

The Senate Committee on Ethics offered the following substitute to SB 221:

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 that any person employed or retained by
3 a county election superintendent to conduct election duties must be a citizen of the United
4 States; to revise provisions related to performance review boards; to revise the rules for
5 determining residence for voter registration; to revise provisions related to challenging
6 electors; to provide for ballots and ballot labels to be securely stored; to provide for use of
7 paper ballots in certain circumstances; to provide for number of voting booths in optical
8 scanning precincts; to revise provisions related to the retention and preservation of ballots
9 and other election documents; to revise the language that must be used on absentee ballot
10 applications distributed by persons or entities; to deauthorize the use of absentee ballot drop
11 boxes; to revise the latest reporting time for required election night reporting; to mandate
12 audits following all state-wide primaries or elections; to provide for electronic document
13 inspection upon certification of election results; to penalize the willful neglect or refusal of
14 a county or municipal election superintendent to call an election where required to do so by
15 a local Act of the General Assembly; to provide for related matters; to repeal conflicting
16 laws; and for other purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

18

SECTION 1.

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

21 "21-2-78.

22 Any persons employed or retained by a county election superintendent to undertake any
23 election related duties arising from this chapter shall be a judicious, intelligent, and upright
24 citizen of the United States."

25

SECTION 2.

26 Said chapter is further amended by revising subsection (a) of Code Section 21-2-106, relating
27 to performance review of local election official, role of performance review board, and
28 findings as grounds for removal, as follows:

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

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

32 (2) For counties represented by more than three members of the Georgia House of
33 Representatives and Georgia Senate, at least two members of the Georgia House of
34 Representatives and two members of the Georgia Senate who represent the county; and

35 (3) For counties represented by fewer than four members of the Georgia House of
36 Representatives and Georgia Senate, at least one member of the Georgia House of
37 Representatives and one member of the Georgia Senate who represent the county.

38 Such request shall be transmitted to the State Election Board which shall appoint an
39 independent performance review board within 30 days after receiving such resolution. The
40 State Election Board shall appoint three competent persons to serve as members of the
41 performance review board, one of whom shall be an employee of the elections division of
42 the Secretary of State and two of whom shall be local election officials or members of a
43 county board of elections or county board of elections and registration, provided that no

44 such appointee shall be a local election official or member of a county board of elections
45 or county board of elections and registration for the county or municipality, as applicable,
46 under review."

47

SECTION 3.

48 Said chapter is further amended by revising Code Section 21-2-217, relating to rules for
49 determining residence, as follows:

50 "21-2-217.

51 (a) In determining the residence of a person desiring to register to vote or to qualify to run
52 for elective office, the following rules shall be followed so far as they are applicable:

53 (1) The residence of any person shall be held to be in that place in which such person's
54 habitation is fixed, without any present intention of removing therefrom;

55 (1.1) The residence of any person of this state who is homeless and without a permanent
56 address shall be the location of the courthouse of the county in which such person resides;

57 (2) A person shall not be considered to have lost such person's residence who leaves such
58 person's home and goes into another state or county or municipality in this state, for
59 temporary purposes only, with the intention of returning, unless such person shall register
60 to vote or perform other acts indicating a desire to change such person's citizenship and
61 residence; provided, however, that:

62 (A) If a person registers to vote in another state, county, municipality, or legislative
63 district of any type or sort, that person shall automatically be deemed to have changed
64 his or her residency;

65 (B) If a person returns to his or her original place of residence after registering to vote
66 in a different or separate jurisdiction, such person shall submit a new application for
67 registration to vote in such person's original jurisdiction in order to be deemed a valid
68 registered elector and resident of such jurisdiction for voting purposes; and

69 (C) Proof of ownership or rental of a post office box within a particular jurisdiction
70 shall not constitute sufficient grounds to establish a person's residency within that
71 particular jurisdiction;

72 (3) A person shall not be considered to have gained a residence in any county or
73 municipality of this state into which such person has come for temporary purposes only
74 without the intention of making such county or municipality such person's permanent
75 place of abode;

76 (4) If a person removes to another state with the intention of making it such person's
77 residence, such person shall be considered to have lost such person's residence in this
78 state;

