, only the  
 142 electors entitled to vote in the first primary or election shall be entitled to vote in any  
 143 run-off ~~primary or~~ election resulting therefrom; provided, however, that no elector shall  
 144 vote in a run-off primary in violation of Code Section 21-2-216. The run-off ~~primary or~~  
 145 election shall be a continuation of the first primary or election, and only those votes cast  
 146 for the candidates receiving the two highest numbers of votes in the first primary or  
 147 election shall be counted. No write-in votes may be cast in such a primary, run-off  
 148 primary, or run-off election. If any candidate eligible to be in a runoff withdraws, dies, or  
 149 is found to be ineligible, the remaining candidates receiving the two highest numbers of  
 150 votes shall be the candidates in such runoff. The municipal candidate receiving the highest  
 151 number of the votes cast in such run-off primary or run-off election to fill the nomination  
 152 or public office sought shall be declared the winner. The municipality shall give written  
 153 notice to the Secretary of State of such runoff as soon as such municipality certifies the  
 154 preceding primary, special primary, election, or special election."

155 **SECTION 5.**

156 Said chapter is further amended by revising subsection (b) of Code Section 21-2-540, relating  
 157 to conduct of special elections generally, as follows:

158 "(b) At least 29 days shall intervene between the call of a special primary and the holding  
 159 of same, and at least 29 days shall intervene between the call of a special election and the  
 160 holding of same. The period during which candidates may qualify to run in a special  
 161 primary or a special election shall remain open for a minimum of two and one-half days.  
 162 Such period shall be designated by the Secretary of State for a special primary or special  
 163 election involving a federal or state office, by the county election superintendent for a  
 164 county office, and by the municipal election superintendent for a municipal office. In the  
 165 case of a special primary or special election for a federal office, such period shall  
 166 commence not earlier than the date of the call of the special primary or special election and  
 167 shall end not later than 60 days prior to such special primary or special election. In the case  
 168 of a special primary or special election for a state, county, or municipal office, such period  
 169 shall commence not earlier than the date of the call of the special primary or special

170 election and shall end not later than 25 days prior to such special primary or special  
 171 election. Special elections which are to be held in conjunction with the presidential  
 172 preference primary, a state-wide general primary, or state-wide general election shall be  
 173 called at least 90 days prior to the date of such presidential preference primary, state-wide  
 174 general primary, or state-wide general election; provided, however, that this requirement  
 175 shall not apply to special elections held on the same date as such presidential preference  
 176 primary, state-wide general primary, or state-wide general election but conducted  
 177 completely separate and apart from such state-wide general primary or state-wide general  
 178 election using different ballots or voting equipment, facilities, poll workers, and paperwork.  
 179 ~~Notwithstanding any provision of this subsection to the contrary, special elections which~~  
 180 ~~are to be held in conjunction with the state-wide general primary or state-wide general~~  
 181 ~~election in 2014 shall be called at least 60 days prior to the date of such state-wide general~~  
 182 ~~primary or state-wide general election."~~

183 **SECTION 6.**

184 Said chapter is further amended by revising subsection (e) and by adding a new subsection  
 185 to Code Section 21-2-540, relating to conduct of special elections generally, to read as  
 186 follows:

187 "(e) Candidates in special elections for partisan offices shall be listed alphabetically on the  
 188 ballot and, except where a special primary has been held, may choose to designate on the  
 189 ballot their party affiliation. The party affiliation selected by a candidate shall not be  
 190 changed following the close of qualifying.

191 (f) Notwithstanding any provision of law to the contrary, in those instances in which:

192 (1) A special election is required to fill a partisan office;

193 (2) Such partisan office is being filled on a temporary basis by appointment;

194 (3) Such special election is being conducted in conjunction with a November general  
 195 election; and

196 (4) The vacancy occurs prior to the qualifying period for the general primary to be held  
 197 in the year of such November state-wide general election,

198 a special primary and a special election shall be conducted for such office with the special  
 199 primary being held in conjunction with such general primary. Otherwise, only a special  
 200 election shall be required. In the event that only one candidate qualifies for nomination in  
 201 the special primary of a political party, no special primary shall be conducted for such  
 202 political party, the candidate shall be deemed to have voted for himself or herself, and the  
 203 candidate shall be the nominee of such political party in the special election and shall be  
 204 designated on the ballot as the nominee of such political party."

205 **SECTION 7.**

206 Said chapter is further amended by revising Code Section 21-2-544, relating to special  
 207 elections for General Assembly vacancies, as follows:

208 "21-2-544.

