

House Bill 1279

By: Representatives Roberts of the 52nd, Draper of the 90th, Clark of the 108th, Miller of the 62nd, and Au of the 50th

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 enact the Representative Democracy Enforcement
3 Act; to provide procedures related to direct initiative petition and referendum statutory
4 changes and direct initiative of the people constitutional amendments; to provide a short title;
5 to provide for constitutional authorization; to provide definitions; to provide for minimum
6 formatting requirements of direct initiative and referendum petition forms; to establish the
7 Direct and Initiative Referendum Committee; to provide for membership and duties relating
8 to approving direct initiative and referendum petitions as to form; to provide requirements
9 for fiscal notes on certain petitions; to authorize the Secretary of State to review direct
10 initiative petitions as to form and approve or reject the same; to provide for cure and appeal
11 procedures from decisions of the secretary; to provide for finalization of direct initiative and
12 referendum petitions and filing fees; to provide timelines and procedures for the circulation
13 of direct initiative and referendum petitions for signature; to provide for notice and public
14 hearings regarding direct initiative and referendum petitions; to provide for the secretary to
15 determine petitioner eligibility and tally signatures on direct initiative and referendum
16 petitions; to provide for cure and appeal procedures regarding the same; to provide criminal
17 penalties for impeding the petitioner eligibility determination process or signature tallying
18 process or the intimidation or attempted intimidation of persons involved in the said process;

H. B. 1279

- 1 -

19 to provide for certifying petitions and placing ballot questions on the ballot; to provide that
20 direct initiative petitions petition sponsors shall be campaign committees pursuant to Chapter
21 5 of Title 21 of the Official Code of Georgia Annotated; to prohibit the use of public funds
22 in advocating for or against direct initiative and referendum petitions; to authorize rule
23 making; to provide for related matters; to provide for a contingent effective date and
24 automatic repeal; to repeal conflicting laws; and for other purposes.

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

26 SECTION 1.

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

29 "ARTICLE 16

30 21-2-700.

31 (a) This article shall be known and may be cited as the 'Representative Democracy
32 Enforcement Act.'

33 (b) This article is enacted pursuant to the direction and authority provided to the General
34 Assembly by Article III, Section XI, Paragraph III and Article X, Section I, Paragraph III
35 of the Constitution, and the provisions in this article shall apply to both direct initiative and
36 referendum procedures unless specifically provided otherwise.

37 21-2-701.

38 As used in this article, unless the context otherwise indicates, the term:

39 (1) 'Business entity' shall have the same meaning as provided for in Code Section 21-5-3.

- 40 (2) 'Campaign committee' shall have the same meaning as provided for in Code
41 Section 21-5-3.
- 42 (3) 'Candidate' shall have the same meaning as provided for in Code Section 21-5-3.
- 43 (4) 'Circulator' means a person who solicits other people to sign a petition under the
44 direction of the petition sponsor.
- 45 (5) 'Direct initiative process' means the process and procedures outlined in this article,
46 Article III, Section XI, Paragraph III, and Article X, Section I, Paragraph III of the
47 Constitution to bring about a vote by electors for a proposed statutory change or
48 constitutional amendment.
- 49 (6) 'Nonprofit organization' shall have the same meaning as provided for in Code
50 Section 21-5-3.
- 51 (7) 'Petition' means a petition made pursuant to either Article III, Section XI,
52 Paragraph III or Article X, Section I, Paragraph III of the Constitution to obtain
53 signatures in support of putting a question on the ballot to either enact, repeal, or amend
54 statutes of general law or to amend the Constitution.
- 55 (8) 'Petition sponsor' means the person or entity who speaks on behalf of the petition
56 effort and who has ultimate responsibility and decision making authority for the creation
57 and circulation of a petition by circulators.
- 58 (9) 'Petitioner' means a person who provides their personal information, including
59 signature, on a petition.
- 60 (10) 'Political action committee' shall have the same meaning as provided for in Code
61 Section 21-5-3.
- 62 (11) 'Referendum process' means the process and procedures outlined in this article and
63 Article II, Section IX, Paragraph III of the Constitution to bring about a vote by electors
64 to enact, amend, or repeal a statute.
- 65 (12) 'Secretary' means the Secretary of State.