79 (4.1) If a person removes to another county or municipality in this state with the
80 intention of making it such person's residence, such person shall be considered to have
81 lost such person's residence in the former county or municipality in this state;

82 (5) If a person removes to another state with the intention of remaining there an
83 indefinite time and making such state such person's place of residence, such person shall
84 be considered to have lost such person's residence in this state, notwithstanding that such
85 person may intend to return at some indefinite future period;

86 (6) If a person removes to another county or municipality within this state with the
87 intention of remaining there an indefinite time and making such other county or
88 municipality such person's place of residence, such person shall be considered to have
89 lost such person's residence in the former county or municipality, notwithstanding that
90 such person may intend to return at some indefinite future period;

91 (7) The residence for voting purposes of a person shall not be required to be the same as
92 the residence for voting purposes of his or her spouse;

93 (8) No person shall be deemed to have gained or lost a residence by reason of such
94 person's presence or absence while enrolled as a student at any college, university, or
95 other institution of learning in this state;

- 96 (9) The mere intention to acquire a new residence, without the fact of removal, shall
97 avail nothing; neither shall the fact of removal without the intention;
- 98 (10) No member of the armed forces of the United States shall be deemed to have
99 acquired a residence in this state by reason of being stationed on duty in this state;
- 100 (11) If a person removes to the District of Columbia or other federal territory, another
101 state, or foreign country to engage in government service, such person shall not be
102 considered to have lost such person's residence in this state during the period of such
103 service; and the place where the person resided at the time of such person's removal shall
104 be considered and held to be such person's place of residence;
- 105 (12) If a person is adjudged mentally ill and is committed to an institution for the
106 mentally ill, such person shall not be considered to have gained a residence in the county
107 in which the institution to which such person is committed is located;
- 108 (13) If a person goes into another state and while there exercises the right of a citizen by
109 voting, such person shall be considered to have lost such person's residence in this state;
- 110 (14) The specific address in the county or municipality in which a person has declared
111 a homestead exemption, if a homestead exemption has been claimed, shall be deemed the
112 person's residence address; and
- 113 (15) For voter registration purposes, the board of registrars and, for candidacy residency
114 purposes, the Secretary of State, election superintendent, or hearing officer may consider
115 evidence of where the person receives significant mail such as personal bills and any
116 other evidence that indicates where the person resides.
- 117 (b) In determining a voter's qualification to register and vote, the registrars to whom such
118 application is made shall consider, in addition to the applicant's expressed intent, any
119 relevant circumstances determining the applicant's residence. The registrars taking such
120 registration may consider the applicant's financial independence, business pursuits,
121 employment, income sources, residence for income tax purposes, age, marital status,
122 residence of parents, spouse, and children, if any, leaseholds, sites of personal and real

123 property owned by the applicant, motor vehicle and other personal property registration,
124 ~~and other such factors that the registrars may reasonably deem necessary to determine the~~
125 ~~qualification of an applicant to vote in a primary or election. The decision of the registrars~~
126 ~~to whom such application is made shall be presumptive evidence of a person's residence~~
127 ~~for voting purposes~~ national change of address program information sponsored by the
128 United States Postal Service, and any other factor, including, but not limited to,
129 professionally aggregated commercial or proprietary information that includes, but is not
130 limited to, change of addresses, lease information, insurance change of addresses,
131 identification change of addresses, and any other reasonably reliable information, to be
132 determined in good faith, including a sworn statement by any person with relevant
133 information pertaining to a factor indicating an elector's residence or nonresidence."

134

SECTION 4.

