

Senate Bill 89

By: Senators Miller of the 49th, Albers of the 56th, Gooch of the 51st, Kennedy of the 18th, Anavitarte of the 31st and others

AS PASSED SENATE

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 provide for a chief elections assistance officer; to
3 provide for the qualifications, appointment, supervision, and duties of such officer; to
4 provide for election assistance coaches; to provide for the qualifications and duties of such
5 coaches; to provide for the identification of low-performing county election superintendents;
6 to provide for comprehensive on-site evaluation of election management practices and
7 procedures of such low-performing counties to determine root causes of such low
8 performance and lack of adherence to election laws and procedures; to provide assistance to
9 the county election superintendent in implementing intensive election administration
10 improvement plans; to provide for necessary support services for elections in such counties;
11 to provide for procedures for suspension of certain county election superintendents and for
12 temporary substitutes to conduct elections in such counties; to provide for procedures for
13 reinstatement; to provide for related matters; to provide an effective date; to repeal
14 conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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16

SECTION 1.

17 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to elections and
18 primaries generally, is amended by adding a new part to Article 2 to read as follows:

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"Part 3A20 21-2-80.

21 (a) There is created within the office of the Secretary of State the position of chief
22 elections assistance officer. Such officer shall work under the supervision of the director
23 of the Elections Division of the Office of the Secretary of State and shall be an employee
24 of the Secretary of State. The chief elections assistance officer shall be appointed by the
25 State Election Board and shall serve at the pleasure of the State Election Board.

26 (b) The person appointed to serve as the chief elections assistance officer shall:

27 (1) Have extensive personal experience in managing and conducting elections, including
28 experience in the training of poll officers and poll workers;

29 (2) Have held the position of county election superintendent or county election
30 supervisor or a senior management position in the office of a county election
31 superintendent or the equivalent of such positions for a minimum of five years with
32 demonstrated skills in management, budget, finance, federal and state election law, and
33 personnel management; and

34 (3) Such additional education, experience, and other qualifications as determined by the
35 State Election Board.

36 (c) The duties of the chief elections assistance officer shall include, but are not limited to:

37 (1) Managing and overseeing a system of supports and assistance for county election
38 superintendents in this state, including coordinating training for such officials;

39 (2) Annually establishing a list of third-party specialists, including auditors and
40 consultants, to assist county election superintendents in conducting comprehensive

41 on-site evaluations of election management practices and procedures to determine the
42 root causes of low performance and lack of adherence to election laws and procedures,
43 to assist election superintendents in the implementation of intensive election
44 administration improvement plans, or to provide any of the necessary support services
45 for elections. Such list of third-party specialists shall be established through a process
46 approved by the State Election Board;

47 (3) Coordinating with the Elections Division of the Office of the Secretary of State to
48 identify all state resources and supports available to the lowest-performing election
49 superintendents in the greatest need of assistance;

50 (4) Identifying election assistance coaches pursuant to Code Section 21-2-81; and

51 (5) Identifying best practices for election administration and sharing such information
52 with local election superintendents in this state.

53 21-2-81.

54 The chief elections assistance officer shall identify and recruit, as needed, election
55 assistance coaches to assist the Secretary of State and the State Election Board in
56 supporting low-performing election superintendents and registrars and improving election
57 administration in their respective jurisdictions. Such coaches shall have significant
58 experience and training in election administration and election law.

59 21-2-82.

60 (a) The State Election Board shall, by rule and regulation, develop criteria to identify
61 low-performing county election superintendents based upon previous or existing election
62 law violations, elector inconvenience in voting due to lack of or poor administration of
63 elections, departure from best election management practices, and similar criteria. The
64 chief elections assistance officer shall annually compile a list of those county election

65 superintendents who fall within the criteria as low-performing county election
66 superintendents.