66 21-2-702.

67 In addition to any information required by the Constitution, all petitions shall contain the
68 following information:

69 (1) The title of the proposed statutory change or constitutional amendment;

70 (2) A summary of the proposed statutory change or constitutional amendment;

71 (3) The full text of the proposed statutory change or constitutional amendment;

72 (4) Space for a petitioner to:

73 (A) Print his or her name;

74 (B) Sign his or her name; and

75 (C) Provide requested personally identifying information sufficient to show he or she
76 is a registered voter;

77 (5) Space for a circulator to include his or her name and affirm the date and location that
78 the signatures on such petition were collected, and that the circulator observed petitioners
79 sign the petition in person;

80 (6) The identity of the petition sponsor; and

81 (7) A statement detailing any and all business entities, campaign committees, candidates,
82 nonprofit organizations, or political action committees, other than the petition sponsor,
83 that are providing financial or other material support for the direct initiative or
84 referendum process.

85 21-2-703.

86 (a) Circulators must be with a petitioner in person at the time a petitioner provides his or
87 her information and signature upon a petition.

88 (b) Pursuant to petition approval as provided for in Code Section 21-2-704, a petition may
89 be in a paper or digital format, and digital signatures shall be permissible.

90 21-2-704.

91 (a) There is hereby created the Direct Initiative and Referendum Committee, which shall
92 be composed of:

93 (1) Three Senators selected by the President Pro Tempore of the Senate;

94 (2) Three Representatives selected by the Speaker of the House of Representatives;

95 (3) Three Senators selected by the minority leader of the Senate; and

96 (4) Three Representatives selected by the minority leader of the House of
97 Representatives.

98 (b) Before a petition may be finalized and circulated, such petition shall be approved as
99 to form as provided for in this Code section. A proposed petition submitted by a petition
100 sponsor to the committee shall contain the tentative proposed title and summary of the
101 proposed statutory change or constitutional amendment. Such proposal shall also include
102 the full text of the proposed statutory change or constitutional amendment.

103 (c) The Direct Initiative and Referendum Committee may make nonbinding suggestions
104 to a petition sponsor to improve the format or content of the proposed title or summary
105 contained in the petition if the committee finds that such improvements would benefit
106 electors in understanding the petition.

107 (d)(1) Any tentative petition proposing a statutory change having a significant impact on
108 the anticipated revenue or expenditure level of any state department, bureau, board,
109 council, committee, commission, or other state agency shall have a fiscal note prepared
110 pursuant to Code Section 28-5-42 prior to the approval of such petition as to form. The
111 Direct Initiative and Referendum Committee shall be authorized to request a fiscal note
112 from the Office of Planning and Budget and the Department of Audits and Accounts, and
113 the committee shall provide copies of such fiscal note to the petition sponsor upon
114 receiving them from such office and department.

115 (2) Any fiscal notes or suggested changes a petition sponsor receives from the Direct
116 Initiative and Referendum Committee shall be made available, by such petition sponsor,

117 to the public; provided, however, that nothing in this Code section shall be interpreted so
118 as to make any documents in the possession or control of the Direct Initiative and
119 Referendum Committee or its members subject to disclosure pursuant to Chapter 18 of
120 Title 50.

121 (e) In the event that the Direct Initiative and Referendum Committee approves a proposed
122 petition as to form, the committee shall promptly inform the petition sponsor and the
123 secretary of such approval.

124 (f)(1) In the event that the Direct Initiative and Referendum Committee determines that
125 it cannot approve a proposed petition as to form, or the committee is equally divided as
126 to whether or not it can approve a proposed petition as to form, the proposed petition
127 shall be transmitted to the secretary for a final determination as to approving the proposed
128 petition as to form.

