

Senate Bill 202 Elections Reform Synopsis

March 2021

Preface:

From 2003-2020, 59 elections bills passed the Georgia General Assembly, including at least one bill every single year. To keep our elections system responsive and resilient, 2021 will be no different. Following an elections cycle that occurred during the first worldwide pandemic in modern history, following the implementation of a new 2020 statewide elections system, and after 2020 record voter turnout, including changes in how and when Georgians chose to vote, it was prudent for Georgia to evaluate its elections processes. The following legislation is a result of that four-month long process to make our elections more accessible, secure and transparent.

ROLES OF ELECTION OFFICIALS

Election superintendents shall continue processing, counting and tabulating ballots until such activities are completed on Election Day

To increase confidence in election processes and to provide timely information, ballot returns will be tabulated and reported in a timely manner.

SOS shall create a pilot program for the posting of digital images of scanned paper ballots

Elections officials shall provide daily notice of the number of ballots received by type and the number of provisional ballots

Each day, officials will publish on their website, or display in a prominent place if they do not have a website, and provide to the SOS the number of absentee ballots issued and received; the number of early votes cast and the number of provisional ballots cast and cured.

Poll officials shall report the total number of ballots and provisional ballots cast at each precinct to the election superintendent and post the information on the door of each precinct

Poll officials shall report to the SOS by 10 p.m. on Election Day the total number of absentee, early, Election Day, and provisional ballots cast

SOS shall obtain regular information regarding voters who may have moved to another state, died or otherwise become ineligible to vote in Georgia and use such information to conduct list maintenance of eligible voters

Emergency rules adopted by the State Election Board must be submitted 20 days prior to the rule taking effect and may be suspended by a majority vote of the state House or Senate committees on Judiciary

State Election Board shall appoint independent performance review board with authority to investigate and evaluate local election officials' technical competency and compliance with state law and regulation.

Governing authority, legislators and State Board of Elections may request performance review of local election official

State Elections Board may suspend or terminate up to four elections superintendents following a performance review, investigation, hearing and findings with a high threshold of findings that an election superintendent has not performed his or her job, including following state law. Process follows the Georgia Administrative Procedures Act

Attorney General shall have the authority to create a telephone hotline for voters to file complaints and allegations of voter intimidation and illegal election activities

In addition to complaints, hotline shall also accept anonymous tips regarding voter intimidation and election fraud and determine if investigation or prosecution are merited.

Create new chair of State Election Board and empower State Election Board to obtain resources from Secretary of State (SOS)

Chair to be elected by the General Assembly with SOS serving as ex officio member.

Background: Similarly, State School Superintendent is elected statewide and not member of State School Board, which is the rule-making body.

Require notice for adoption of emergency rules and consent agreements by State Elections Board

To provide transparency to the public and elected officials, State Elections Board shall give notice of newly-adopted emergency rules to public, governor, lieutenant governor, speaker, legislative committee chairs dealing with elections, legislative legal council, Democrat and Republican state party executive directors.

State Election Board and SOS shall notify House and Senate of any proposed consent agreement at least five business days prior to entering into such consent agreement.

Eliminate private funding of county election offices. Legislature will study proposed method for state to accept private funding for elections

Will bring greater uniformity of elections funding among 159 counties. Reduces prospect of undue partisan influence through targeted funding of elections operations. State will study and report to General Assembly a method for accepting donations to the state and a method for equitable distribution by October 2021.

Background: November 2020 was the first time private donors contributed funding to GA counties for elections, which was provided to specifically to address pandemic-related costs and concerns.

Create alternative method of certification when probate judge runs elections and is unavailable

Recommended by local elections officials. Creates a replacement and compensation mechanism when probate judge that runs elections vacates position or is incapacitated.

Create identical authority for election superintendents over use of county government offices for election-day precincts and as advance voting locations

Puts in place the same criteria for early voting locations in current law as for election day voting locations.

SOS authorized to inspect and audit absentee ballot applications or envelopes during the existing 24-month retention period

ABSENTEE VOTING

Replace signature matching on absentee ballot requests and absentee ballots with driver's license number and other types of identification

Eliminates *subjective* signature matching on absentee ballot requests and ballots and replaces it with *objective* drivers license number or state ID number. For absentee ballot requests, if a voter does not have either a drivers license or a free state ID number, he or she may supply a copy of any identification permitted by the federal Help America Vote Act.

