

Senate Bill 122

By: Senators Kirkpatrick of the 32nd, Burns of the 23rd, Anavitarte of the 31st, Gooch of the 51st, Watson of the 11th 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 provide for the qualifications of members of  
3 performance review boards; to provide for ballots and ballot labels to be securely stored; to  
4 provide for construction; to revise provisions related to the retention and preservation of  
5 ballots and other election documents; to remove provisions for keeping such ballots and  
6 documents under seal; to provide for electronic document inspection upon certification of  
7 election results; to provide for related matters; to repeal conflicting laws; and for other  
8 purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and  
12 elections generally, is amended in Code Section 21-2-106, relating to performance review  
13 of local election official, role of performance review board, and findings as grounds for  
14 removal, by revising subsection (a) as follows:

15 "(a) The following officials may request that a performance review of a local election  
16 official be conducted:

17 (1) The governing authority of the same jurisdiction as the local election official;

18 (2) For counties represented by more than three members of the Georgia House of  
19 Representatives and Georgia Senate, at least two members of the Georgia House of  
20 Representatives and two members of the Georgia Senate who represent the county; and  
21 (3) For counties represented by fewer than four members of the Georgia House of  
22 Representatives and Georgia Senate, at least one member of the Georgia House of  
23 Representatives and one member of the Georgia Senate who represent the county.  
24 Such request shall be transmitted to the State Election Board which shall appoint an  
25 independent performance review board within 30 days after receiving such resolution. The  
26 State Election Board shall appoint three competent persons to serve as members of the  
27 performance review board, one of whom shall be an employee of the elections division of  
28 the Secretary of State and two of whom shall be local election officials; or members of a  
29 county board of elections or county board of elections and registration, provided that no  
30 such appointee shall be a local election official or member of a county board of elections  
31 or county board of elections and registration for the county or municipality, as applicable,  
32 under review."

33

**SECTION 2.**

34 Said chapter is further amended by revising Code Section 21-2-283, relating to printing and  
35 safekeeping of ballots and labels by superintendent, as follows:

36 "21-2-283.

37 In any primary or election, the superintendent or municipal governing authority shall cause  
38 all the ballots and ballot labels to be printed accurately and in the form prescribed by this  
39 chapter; and securely stored and protected from unauthorized access. Access to the secure  
40 space where the ballots are located shall be limited to the county election superintendent;  
41 members of the county board of elections; the election supervisor, if any; personnel of the  
42 county election superintendent's office designated by the county election superintendent;  
43 building maintenance personnel; emergency personnel; and law enforcement personnel

44 during the course of active investigations. Building maintenance personnel shall have  
45 access to the area where such items are stored only to the extent necessary to carry out their  
46 maintenance duties. Emergency personnel shall have access to the room in which the  
47 election management system is located as necessary in the event of an emergency and only  
48 for the duration of such emergency conditions, and the superintendent or municipal  
49 governing authority shall be responsible for the safekeeping of the same while in his or her  
50 or its possession or that of his or her or its agent. The superintendent or municipal  
51 governing authority shall keep a record of the number of official ballots printed and  
52 furnished to each precinct at each primary and election and the number of stubs, unused  
53 ballots, and canceled ballots subsequently returned therefrom. When unvoted blank ballots  
54 are transported to and from precincts, the ballots shall be securely stored in sealed  
55 containers which are accompanied by ballot transfer forms signed by at least two  
56 individuals so as to serve as an integrated chain of custody; such forms shall be provided  
57 by the Secretary of State."

58

### SECTION 3.

59 Said chapter is further amended by revising Code Section 21-2-496, relating to preparation  
60 and filing by superintendent of four copies of consolidated return of primary, electronic  
61 filing, and superintendent to furnish final copy of each ballot used for primary, as follows:  
62 "21-2-496.

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

- 67 (1) One copy to be posted at the office of the election superintendent for the information  
68 of the public;  
69 (2) One copy to be filed in the superintendent's office;

70 (3) One copy to be forwarded to the Secretary of State together with a copy of each  
71 precinct return, the numbered list of voters of each precinct, and the returns and the  
72 numbered list of voters for absentee electors; and

73 (4) One copy to be ~~sealed and~~ filed with the clerk of the superior court, in the case of a  
74 county election, or with the city clerk, in the case of a municipal election, as required by  
75 Code Section 21-2-500.

76 (b) The Secretary of State is authorized to provide a method by which the election  
77 superintendent can file the results of primaries and elections electronically. Once the  
78 Secretary of State provides such a method of filing, the election superintendent shall file  
79 a copy of the election returns electronically in the manner prescribed by the Secretary of  
80 State in addition to the filing provided in subsection (a) of this Code section. The Secretary  
81 of State is authorized to promulgate such rules and regulations as necessary to provide for  
82 such an electronic filing.

83 (c) Each county and municipal superintendent shall, upon certification, furnish to the  
84 Secretary of State in a manner determined by the Secretary of State a final copy of each  
85 ballot used for such primary."

