

Senate Bill 222

By: Senators Burns of the 23rd, Watson of the 11th, Payne of the 54th, Dixon of the 45th,
Ginn of the 47th and others

AS PASSED

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 that all costs and expenses relating to
3 election administration are paid for with lawfully appropriate public funds; to provide for
4 legislative findings; to provide definitions; to prohibit certain local governments and persons
5 from soliciting or accepting donations or other things of value to support the performance of
6 election administration; to provide for exceptions; to provide for penalties; to provide that
7 the State Election Board shall be a distinct budget unit and an independent state agency
8 attached to the office of the Secretary of State for administrative purposes only; to provide
9 for an executive director of said board; to provide for venue in any action of said board and
10 its members; to provide duties for said executive director; to revise provisions relating to
11 election superintendents and registrars taking or accepting funding, grants, or gifts; to
12 prohibit county and municipal governments from accepting grants or gifts for the purpose
13 of administering elections; to provide for related matters; to provide an effective date; to
14 repeal conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 **SECTION 1.**

17 The General Assembly finds that the addition of Code Section 21-2-18 and the revisions to
18 Code Sections 21-2-71 and 21-2-212 in this bill should not be interpreted as an admission
19 by the General Assembly that existing law did not already ban the outside funding of election
20 administration in Georgia. These clarifications and enhancements were deemed necessary
21 because there seemed to be some confusion among certain Georgia counties as to the correct
22 interpretation of existing law.

23 **SECTION 2.**

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

26 "21-2-18.

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

28 (1) 'Government employee' means any individual, committee, entity, or group acting in
29 concert who are employed by a county or municipal government. Such term shall
30 include, but not be limited to, election superintendents, registrars, poll workers, and the
31 agents and employees thereof.

32 (2) 'Person' means any individual, proprietorship, firm, partnership, joint venture,
33 syndicate, labor union, business trust, company, association, committee, corporation,
34 whether operated for profit or not, or any other organization of a group of persons acting
35 in concert, or any other nongovernmental third-party entity.

36 (b) All costs and expenses related to conducting primaries, elections, runoffs, or other
37 undertakings authorized or required by this chapter shall be paid from lawfully
38 appropriated public funds.

39 (c) Notwithstanding any other provision of law to the contrary, no county or municipal
40 government, government employee, or election official shall solicit, take, or otherwise
41 accept from any person a contribution, donation, service, or anything else of value for the

42 purpose of conducting primaries or elections or in support of performing his or her duties
43 under this chapter.

44 (d) This Code section shall not apply to the donation or use of locations for voting
45 purposes, services provided by individuals without remuneration, or goods that have
46 nominal value of less than \$500.00.

47 (e) Violation of this Code section shall constitute a felony, and upon conviction shall be
48 punished by imprisonment for not less than one year and by a fine of not less than
49 \$10,000.00."

50 **SECTION 3.**

51 Said chapter is further amended by revising Code Section 21-2-30, relating to creation,
52 composition, election of chairperson, terms of service, vacancies, quorum, seal and bylaws,
53 and meetings of the State Election Board, as follows:

54 "21-2-30.

55 (a) There is created a state board to be known as the State Election Board, to be composed
56 of a chairperson elected by the General Assembly, an elector to be elected by a majority
57 vote of the Senate of the General Assembly at its regular session held in each
58 odd-numbered year, an elector to be elected by a majority vote of the House of
59 Representatives of the General Assembly at its regular session held in each odd-numbered
60 year, and a member of each political party to be nominated and appointed in the manner
61 provided in this Code section. No person while a member of the General Assembly shall
62 serve as a member of the board.

63 (a.1)(1) The chairperson shall be elected by the General Assembly in the following
64 manner: A joint resolution which shall fix a definite time for the nomination and election
65 of the chairperson may be introduced in either branch of the General Assembly. Upon
66 passage of the resolution by a majority vote of the membership of the Senate and House
67 of Representatives, it shall be the duty of the Speaker of the House of Representatives to
68 call for the nomination and election of the chairperson at the time specified in the

69 resolution, at which time the name of the qualified person receiving a majority vote of the
70 membership of the House of Representatives shall be transmitted to the Senate for
71 confirmation. Upon the qualified person's receiving a majority vote of the membership
72 of the Senate, he or she shall be declared the duly elected chairperson; and the Governor
73 shall be notified of his or her election by the Secretary of the Senate. The Governor is
74 directed to administer the oath of office to the chairperson and to furnish the chairperson
75 with a properly executed commission of office certifying his or her election.