For absentee ballots, if voter does not have a drivers license or state ID, he or she may provide the last four digits of social security number and birth date.

Background: Over 97% of voter registration records include a drivers license number or free state ID number. In-person voting already requires a drivers license, state ID, or

other approved type of identification. All Georgians may currently obtain a free state ID at county boards of elections and state driver services locations.

Absentee ballot outer envelopes shall have a privacy flap to keep personal information from view

Make clear what is and is not an official absentee ballot application, including disclaimers

Outside groups mailing absentee ballot request forms to voters must send standard absentee ballot application and include disclaimers including: Not sent by a government entity; application is not a ballot; and completion of the application is not required to vote.

Will reduce voter confusion when voters receive numerous absentee ballot request forms by mail. Some voters incorrectly conclude multiple unsolicited absentee ballot requests are actual ballots or that completion is required to vote.

Government cannot mail out absentee ballot applications unless requested by a voter.

Establishes uniform rules for drop boxes, including monitoring inside an early voting location. Under a health emergency order to facilitate social distancing, drop boxes may be utilized more widely outside with security cameras

Require one drop box per county, or the lesser of one drop box per 100,000 registered voters or the number of early voting location. Regulating drop boxes will assure more secure chain of custody and create uniform availability throughout state, including at least one in every county.

Background: Drop boxes were first allowed in 2020 elections as a result of State Elections Board emergency order during the pandemic. Board responded to county elections boards' concerns over social distancing. Drop boxes were permitted to reduce number of voters turning in absentee ballots at county elections board headquarters or post offices. Thirty eight counties did not offer a drop box. Following the emergency order expiration, drop boxes were no longer legally permitted.

Will provide voters with another option for absentee ballot delivery. Some voters may prefer drop boxes because of perceived postal service unreliability. In large metro counties, election board locations may be inconvenient as an alternative to mailing an absentee ballot thus making drop boxes appealing. Voters will continue to be able to utilize the most convenient "drop box," the mailbox at the end of the driveway or the bottom of the apartment complex.

Set start and end dates for absentee ballot applications to better coincide with early voting period

Revises absentee ballot request period to better address elections staff burden and increase voter confidence that absentee ballots will arrive in time to actually be counted.

By providing a clear, more timely period to request absentee ballots, fewer ballot requests will be cancelled, which will reduce a labor-intensive burden on elections officials. Will result in more successful absentee votes cast.

Changes the period to request an absentee ballot from six months before an election to 78 days before an election. Will lessen burden on county elections officials to keep track of requests up to six months out, which is before an election is set and candidates are known. More properly places the absentee ballot period in sync with early voting period as is typical in many states. Will decrease number of voters that forget they requested an absentee ballot due to long lead time.

Modifies the final deadline to request an absentee ballot prior to an election from three days before an election to 11 days prior to an election. Recommended by the Association of County Commission of Georgia (ACCG) and numerous county elections officials. In contrast, the USPS recommends a 15-day deadline prior to an election to better assure sufficient time to request, receive and return an absentee ballot.

Background: 90% of absentee ballot requests made greater than 10 days before November 2020 election were successfully voted. In contrast, 50% of absentee requests made fewer than 10 days before November 2020 election were successfully voted.

In the November 2020 election, 500,000 absentee requests were subsequently cancelled by voters, creating longer lines at polls due to absentee ballot request cancellation process.

Early scanning of absentee ballots and greater transparency

Allows early processing and scanning of absentee ballots up to one week prior to Election Day. Tabulation is not allowed until Election Day. Will result in more timely election results following elections. State Board of Elections shall develop rules for timely scanning of absentee ballots and to address privacy.

Requires elections officials to provide public notice of dates, times and location of absentee ballot processing to assure more transparency.

Prohibit ballot harvesting

Reduce prospect of undue influence in absentee voting.

Background: Current law prohibits interfering with a voter in marking an absentee ballot or inducing a voter to show how he or she marked a ballot, and makes it a felony. This provision adds a prohibition on ballot harvesting, which is accepting absentee ballots from voters and mailing or delivering them. A member of household, relative or

caregiver will continue to be permitted to assist in voting and delivering absentee ballots.