67 (b) Upon being identified as a low-performing county election superintendent pursuant to
68 subsection (a) of this Code section, the State Election Board, through the chief elections
69 assistance officer, shall cause such county election superintendent to have, at the expense
70 of the state, a comprehensive on-site evaluation of election management practices and
71 procedures to determine the root causes of the county's low performance and lack of
72 adherence to election laws and procedures, assist the county election superintendent in the
73 implementation of intensive election administration improvement plans, or provide any of
74 the necessary support services for elections in the county. Such comprehensive on-site
75 evaluation shall be performed by one of the third-party specialists identified by the chief
76 elections assistance officer pursuant to paragraph (2) of subsection (c) of Code
77 Section 21-2-82.

78 (c) If, within 90 days following a comprehensive on-site evaluation of election
79 management practices and procedures, a county election superintendent fails or refuses to
80 implement the recommended corrective measures or if, following such comprehensive
81 on-site evaluation, such county election superintendent is subsequently found by the State
82 Election Board to be in violation of the provisions of this chapter in the conduct of
83 elections, the State Election Board may suspend such county election superintendent from
84 exercising any of the powers and duties of an election superintendent under this chapter.

85 (d) In the event that the State Election Board exercises its authority pursuant to
86 subsection (c) of this Code section to suspend the powers and duties of a county election
87 superintendent under this chapter, the State Election Board shall appoint a person or
88 persons to exercise the powers and duties of such county election superintendent under this
89 chapter. Such person or persons shall exercise such powers and duties for such period of
90 time as the State Election Board shall direct. The person or persons so appointed shall

91 receive such compensation as determined by the State Election Board which shall be paid
92 by the governing authority of the county involved.

93 (e) Prior to suspending a county election superintendent pursuant to subsection (c) of this
94 Code section, the State Election Board shall give such county election superintendent
95 written notice of its intention to consider such suspension which shall be served on the
96 county election superintendent by certified or registered mail, statutory overnight delivery,
97 or personal service. The county election superintendent shall have ten calendar days from
98 receipt of such notice to request in writing a hearing before the State Election Board on the
99 proposed suspension. At such hearing before the State Election Board, the county election
100 superintendent shall show cause as to why a suspension should not be imposed by the State
101 Election Board pursuant to subsection (c) of this Code section. In the case of a county
102 election superintendent that undertakes the implementation of an intensive election
103 administration improvement plan and has subsequent violations of election laws, the State
104 Election Board shall take into consideration the degree of compliance of the county
105 election superintendent in the implementation of the intensive election administration
106 improvement plans and the ongoing cooperation and collaboration exhibited by the county
107 election superintendent. The State Election Board shall make a determination on any such
108 proposed suspension no later than 30 days after such hearing. The determination of the
109 State Election Board shall be the final decision.

110 (f) After being suspended pursuant to subsection (c) of this Code section, a county election
111 superintendent may petition the State Election Board for reinstatement as the county
112 election superintendent. Such petition shall not be filed until at least 30 days have elapsed
113 since such county election superintendent was suspended. The State Election Board shall
114 provide the petitioning county election superintendent at least 30 days' notice prior to
115 conducting a hearing on such reinstatement. Such hearing shall be held not later than 90
116 days after the petition is filed and in accordance with Chapter 13 of Title 50, the 'Georgia
117 Administrative Procedure Act.' The petitioning county election superintendent shall have

118 the burden of demonstrating that, if reinstated as the election superintendent of the county
119 by the State Election Board, the county election superintendent can and will correct the
120 deficiencies in the administration of elections in such county. If it is determined that it is
121 more likely than not that such county election superintendent can and will correct such
122 deficiencies, the county election superintendent shall be reinstated; otherwise, the person
123 or persons appointed by the State Election Board to exercise the powers and duties of such
124 county election superintendent under this chapter shall continue to administer elections in
125 such county. Judicial review of any such decision shall be in accordance with Chapter 13
126 of Title 50. The county election superintendent may continue to petition the State Election
127 Board pursuant to this subsection until the State Election Board finds that such county
128 election superintendent can and will correct the deficiencies in the administration of
129 elections in such county."

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SECTION 2.

131 This Act shall become effective upon its approval by the Governor or upon its becoming law
132 without such approval.

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SECTION 3.

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