76 (2) The chairperson of the board shall be nonpartisan. At no time during his or her
77 service as chairperson shall the chairperson actively participate in a political party
78 organization or in the campaign of a candidate for public office, nor shall he or she make
79 any campaign contributions to a candidate for public office. Furthermore, to qualify for
80 appointment as chairperson, in the two years immediately preceding his or her
81 appointment, a person shall not have qualified as a partisan candidate for public office,
82 participated in a political party organization or the campaign of a partisan candidate for
83 public office, or made any campaign contributions to a partisan candidate for public
84 office.

85 (3) The term of office of the chairperson shall continue until a successor is elected as
86 provided in paragraph (1) of this subsection. In the event of a vacancy in the position of
87 chairperson at a time when the General Assembly is not in session, it shall be the duty of
88 the Governor and the Governor is empowered and directed to appoint a chairperson
89 possessing the qualifications as provided in this subsection who shall serve as chairperson
90 until the next regular session of the General Assembly, at which time the nomination and
91 election of a chairperson shall be held by the General Assembly as provided in
92 paragraph (1) of this subsection.

93 (b) A member elected by a house of the General Assembly shall take office on the day
94 following the adjournment of the regular session in which elected and shall serve for a term
95 of two years and until his or her successor is elected and qualified, unless sooner removed.

96 An elected member of the board may be removed at any time by a majority vote of the
97 house which elected him or her. In the event a vacancy should occur in the office of such
98 a member of the board at a time when the General Assembly is not in session, then the
99 President of the Senate shall thereupon appoint an elector to fill the vacancy if the prior
100 incumbent of such office was elected by the Senate or appointed by the President of the
101 Senate; and the Speaker of the House of Representatives shall thereupon appoint an elector
102 to fill the vacancy if the prior incumbent of such office was elected by the House of
103 Representatives or appointed by the Speaker of the House of Representatives. A member
104 appointed to fill a vacancy may be removed at any time by a majority vote of the house
105 whose presiding officer appointed him or her.

106 (c) Within 30 days after April 3, 1968, the state executive committee of each political
107 party shall nominate a member of its party to serve as a member of the State Election Board
108 and, thereupon, the Governor shall appoint such nominee as a member of the board to serve
109 for a term of two years from the date of the appointment and until his or her successor is
110 elected and qualified, unless sooner removed. Thereafter, such state executive committee
111 shall select a nominee for such office on the board within 30 days after a vacancy occurs
112 in such office and shall also select a nominee at least 30 days prior to the expiration of the
113 term of each incumbent nominated by it; and each such nominee shall be immediately
114 appointed by the Governor as a member of the board to serve for the unexpired term in the
115 case of a vacancy, and for a term of two years in the case of an expired term. Each
116 successor, other than one appointed to serve an unexpired term, shall serve for a term of
117 two years; and the terms shall run consecutively from the date of the initial gubernatorial
118 appointment. No person shall be eligible for nomination by such state executive committee
119 unless he or she is an elector and a member in good standing of the political party of the
120 committee. Such a member shall cease to serve on the board and his or her office shall be
121 abolished if and when his or her political organization shall cease to be a 'political party'
122 as defined in Code Section 21-2-2.

123 (d) The Secretary of State shall be an ex officio nonvoting member of the board. Three
124 voting members of the board shall constitute a quorum, and no vacancy on the board shall
125 impair the right of the quorum to exercise all the powers and perform all the duties of the
126 board. The board shall adopt a seal for its use and bylaws for its own government and
127 procedure.

128 (e) Meetings shall be held whenever necessary for the performance of the duties of the
129 board on call of the chairperson or whenever any two of its members so request. Minutes
130 shall be kept of all meetings of the board and a record kept of the vote of each member on
131 all questions coming before the board. The chairperson shall give to each member of the
132 board prior notice of the time and place of each meeting of the board.