Shall be illegal to photograph an electronic ballot marker or a voted ballot, including an absentee ballot

Existing law prohibits photographing an in-person ballot to lessen prospect of payment-for-voting. Provision updates code creating more uniformity with voting machines and absentee voting.

Third parties may only send absentee ballot applications to individuals who have not already requested, received or voted an absentee ballot

Will reduce voter confusion resulting from voters receiving multiple absentee ballot applications after they have already applied or returned an absentee ballot. Will reduce cost and burden to counties for processing duplicate absentee requests. Third parties must use available updated information to avoid duplication and may be sanctioned by the SOS.

IN-PERSON VOTING

Increase notice to public on polling location changes

To better assure voters know where to vote on Election Day, additional notice is required at previous poll location for Election Day and seven days leading to election. Notice must be a minimum of four feet by four feet in size. Current law also requires notice in newspaper.

Allow poll workers to live in adjoining counties

Elections officials may waive residency requirements to hire poll workers from adjoining counties to increase the number of available poll workers. Requested by numerous elections officials.

Require reports on wait times and changes to precincts if wait times are more than an hour at any point during a general election

To better address long voting lines, precincts containing 2000 or more registered voters shall measure wait times throughout the day and report information to the SOS. A wait time more than one hour on one occasion on election day shall require the elections superintendent at the next general election to reduce the size of the precinct, provide additional voting machines or add poll workers, or any combination thereof.

Eliminate mobile voting locations, except for emergencies declared by Governor at a particular precinct

Existing law requires advance public notice to inform the public of precinct locations and to allow the public to provide feedback to county officials if precincts are not fairly distributed. Mobile voting units impede transparency and erode voter confidence.

Background: Precinct locations are announced well in advance before elections. Mobile voting precincts have never been permitted in Georgia law or utilized prior to the pandemic.

In November 2020, mobile voting units (two buses) were utilized by only one county, Fulton County. If a county should require more precincts to reduce voting lines, it may already open more fixed locations by designating additional precincts.

Set uniform voting times for early voting across the state and increase required early voting days

Creates more uniformity of days and hours of early voting in all 159 counties while leaving the available number of early voting weekday and weekend days the same.

Requires election boards to establish early voting hours from 9 a.m. to 5 p.m. Monday to Friday for three weeks of early voting with the option of 7 a.m. to 7 p.m. Require same hours on both the third and second Saturday of the early voting period (third and second Saturdays counted back from Election Day).

Election boards will be permitted to offer early voting on either or both the third and second Sunday of early voting and select available hours up to 7 a.m. to 7 p.m.

Background: Counties have historically offered a variety of early voting hours, with 134 counties offering fewer early voting hours in 2020 than this legislation requires.

Existing law required one Saturday of early voting and was silent on the availability of additional weekend voting. In the 2020 General election, 47 counties offered only one Saturday of early voting.

Sunday early voting will continue to be an available option for local election boards. Out of 159 counties for November 2020 election, only 16 counties offered Sunday voting. In the January 2021 heavy turn-out senate runoff, only six counties offered Sunday voting. Sunday is the least used early voting day by voters.

For context, out of 2.9 million early votes cast in November 2020, fewer than 65,000 were cast on a Sunday. A lower percentage of Black voters (38%) cast Sunday early votes than the percentage of Black voters (40%) on other days of early voting (within the 16 counties that offered Sunday voting). This fact contrasts with misinformation widely reported.

Prohibit changes to advance voting locations within 14 days of a regular election

To enhance transparency and better assure voters are aware of early voting locations, election boards shall publish dates, times and locations of early voting locations on county's website, or general circulation newspaper if county does not have website. Early voting location cannot be closed after the notice of its location is announced, unless an emergency or unavoidable event occurs.

Prohibit offering anything of value within 150 feet of a polling place, except water bottles offered by elections officials

This 150 foot distance has long been protected in law from campaign activities to reduce undue influence and prevent interference with voters while waiting in line. Provision clarifies the same distance is also protected from providing items of value to voters.

Prohibit out-of-precinct voting

Reduce burden on elections officials who currently plan for voter volume, voting equipment levels, and poll worker needs based on precinct voter population size. Reduce longer poll lines.

Out-of-precinct voting disenfranchises the voter when down ballot races are not offered in the incorrect precinct. Out-of-precinct voting leads to longer voting lines because of increased burden on poll workers to assist voters with paper provisional ballots. Provisional ballots must be verified and duplicated.