86

#### SECTION 4.

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

90 "21-2-497.

91 (a) Each county and municipal superintendent shall prepare four copies of the consolidated  
92 return of the election to be certified by the superintendent on forms furnished by the  
93 Secretary of State, such consolidated returns to be filed immediately upon certification as  
94 follows:

- 95 (1) One copy to be posted at the office of the election superintendent for the information  
96 of the public;
- 97 (2) One copy to be filed and recorded as a permanent record in the minutes of the  
98 superintendent's office;
- 99 (3) One copy to be ~~sealed and~~ filed with the clerk of the superior court, in the case of a  
100 county election, or with the city clerk, in the case of a municipal election, as required by  
101 Code Section 21-2-500; and
- 102 (4) One copy to be returned immediately to the Secretary of State unless required as  
103 follows:
- 104 (A) In the case of election of federal and state officers, a separate return showing totals  
105 of the votes cast for each of such officers respectively shall be forwarded by the  
106 superintendent to the Secretary of State on forms furnished by the Secretary of State;
- 107 (B) In the case of referendum elections provided for by an Act of the General  
108 Assembly, the returns shall immediately be certified by the authority holding such  
109 election to the Secretary of State, along with the precinct returns and numbered list of  
110 voters for each precinct. In addition thereto, the official citation of the Act involved  
111 and the purpose of such election shall be sent to the Secretary of State at the same time.  
112 The Secretary of State shall maintain a permanent record of such certifications;
- 113 (C) In the case of elections on constitutional amendments, the returns shall be certified  
114 immediately to the Secretary of State. Upon receiving the certified returns from the  
115 various superintendents, the Secretary of State shall immediately proceed to canvass  
116 and tabulate the votes cast on such amendments and certify the results to the Governor;  
117 and
- 118 (D) In the case of election for presidential electors, a separate return shall be prepared  
119 by each superintendent and certified immediately to the Secretary of State.

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

123

**SECTION 5.**

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

127 "21-2-500.

128 (a) Immediately upon completing the returns required by this article, in the case of  
129 elections other than municipal elections, the superintendent shall deliver in sealed  
130 containers to the clerk of the superior court or, if designated by the clerk of the superior  
131 court, to the county records manager or other office or officer under the jurisdiction of a  
132 county governing authority which maintains or is responsible for records, as provided in  
133 Code Section 50-18-99, the used and void ballots and the stubs of all ballots used; one copy  
134 of the oaths of poll officers; and one copy of each numbered list of voters, tally paper,  
135 voting machine paper proof sheet, and return sheet involved in the primary or election. In  
136 addition, the superintendent shall deliver copies of the voting machine ballot labels,  
137 computer chips containing ballot tabulation programs, copies of computer records of ballot  
138 design, and similar items or an electronic record of the program by which votes are to be  
139 recorded or tabulated, which is captured prior to the election, and which is stored on some  
140 alternative medium such as a CD-ROM or floppy disk simultaneously with the  
141 programming of the PROM or other memory storage device. The clerk, county records  
142 manager, or the office or officer designated by the clerk shall ~~hold~~ retain and preserve such  
143 ballots and other documents for at least 24 months ~~under seal, unless otherwise directed by~~  
144 ~~the superior court,~~ in a manner so as to prevent such ballots or other documents from being  
145 altered, amended, damaged, modified, or mutilated, after which time they shall be

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

150 (a.1) Upon certification of all matters on the ballot in a particular election, all such  
151 documents from such election shall be subject to electronic inspection pursuant to Code  
152 Section 21-2-72, provided that such electronic documents are high resolution images of no  
153 less than 300 pixels per inch.

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

160 (c) Immediately upon completing the returns required by this article, the municipal  
161 superintendent shall deliver in sealed containers to the city clerk the used and void ballots  
162 and the stubs of all ballots used; one copy of the oaths of poll officers; and one copy of  
163 each numbered list of voters, tally paper, voting machine paper proof sheet, and return  
164 sheet involved in the primary or election. In addition, the municipal superintendent shall  
165 deliver copies of the voting machine ballot labels, computer chips containing ballot  
166 tabulation programs, copies of computer records of ballot design, and similar items or an  
167 electronic record of the program by which votes are to be recorded or tabulated, which is  
168 captured prior to the election, and which is stored on some alternative medium such as a  
169 CD-ROM or floppy disk simultaneously with the programming of the PROM or other  
170 memory storage device. Such ballots and other documents shall be retained and preserved  
171 ~~under seal~~ in the office of the city clerk for at least 24 months; and then they may be  
172 destroyed unless otherwise provided by order of the mayor and council if a contest has

173 been filed or by court order, provided that the electors list, voter's certificates, and duplicate  
174 oaths of assisted electors shall be immediately returned by the superintendent to the county  
175 registrar."

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**SECTION 6.**

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