209 Whenever a vacancy shall occur or exist in either house of the General Assembly, such  
 210 vacancy shall be filled as follows:

211 (1) If such vacancy shall occur during a session of the General Assembly, the Governor  
 212 shall issue, within ten days after the occurrence of such vacancy, a writ of election to the  
 213 Secretary of State for a special election to fill such vacancy which shall be held on the  
 214 date named in the writ, which shall not be fewer than 30 nor more than 60 days after its  
 215 issuance;

216 (2) Except as provided in paragraph (4) of this Code section, if such vacancy shall occur  
 217 after the conclusion of the regular session which is held during the first year of the term  
 218 of office of members of the General Assembly, but more than 60 days prior to the  
 219 Tuesday following the first Monday in November of the first year of the term of office  
 220 of members of the General Assembly, the Governor may issue at any time but no later  
 221 than 60 days prior to the Tuesday following the first Monday in November of the first  
 222 year of the term of office of members of the General Assembly a writ of election to the  
 223 Secretary of State for a special primary and special election to fill such vacancy. Such  
 224 special primary ~~which shall be held not fewer than 30 days nor more than 60 days~~ after  
 225 ~~its the issuance of the writ nor later than 60 days prior to the Tuesday following the first~~  
 226 ~~Monday in November of the first year of the term of office of members of the General~~  
 227 ~~Assembly~~ and the special election shall be held following such special primary in  
 228 accordance with Code Section 21-2-540;

229 (3) If such vacancy shall occur after the conclusion of the regular session of the General  
 230 Assembly held during the first year of the term of office of members of the General  
 231 Assembly during the period beginning 60 days prior to the Tuesday following the first  
 232 Monday in November of such year and ending on the day prior to the beginning of the  
 233 regular session of the General Assembly held during the second year of the term of office  
 234 of members of the General Assembly, the Governor shall issue, within ten days after the  
 235 occurrence of such vacancy, a writ of election to the Secretary of State for a special  
 236 election to fill such vacancy which shall be held on the date named in the writ, which  
 237 shall not be fewer than 30 nor more than 60 days after its issuance;

238 (4) If such vacancy shall occur following the election of a member of the General  
 239 Assembly but prior to such member taking office, such vacancy shall be filled in  
 240 accordance with Code Section 21-2-504, but such election shall be called within ten days

241 of such vacancy and shall be held not fewer than 30 nor more than 60 days following the  
 242 date of such call;

243 (5) If such vacancy shall occur following the conclusion of the regular session of the  
 244 General Assembly during the second year of the term of office of members of the General  
 245 Assembly, the issuance of a writ of election to fill such vacancy shall be in the discretion  
 246 of the Governor except as otherwise provided in paragraph (6) of this Code section and  
 247 if the Governor chooses to issue such writ of election to fill such vacancy, such vacancy  
 248 shall be filled by a special primary, and the special election shall be held on the ~~date~~ dates  
 249 named in the writ, ~~The special primary which~~ shall not be fewer than 30 nor more  
 250 than 60 days after its ~~the~~ issuance of the writ, and the special election shall be held  
 251 following such special primary in accordance with Code Section 21-2-540; or

252 (6)(A) If such vacancy shall exist at a time when the members of the General  
 253 Assembly shall be required to meet in special session, the Governor shall issue, within  
 254 two days after the calling of an extraordinary session of the General Assembly during  
 255 the existence of such vacancy, a writ of election to the Secretary of State for a special  
 256 election to fill such vacancy which shall be held on the date named in the writ, which  
 257 shall not be fewer than 30 nor more than 60 days after its issuance; or

258 (B) If such vacancy shall occur after the issuance by the Governor of a call for an  
 259 extraordinary session of the General Assembly, but prior to the conclusion of such  
 260 extraordinary session, the Governor shall issue, within five days after the occurrence  
 261 of such vacancy, a writ of election to the Secretary of State for a special election to fill  
 262 such vacancy which shall be held on the date named in the writ, which shall not be  
 263 fewer than 30 nor more than 60 days after its issuance.

264 Upon receiving the writ of election from the Governor, the Secretary of State shall then  
 265 transmit the writ of election to the superintendent of each county involved and shall publish  
 266 the call of the special election and, if appropriate, special primary."

267 **SECTION 8.**

268 Sections 6 and 7 of this Act shall become effective on January 1, 2021. The remaining  
 269 sections of this Act shall become effective upon its approval by the Governor or upon its  
 270 becoming law without such approval.

271 **SECTION 9.**

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