133 (f) If any member of the board, other than the Secretary of State, shall qualify as a
134 candidate for any public office which is to be voted upon in any primary or election
135 regulated by the board, that member's position on the board shall be immediately vacated
136 and such vacancy shall be filled in the manner provided for filling other vacancies on the
137 board.

138 (g) On and after July 1, 2023, the board shall be a separate and distinct budget unit as
139 defined in Part 1 of Article 4 of Chapter 12 of Title 45, the 'Budget Act'; provided,
140 however, that the board shall be attached for administrative purposes only to the office of
141 the Secretary of State as provided for in Code Section 50-4-3. The board shall neither be
142 under the jurisdiction of the Secretary of State nor shall it be considered a division of the
143 office of the Secretary of State.

144 (h) The board shall have the power to appoint an executive director who shall be a
145 full-time employee of the board. The executive director shall serve at the pleasure of the
146 board, and the board shall in its discretion appoint and fix the compensation of the
147 executive director. The executive director shall be charged with such duties and powers
148 as provided in this Code section or as delegated by the board. The executive director shall

149 serve as the secretary of the board ex officio but shall not be a voting member of the board
150 or a member for the purposes of constituting a quorum.

151 (i) The executive director and other employees of the board shall be reimbursed for travel
152 and other expenses incurred in the performance of their duties in the same manner as
153 officers and employees of the office of the Secretary of State.

154 (j) Venue of any action involving members of the board shall be the county in which is
155 found the primary office of the board. Any notice or legal process necessary to be served
156 upon the board may be served upon the executive director, but the executive director shall
157 not be considered a member of the board in determining the venue of any such action, and
158 no court shall have jurisdiction over any such action solely by virtue of the executive
159 director residing or maintaining a residence within its jurisdiction.

160 (k) The executive director shall:

161 (1) Keep all records of the board and its proceedings;

162 (2) With the approval of the board, employ and fix the compensation of personnel as
163 determined necessary to assist the executive director in his or her duties;

164 (3) With the consent of the board, schedule the time and location of all meetings and
165 hearings, as well as maintain a schedule of all meetings and hearings available for public
166 review;

167 (4) With the approval of the board, enter into such contracts, leases, agreements, or other
168 transactions with any person or agency as are deemed necessary to carry out the
169 provisions of this chapter or to provide the services required by the board; and

170 (5) On or before the second Tuesday in January of each year, prepare and deliver a
171 written annual report to the Governor and the chairpersons of the House and Senate
172 Appropriations Committees describing the activities of the board for the previous
173 calendar year. Such report shall be made available to any member of the General
174 Assembly upon request. The report shall include a summary of all actions taken by the
175 board and a financial report of all income and disbursements and staff personnel. The

176 Governor may request a preliminary financial report for budgetary purposes prior to the
177 executive director delivering the annual report."

178 **SECTION 4.**

179 Said chapter is further amended by revising subsection (b) of Code Section 21-2-71, relating
180 to payment by county or municipality of superintendent's expenses, and study and report on
181 acceptance and equitable distribution of donations, as follows:

182 "(b) No superintendent, county, or municipality shall take or accept any ~~funding~~, grants;
183 or gifts for purposes of administering this chapter from any source other than ~~from the~~
184 ~~governing authority of the county or municipality~~, the State of Georgia; or the federal
185 government."

186 **SECTION 5.**

187 Said chapter is further amended in Code Section 21-2-212, relating to county registrars,
188 appointment, certification, term of service, vacancies, compensation, and expenses of chief
189 registrar, registrars, and other officers and employees, and budget estimates, by revising
190 subsection (f) as follows:

191 "(f) The board of registrars of each county shall prepare annually a budget estimate in
192 which it shall set forth an itemized list of its expenditures for the preceding two years and
193 an itemized estimate of the amount of money necessary to be appropriated for the ensuing
194 year and shall submit the same at the time and in the manner and form other county budget
195 estimates are required to be filed. No board of registrars shall take or accept any ~~funding~~,
196 grants; or gifts for the purpose of administering this chapter from any source other than
197 from ~~the governing authority of the county~~, the State of Georgia; or the federal
198 government."

199 **SECTION 6.**

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

202 **SECTION 7.**

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