135 Said chapter is further amended by revising subsection (b) of Code Section 21-2-230, relating
136 to challenge of persons on list of electors by other electors, procedure, hearing, and right of
137 appeal, and by adding a new subsection to read as follows:

138 "(b) Upon the filing of such challenge, the board of registrars shall immediately consider
139 such challenge and determine whether probable cause exists to sustain such challenge. If
140 the registrars do not find probable cause, the challenge shall be denied. If the registrars
141 find probable cause, the registrars shall notify the poll officers of the challenged elector's
142 precinct or, if the challenged elector voted by absentee ballot, notify the poll officers at the
143 absentee ballot precinct and, if practical, notify the challenged elector and afford such
144 elector an opportunity to answer. If a challenged elector's name appears on a search on the
145 National Change of Address data base, as maintained by the United States Postal Service,
146 as having changed such elector's residence to a new jurisdiction, the presence of such
147 elector's name on such data base shall constitute sufficient cause to sustain the challenge
148 against the elector; provided, however, that:

149 (1) If the challenge is based solely upon an elector's name appearing on such data base
150 within 45 days of a primary, run-off primary, election, or run-off election, such challenge
151 shall be postponed until the certification of such primary, election, or runoff is completed;
152 and

153 (2) Any challenge based solely upon an elector's name appearing on such data base but
154 who is determined eligible pursuant to the residency definitions provided for in
155 paragraph (8), (10), or (11) of subsection (a) of Code Section 21-2-217 shall be deemed
156 insufficient to sustain such challenge."

157 "(k) Any challenge of an elector that occurs during a primary or general election shall
158 continue through the run-off primary or run-off election of such primary or general
159 election."

160 **SECTION 5.**

161 Said chapter is further amended in Article 6, relating to registration of voters, by adding a
162 new Code section to read as follows:

163 "21-2-237.

164 Any proceedings relating to a challenge brought against an elector under this chapter shall
165 not be governed by Chapter 11 of Title 9, the 'Georgia Civil Practice Act,' or the rules of
166 evidence set forth in Title 24. However, such evidence presented at any hearing on a
167 challenge shall be persuasive and reliable."

168 **SECTION 6.**

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

171 "21-2-283.

172 In any primary or election, the superintendent or municipal governing authority shall cause
173 all the ballots and ballot labels to be printed accurately and in the form prescribed by this

174 chapter and securely stored and protected from unauthorized access. Access to the secure
175 space where the ballots are located shall be limited to the county election superintendent;
176 chief registrar; members of the county board of elections; the election supervisor, if any;
177 personnel of the county election superintendent's office designated by the county election
178 superintendent; building maintenance personnel; emergency personnel; and law
179 enforcement personnel during the course of active investigations. Building maintenance
180 personnel shall have access to the area where such items are stored only to the extent
181 necessary to carry out their maintenance duties. Emergency personnel shall have access
182 to the space in which the ballots are located as necessary in the event of an emergency and
183 only for the duration of such emergency conditions, and the superintendent or municipal
184 governing authority shall be responsible for the safekeeping of the same while in his or her
185 or its possession or that of his or her or its agent. The superintendent or municipal
186 governing authority shall keep a record of the number of official ballots printed and
187 furnished to each precinct at each primary and election and the number of stubs, unused
188 ballots, and canceled ballots subsequently returned therefrom. When unvoted blank ballots
189 are transported to and from precincts, the ballots shall be securely stored in sealed
190 containers which are accompanied by ballot transfer forms signed by at least two
191 individuals so as to serve as an integrated chain of custody; such forms shall be provided
192 by the Secretary of State."

193

SECTION 7.

194 Said chapter is further amended by revising Code Section 21-2-334, relating to voting by
195 paper ballot when use of voting machine impossible or impracticable, as follows:

196 "21-2-334.
197 ~~For any If a method of~~ nomination or election for any candidate or office, or ~~of for~~ voting
198 on any question is prescribed by law, ~~in which the use of voting machines is not possible~~
199 ~~or practicable, or in case, at any primary or election, the number of candidates seeking~~
200 ~~nomination or nominated for any office renders the use of voting machines for such office~~
201 ~~at such primary or election impracticable, or if, for any other reason, at any primary or~~
202 ~~election the use of voting machines wholly or in part is not practicable,~~ the superintendent,
203 with the review and approval by the State Election Board, may arrange to have the voting
204 for such candidates or offices or for such questions conducted by paper ballots. In such
205 cases, paper ballots shall be printed for such candidates, offices, or questions, and the
206 primary or election shall be conducted by the poll officers, and the ballots shall be counted
207 and return thereof made in the manner required by law for such nominations, offices, or
208 questions, insofar as paper ballots are used."