129 (2) The secretary shall have 30 days to make a final determination as to whether or not
130 the proposed petition shall be approved as to form. If the secretary determines that the
131 proposed petition cannot be approved as to form, he or she shall provide the petition
132 sponsor with the opportunity to cure defects identified by the secretary as preventing the
133 approval of the proposed petition as to form. If the petition sponsor fails to cure such
134 defects within 45 days of being informed of the same by the secretary, the secretary shall
135 reject the proposed petition as to form.

136 (3) The decision of the secretary rejecting a proposed petition as to form may be
137 reviewed by the Superior Court of Fulton County upon an application for a writ of
138 mandamus to compel the approval of such petition as to form. The application for such
139 writ of mandamus shall be made within 30 days of the time when the petitioner is notified
140 of the secretary's decision. Upon the application being made, a judge of such court shall
141 fix a time and place for hearing the matter in dispute as soon as practicable; and notice
142 thereof shall be served with a copy of such application upon the secretary and upon the
143 petitioner. At the time so fixed the court, or any judge thereof assigned for the purpose,

144 shall hear the case. If after such hearing the said court shall find that the decision of the
145 secretary was erroneous, it shall issue its mandate to the secretary to correct his or her
146 decision and to approve the proposed petition as to form. From any decision of the
147 superior court an appeal may be taken within five days after the entry thereof.

148 21-2-705.

149 Upon a proposed petition being approved as to form, as provided for in Code
150 Section 21-2-704, the petition sponsor shall submit the approved petition to the secretary
151 accompanied with a filing fee of \$1,000.00. Upon receiving such petition and fee, the
152 secretary shall issue official direct initiative or referendum petition forms, either on paper
153 or digitally, as contemplated under the approval process pursuant to Code
154 Section 21-2-704, assign a number to the direct initiative or referendum petition, which
155 number shall appear on the face of each petition form, and issue that number to the petition
156 sponsor.

157 21-2-706.

158 (a) As of the date the secretary provides the petition sponsor with official direct initiative
159 or referendum petition forms, the petition sponsor shall have one year to collect the
160 constitutionally required number of signatures upon such petition. If a direct initiative or
161 referendum petition is not returned to the secretary within such year, such petition and all
162 signatures upon it shall be automatically invalidated.

163 (b) All circulators shall be registered Georgia electors, with no history of misdemeanor
164 crimes related to fraud and no felony criminal history of any kind.

165 (c) Circulators may be paid, but shall not be paid on a per signature basis by the petition
166 sponsor or any other person or entity.

167 (d) Each official direct initiative or referendum petition form shall contain a space for the
168 circulator circulating such form to attest under oath that he or she witnessed the collection

169 of each signature upon such form, and to the best of the circulator's knowledge, all
170 signatures upon such form are valid.

171 21-2-707.

172 (a) Within 15 days of the secretary providing the petition sponsor with official direct
173 initiative or referendum petition forms, the secretary shall mail to each household with a
174 registered elector residing at such address a copy of the title and summary of the proposed
175 statutory change or constitutional amendment. Such notice shall also provide that a copy
176 of the full text of the proposed statutory change or constitutional amendment is available
177 for review on the secretary's website.

178 (b) Within 30 days of the petition sponsor obtaining 50 percent of the required number of
179 signatures upon a direct initiative or referendum petition, the petition sponsor shall
180 schedule public hearings on the proposed statutory change or constitutional amendment.
181 At least one such hearing shall be held within each congressional district. Each such public
182 hearing shall provide at least two hours of public comment on the proposed statutory
183 change or constitutional amendment. The petition sponsor shall publish notice of the time,
184 date, and location of each such public hearing in the legal organ of each county of the state.
185 Notice of the time, date, and location of each public hearing shall also be posted on the
186 secretary's website.

187 21-2-708.

188 (a) Upon the petition sponsor collecting the sufficient number of signatures upon the direct
189 initiative or referendum petition, the petition sponsor shall submit all official direct
190 initiative or referendum petition forms to the secretary.