Out-of-precinct voting will be permitted within the county in which the voter lives after 5 p.m. and until the polls close if the voter would be unable to reach his or her correct polling place prior to poll closing time.

Out-of-precinct voting has not been previously anticipated by Georgia elections officials and has rarely been utilized prior to 2018 (fewer than 1000). In contrast, 7000 out-of-precinct ballots were cast in 2018; 20,000 were cast in 2020.

Poll hours may be extended by precinct by superior court judge order after relying on clear and convincing evidence that persons were unable to vote during time period. Extensions must be for the period of time voters were unable to vote

TIMING

Change runoff period from nine to four weeks by utilizing ranked-choice voting for UOCAVA voters

This provision was patterned after other states' ranked-choice practice for military and overseas voters and will eliminate the need for nine-week runoff elections.

A long runoff period is costly to candidates and depresses the number of individuals who will consider running for office. The public tires of lengthy runoff elections and the barrage of advertisements over the longer time frame.

Background: Prior to 2014, Georgia conducted four-week runoff elections. A federal court ruling extended runoffs to nine weeks to allow for sufficient time for military and overseas runoff ballots to be returned. This change will eliminate the need for lengthy runoffs. Georgia is the only state with such a long runoff period. Forty nine states have plurality elections, which eliminate runoff elections; Georgia has a majority election requirement.

Revise timeline for certification

Certification date is moved up by five days to allow for more timely audit after an election.

Eliminate jungle special elections for statewide offices that are filled by the Governor

Background: A jungle primary is an election in which all candidates for elected office run in the same primary regardless of political party. Voters have expressed confusion over the different format as compared to most Georgia elections.

In special, partisan elections, jungle primaries would be eliminated and replaced with primary and general special elections. This provision would apply to vacated positions for constitutional officers elected statewide; U.S. senate; and partisan, local positions. This pertains to elected positions in which an interim appointment can assure voters are represented.

VOTING MACHINES

Require testing of voting machines and greater public notice and viewing for testing prior to elections

To increase transparency, elections officials will provide public notice of voting machines in the local general circulation newspaper and in the SOS website. The public shall be allowed to observe. Prohibits any person from interfering with the testing process.

Require one voting machine for every 250 voters in general elections and flexibility for the number of machines for all other elections

Provision provides flexibility to elections officials to provide more or fewer voting machines. Officials must first evaluate the type of election, expected turnout, advance voting or absentee ballot counts and other factors.

Elections officials asked for flexibility in low turnout elections to avoid the expense and wear and tear of installing more voting machines than would be utilized.

OTHER REVISIONS

Require special election when winning candidate in nonpartisan election dies

Provision will address instance when a candidate dies prior to a nonpartisan election, but receives the majority of the votes. Such an election shall be deemed as a failure to fill the office and another election will be called. Ex. Athens, GA

Implement security paper for ballots that includes features to authenticate the ballot

Creates more secure ballots.

Background: The cost to implement secure ballot paper is minimal, costing an estimated additional \$750,000 statewide.

Require training of poll watchers and ensure poll watchers may observe election processes

For first time, political parties will train and certify that they have trained poll watchers so poll watchers have familiarity with elections process. Local elections officials asked for such training requirement.

Election officials will be required to ensure each poll watcher may “fairly observe” elections processes, including tabulation and duplication of ballots.

Create bipartisan ballot duplication panels for any ballots that need to be adjudicated

Creates more transparency through bi-partisan panels that duplicate military and overseas ballots that were emailed and damaged absentee ballots. Panels will be composed of one elections official, and one Republican and one Democrat selected by county parties. Currently, one elections official transfers ballot information contained in an email form or from a damaged absentee ballot to an absentee ballot.

Ensure voter-registration lists for special and general elections are the same if held on the same day

Provides exception for municipal redistricting when Census results are published within 120 days of the next general or special municipal election

Requested by Georgia cities. Will allow city elections to proceed utilizing prior census counts if updated census counts are not available due to pandemic.

No limit on the number of persons whose qualifications an elector may challenge on voter eligibility

Clarifies current law that allows any elector to challenge the qualifications of any person wishing to register to vote or qualifications to vote.

Each in-person and absentee ballot shall be marked with the voter's precinct at the top of the ballot