209

SECTION 8.

210 Said chapter is further amended by revising paragraph (1) of subsection (b) of Code
211 Section 21-2-367, relating to installation of optical scanning voting systems, number of
212 systems, and good working order, as follows:

213 "(b)(1) In each precinct in which optical scanning voting systems are used in a state-wide
214 general election, the county election superintendent shall provide at least one voting
215 booth or enclosure for each 250 electors therein, or fraction thereof, who have not
216 previously cast a ballot in the current election."

217

SECTION 9.

218 Said chapter is further amended by revising subparagraph (a)(1)(C) of Code
219 Section 21-2-381, relating to making of application for absentee ballot, determination of

220 eligibility by ballot clerk, furnishing of applications to colleges and universities, and persons
221 entitled to make application, as follows:

222 “(C)(i) Any person applying for an absentee-by-mail ballot shall make application in
223 writing on the form made available by the Secretary of State. In order to confirm the
224 identity of the voter, such form shall require the elector to provide his or her name,
225 date of birth, address as registered, address where the elector wishes the ballot to be
226 mailed, and the number of his or her Georgia driver's license or identification card
227 issued pursuant to Article 5 of Chapter 5 of Title 40. If such elector does not have a
228 Georgia driver's license or identification card issued pursuant to Article 5 of Chapter 5
229 of Title 40, the elector shall affirm this fact in the manner prescribed in the application
230 and the elector shall provide a copy of a form of identification listed in subsection (c)
231 of Code Section 21-2-417. The form made available by the Secretary of State shall
232 include a space to affix a photocopy or electronic image of such identification. The
233 Secretary of State shall develop a method to allow secure electronic transmission of
234 such form. The application shall also include the identity of the primary, election, or
235 runoff in which the elector wishes to vote; the name and relationship of the person
236 requesting the ballot if other than the elector; and an oath for the elector or relative to
237 write his or her usual signature with a pen and ink affirming that the elector is a
238 qualified Georgia elector and the facts presented on the application are true.
239 Submitting false information on an application for an absentee ballot shall be a
240 violation of Code Sections 21-2-560 and 21-2-571.

241 (ii) A blank application for an absentee ballot shall be made available online by the
242 Secretary of State and each election superintendent and registrar, but neither the
243 Secretary of State, election superintendent, board of registrars, other governmental
244 entity, nor employee or agent thereof shall send absentee ballot applications directly
245 to any elector except upon request of such elector or a relative authorized to request
246 an absentee ballot for such elector. No person or entity other than a relative

247 authorized to request an absentee ballot for such elector or a person signing as
 248 assisting an illiterate or physically disabled elector shall send any elector an absentee
 249 ballot application that is prefilled with the elector's required information set forth in
 250 this subparagraph. No person or entity other than the elector, a relative authorized to
 251 request an absentee ballot for such elector, a person signing as assisting an illiterate
 252 or physically disabled elector with his or her application, a common carrier charged
 253 with returning the ballot application, an absentee ballot clerk, a registrar, or a law
 254 enforcement officer in the course of an investigation shall handle or return an elector's
 255 completed absentee ballot application. Handling a completed absentee ballot
 256 application by any person or entity other than as allowed in this subsection shall be
 257 a misdemeanor. Any application for an absentee ballot sent to any elector by any
 258 person or entity shall utilize the form of the application made available by the
 259 Secretary of State and shall clearly and prominently disclose on the face of the form:

260 ~~'This is NOT an official government publication and was NOT provided to you~~
 261 ~~by any governmental entity and this is NOT a ballot. It is being distributed by~~
 262 ~~[insert name and address of person, organization, or other entity distributing such~~
 263 ~~document or material]~~

264 This application is being distributed by [insert name and address of person,
 265 organization, or other entity distributing such document or material], not by any
 266 government agency or any state or local election office. THIS IS NOT A
 267 BALLOT.'

268 (iii) The disclaimer required by division (ii) of this subparagraph shall be:

269 (I) Of sufficient font size to be clearly readable by the recipient of the
 270 communication;

271 (II) ~~Be contained~~ Contained in a printed box set apart from the other contents of the
 272 communication; and

273 (III) ~~Be printed~~ Printed with a reasonable degree of color contrast between the
274 background and the printed disclaimer.”