191 (b) The secretary shall begin a verification of petitioner eligibility as soon as he or she
192 receives the signed official direct initiative or referendum petition forms. The secretary

193 shall complete the verification process within 30 days of receiving the signed official direct
194 initiative or referendum petition forms.

195 (c) The verification process shall be open to the public. A person observing the
196 verification process who impedes the verification process or attempts to intimidate or
197 actually intimidates any person involved in the verification process shall be guilty of a
198 felony and, upon conviction thereof, shall be sentenced to imprisonment for not less than
199 one nor more than ten years or to pay a fine not to exceed \$100,000.00, or both.

200 (d) The secretary shall use the information provided by the petitioner as well as available
201 public resources sufficient to verify the eligibility of each petitioner; provided, however,
202 that exact signature matches shall not be used in a validation process.

203 (e) Upon completing the initial verification process, the secretary shall publish his or her
204 determination as to the validity of the direct initiative or referendum petition. If the event
205 that the secretary determines that there are an insufficient number of verified petitioners
206 to validate the petition, or that petitioner information was not collected in the required
207 number of congressional districts, the petition sponsor and any petitioner whose
208 participation was determined to be invalid shall have 30 days to cure such defect. Upon
209 the close of such cure period, the secretary shall have 15 days to make a final determination
210 as to the validity of the direct initiative or referendum petition.

211 (f) If the secretary validates a direct initiative or referendum petition, the secretary shall
212 certify the total number of valid petitioners appearing on the petition, and shall put the
213 issue in question to a vote using the ballot questions outlined in the petition. The ballot
214 question shall appear on the ballot to occur on the date of the next general election at which
215 members of the General Assembly are to be elected occurring at least 90 days after the date
216 of such certification.

217 (g) The decision of the secretary to reject certification of a petition may be reviewed by
218 the Superior Court of Fulton County upon an application for a writ of mandamus to compel
219 the approval of such petition as to form. The application for such writ of mandamus shall

220 be made within five days of the time when the petition sponsor is notified of the secretary's
221 decision. Upon the application being made, a judge of such court shall fix a time and place
222 for hearing the matter in dispute as soon as practicable, but no later than five days
223 following the receipt of such application; and notice thereof shall be served with a copy of
224 such application upon the secretary and upon the petitioner. At the time so fixed the court,
225 or any judge thereof assigned for the purpose, shall hear the case. If after such hearing the
226 said court shall find that the decision of the secretary was erroneous, it shall issue its
227 mandate to the secretary to correct his or her decision and to certify the total number of
228 valid petitioners appearing on the petition. From any decision of the superior court an
229 appeal may be taken within five days after the entry thereof.

230 21-2-709.

231 A referendum called by the secretary proposing a statutory change or constitutional
232 amendment pursuant to this article, except as provided for in this article, shall be conducted
233 in the same manner provided for in this chapter for elections to submit state-wide questions
234 to the electors.

235 21-2-710.

236 Petition sponsors shall be considered campaign committees designed to bring about the
237 approval or rejection by the voters of any proposed constitutional amendment, state-wide
238 proposed question, or state-wide referendum pursuant to Chapter 5 of this title, and shall
239 be subject to all applicable reporting and disclosure requirements provided for in that
240 chapter.

241 21-2-711.

242 No public funds shall be expended to advocate for the approval or rejection of a ballot
243 question proposing a statutory change or constitutional amendment.

244 21-2-712.

245 The secretary or the State Election Board may adopt rules for the proper and efficient
246 administration of procedures related to this article."

247 **SECTION 2.**

248 This Act shall become effective on January 1, 2025, following the ratification of an
249 amendment to the Constitution of Georgia providing for direct initiative and referendum
250 petitions to enact, repeal, or amend statutes and for direct initiative petitions of the people
251 to amend the Constitution; provided, however, that to the extent this Act conflicts with law
252 in effect at the time of ratification, this Act and such amendment shall control, and to the
253 extent such law is not in conflict, the law in effect at the time of ratification shall control and
254 shall remain in full force and effect. If such amendment is not so ratified, then this Act shall
255 stand automatically repealed.

256 **SECTION 3.**

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