275 **SECTION 10.**

276 Said chapter is further amended by revising subsection (c) of Code Section 21-2-382, relating
277 to additional buildings as additional registrar's office or place of registration for receiving
278 absentee ballots and for advance voting and drop boxes, as follows:

279 ~~(c)(1) A board of registrars or absentee ballot clerk shall establish at least one drop box~~
280 ~~as a means for absentee by mail electors to deliver their ballots to the board of registrars~~
281 ~~or absentee ballot clerk. A board of registrars or absentee ballot clerk may establish~~
282 ~~additional drop boxes, subject to the limitations of this Code section, but may only~~
283 ~~establish additional drop boxes totaling the lesser of either one drop box for every~~
284 ~~100,000 active registered voters in the county or the number of advance voting locations~~
285 ~~in the county. Any additional drop boxes shall be evenly geographically distributed by~~
286 ~~population in the county. Drop boxes established pursuant to this Code section shall be~~
287 ~~established at the office of the board of registrars or absentee ballot clerk or inside~~
288 ~~locations at which advance voting, as set forth in subsection (d) of Code Section~~
289 ~~21-2-385, is conducted in the applicable primary, election, or runoff and may be open~~
290 ~~during the hours of advance voting at that location. Such drop boxes shall be closed~~
291 ~~when advance voting is not being conducted at that location. All drop boxes shall be~~
292 ~~closed when the advance voting period ends, as set forth in subsection (d) of Code~~
293 ~~Section 21-2-385. The drop box location shall have adequate lighting and be under~~
294 ~~constant surveillance by an election official or his or her designee, law enforcement~~
295 ~~official, or licensed security guard. During an emergency declared by the Governor~~
296 ~~pursuant to Code Section 38-3-51, drop boxes may be located outside the office of the~~
297 ~~board of registrars or absentee ballot clerk or outside of locations at which advance voting~~
298 ~~is taking place, subject to the other limitations of this Code section.~~

299 ~~(2) The opening slot of a drop box shall not allow ballots to be tampered with or~~
300 ~~removed and shall be designed to minimize the ability for liquid or other substances that~~
301 ~~may damage ballots to be poured into the drop box. A drop box shall be labeled~~
302 ~~'OFFICIAL ABSENTEE BALLOT DROP BOX' and shall clearly display the signage~~
303 ~~developed by the Secretary of State pertaining to Georgia law with regard to who is~~
304 ~~allowed to return absentee ballots and destroying, defacing, or delaying delivery of~~
305 ~~ballots.~~

306 ~~(3) The board of registrars or absentee ballot clerk shall arrange for the collecting and~~
307 ~~return of ballots deposited at each drop box at the conclusion of each day where advance~~
308 ~~voting takes place. Collection of ballots from a drop box shall be made by a team of at~~
309 ~~least two people. Any person collecting ballots from a drop box shall have sworn an oath~~
310 ~~in the same form as the oath for poll officers set forth in Code Section 21-2-95. The~~
311 ~~collection team shall complete and sign a ballot transfer form upon removing the ballots~~
312 ~~from the drop box which shall include the date, time, location, number of ballots,~~
313 ~~confirmation that the drop box was locked after the removal of the ballots, and the~~
314 ~~identity of each person collecting the ballots. The collection team shall then immediately~~
315 ~~transfer the ballots to the board of registrars or absentee ballot clerk, who shall process~~
316 ~~and store the ballots in the same manner as absentee ballots returned by mail are~~
317 ~~processed and stored. The board of registrars, absentee ballot clerk, or a designee of the~~
318 ~~board of registrars or absentee ballot clerk shall sign the ballot transfer form upon receipt~~
319 ~~of the ballots from the collection team. Such form shall be considered a public record~~
320 ~~pursuant to Code Section 50-18-70.~~

321 ~~(4) At the beginning of voting at each advance location where a drop box is present, the~~
322 ~~manager of the advance voting location shall open the drop box and confirm on the~~
323 ~~reconciliation form for that advance voting location that the drop box is empty. If the~~
324 ~~drop box is not empty, the manager shall secure the contents of the drop box and~~

325 ~~immediately inform the election superintendent, board of registrars, or absentee ballot~~
326 ~~clerk, who shall inform the Secretary of State Reserved.~~"

327 **SECTION 11.**

328 Said chapter is further amended by revising Code Section 21-2-421, relating to posting of
329 required information after closing of polls and reporting to Secretary of State, as follows:

330 "21-2-421.

331 (a) As soon as possible but not later than ~~10:00~~ 11:59 P.M. following the close of the polls
332 on the day of a primary, election, or runoff, the election superintendent shall report to the
333 Secretary of State and post in a prominent public place the following information:

334 (1) The number of ballots cast at the polls on the day of the primary, election, or runoff,
335 including provisional ballots cast;

336 (2) The number of ballots cast at advance voting locations during the advance voting
337 period for the primary, election, or runoff; and

338 (3) The total number of absentee ballots returned to the board of registrars by the
339 deadline to receive such absentee ballots on the day of the primary, election, or runoff.

340 (b) Upon the completion of the report provided for in subsection (a) of this Code section,
341 the election superintendent shall compare the total number of ballots received as reported
342 in subsection (a) of this Code section and the counting of the ballots in the primary,
343 election, or runoff minus any rejected and uncured absentee ballots, uncounted provisional
344 ballots, and any other uncounted ballots, with the total number of ballots cast in the
345 primary, election, or runoff. The results of such comparison and all explanatory materials
346 shall be reported to the Secretary of State. The reason for any discrepancy shall be fully
347 investigated and reported to the Secretary of State."

348

SECTION 12.

349 Said chapter is further amended by revising Code Section 21-2-498, relating to
350 precertification tabulation audits, as follows:

351 "21-2-498.

352 (a) As used in this Code section, the term:

353 (1) 'Incorrect outcome' ~~is when~~ means the winner of a contest or the answer to a
354 proposed constitutional amendment or question would be different from the results found
355 in a manual recount of paper official ballots.

356 (2) 'Risk limit' means the largest statistical probability that an incorrect outcome is not
357 detected or corrected in a risk-limiting audit.

358 (3) 'Risk-limiting audit' means an audit protocol that makes use of statistical methods and
359 is designed to limit to acceptable levels the risk of certifying a preliminary election
360 outcome that constitutes an incorrect outcome.

361 (b) ~~As soon as possible, but no later than the November, 2020, general election, the local~~
362 Local election superintendents shall conduct ~~precertification~~ tabulation or risk-limiting
363 audits for any federal or state primary or general election in accordance with requirements
364 set forth by rule or regulation of the State Election Board. Audits performed under this
365 Code section shall be conducted by manual inspection of random samples of the paper
366 official ballots.

367 (c) In conducting each audit, the local election superintendents shall:

368 (1) Complete the audit prior to final certification of the contest;

369 (2) Ensure that all types of ballots are included in the audit, whether cast in person, by
370 absentee ballot, advance voting, provisional ballot, or otherwise;

371 (3) Provide a report of the unofficial final tabulated vote results for the contest to the
372 public prior to conducting the audit;

373 (4) Complete the audit in public view; and

374 (5) Provide details of the audit to the public within 48 hours of completion.

375 (d) The State Election Board shall be authorized to promulgate rules, regulations, and
376 procedures to implement and administer the provisions of this Code section. The
377 procedures prescribed by the State Election Board shall include security procedures to
378 ensure that collection of validly cast ballots is complete, accurate, and trustworthy
379 throughout the audit.

380 ~~(e) The Secretary of State shall conduct a risk-limiting audit pilot program with a risk limit
381 of not greater than 10 percent in one or more counties by December 31, 2021. The
382 Secretary of State shall review the results of the pilot program and, within 90 days
383 following the election in which such pilot program is used, shall provide the members of
384 the General Assembly with a comprehensive report, including a plan on how to implement
385 risk-limiting audits state wide. If such risk-limiting audit is successful in achieving the
386 specified confidence level within five business days following the election for which it was
387 conducted, then all audits performed pursuant to this Code section shall be similarly
388 conducted, beginning not later than November 1, 2024."~~

389

SECTION 13.

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

393 "21-2-500.

394 (a) Immediately upon completing the returns required by this article, in the case of
395 elections other than municipal elections, the superintendent shall deliver in sealed
396 containers to the clerk of the superior court or, if designated by the clerk of the superior
397 court, to the county records manager or other office or officer under the jurisdiction of a
398 county governing authority which maintains or is responsible for records, as provided in
399 Code Section 50-18-99, the used and void ballots and the stubs of all ballots used; one copy
400 of the oaths of poll officers; and one copy of each numbered list of voters, tally paper,

401 voting machine paper proof sheet, and return sheet involved in the primary or election. In
402 addition, the superintendent shall deliver copies of the voting machine ballot labels,
403 computer chips containing ballot tabulation programs, copies of computer records of ballot
404 design, and similar items or an electronic record of the program by which votes are to be
405 recorded or tabulated, which is captured prior to the election, and which is stored on some
406 alternative medium such as a CD-ROM or floppy disk simultaneously with the
407 programming of the PROM or other memory storage device. The clerk, county records
408 manager, or the office or officer designated by the clerk shall ~~hold~~ retain and preserve such
409 ballots and other documents under seal, unless otherwise directed by the superior court, in
410 a manner so as to prevent such ballots and other documents from being altered, amended,
411 damaged, modified, or mutilated, for at least 24 months, after which time they shall be
412 presented to the grand jury for inspection at its next meeting. Such ballots and other
413 documents shall be retained and preserved in the office of the clerk, county records
414 manager, or officer designated by the clerk until the adjournment of such grand jury, and
415 then they may be destroyed, unless otherwise provided by order of the superior court.

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

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

426 (c) Immediately upon completing the returns required by this article, the municipal
427 superintendent shall deliver in sealed containers to the city clerk the used and void ballots

428 and the stubs of all ballots used; one copy of the oaths of poll officers; and one copy of
429 each numbered list of voters, tally paper, voting machine paper proof sheet, and return
430 sheet involved in the primary or election. In addition, the municipal superintendent shall
431 deliver copies of the voting machine ballot labels, computer chips containing ballot
432 tabulation programs, copies of computer records of ballot design, and similar items or an
433 electronic record of the program by which votes are to be recorded or tabulated, which is
434 captured prior to the election, and which is stored on some alternative medium such as a
435 CD-ROM or floppy disk simultaneously with the programming of the PROM or other
436 memory storage device. Such ballots and other documents shall be retained and preserved
437 under seal, in a manner so as to prevent such ballots and other documents from being
438 altered, amended, damaged, modified, or mutilated, in the office of the city clerk for at
439 least 24 months; and then they may be destroyed unless otherwise provided by order of the
440 mayor and council if a contest has been filed or by court order, provided that the electors
441 list, voter's certificates, and duplicate oaths of assisted electors shall be immediately
442 returned by the superintendent to the county registrar."

443

SECTION 14.

444 Said chapter is further amended by revising Code Section 21-2-529, relating to liability for
445 costs and methods of collecting, as follows:

446 "21-2-529.

447 The contestant and the defendant shall be liable to the officers and witnesses for the costs
448 made by them, respectively. If the result of the primary or election is confirmed, the
449 petition dismissed, or the prosecution fails, judgment shall be rendered against the
450 contestant for costs; and, if the judgment is against the defendant or the result of the
451 primary or election is set aside, he or she shall pay the costs at the discretion of the court.
452 After entry of judgment, the costs may be collected by attachment or otherwise. Under no

453 circumstances shall a nonprevailing party be liable for reasonable or actual attorney fees
454 so long as the election contest was brought in good faith."

455 **SECTION 15.**

456 Said chapter is further amended by adding a new Code section to read as follows:

457 "21-2-596.1.

458 Any county or municipal election superintendent on whom a duty to call an election is laid
459 by a local Act of the General Assembly who willfully neglects or refuses to perform his or
460 her duty to call such election shall be guilty of a misdemeanor."

461 **SECTION 16.**

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