

House Bill 974 (AS PASSED HOUSE AND SENATE)

By: Representatives LaHood of the 175th, Anderson of the 10th, Leverett of the 123rd, Blackmon of the 146th, Jones of the 25th, 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 that ballots used in optical scan voting
3 systems shall use paper with a visible watermark security feature; to provide that ballots used
4 in ballot marking devices shall use paper with a visible watermark security feature; to require
5 the Secretary of State to establish and maintain a state-wide system for the posting of
6 scanned paper ballots; to provide for the scanning of tabulated absentee ballots; to provide
7 for minimum resolution requirements for each such scan; to expand the number of contests
8 subject to risk-limiting audits; to provide for percentages of risk limits; to provide procedures
9 for selection of contests subject to risk-limiting audits; to provide for a pilot program to audit
10 paper ballots using optical character recognition; to provide for related matters; to repeal
11 conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

14 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and
15 elections generally, is amended by revising Code Section 21-2-372, relating to ballot
16 descriptions, as follows:

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17 "21-2-372.
18 Ballots shall be of suitable design, size, and stock to permit processing by a ballot scanner
19 and shall be printed in black ink on clear, white, or colored material. Other than ballots
20 delivered electronically to qualified electors who are entitled to vote by absentee ballot
21 under the federal Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C.
22 Section 20301, et seq., the ballots shall be printed on security paper that incorporates
23 features which can be used to authenticate the ballot as an official ballot but which do not
24 make the ballot identifiable to a particular elector, provided that at least one such feature
25 is a visible watermark that identifies the ballot as an official Georgia ballot."

26 **SECTION 2.**

27 Said chapter is further amended in Code Section 21-2-379.23, relating to requirements for
28 ballot display, role of Secretary of State, and printed paper ballot controls during recount, by
29 revising subsection (b) as follows:

30 "(b) The form and arrangement of ballots marked and printed by an electronic ballot
31 marker shall be prescribed by the Secretary of State; provided, however, that such ballots
32 shall be printed on security paper that incorporates features which can be used to
33 authenticate the ballot as an official ballot but which do not make the ballot identifiable to
34 a particular elector; provided, further, that at least one such feature is a visible watermark
35 that identifies the ballot as an official Georgia ballot."

36 **SECTION 3.**

37 Said chapter is further amended in Code Section 21-2-386, relating to safekeeping,
38 certification, and validation of absentee ballots, rejection of ballot, delivery of ballots to
39 location designated by superintendent, duties of superintendent and managers, precinct
40 returns, report of returns of verified and accepted absentee ballots cast as soon as possible

41 following closing of polls, notification of challenged elector, and unlawful disclosure of
42 tabulation results, by adding a new subsection to read as follows:

43 "(g) Notwithstanding any other provision of law to the contrary, including, but not limited
44 to, the certification requirement in paragraph (3) of subsection (a) of Code
45 Section 21-2-300, all absentee ballots tabulated pursuant to this Code section shall be
46 scanned so that there is a digital image of each such ballot. All such scans shall have a
47 resolution of no less than 600 dots per inch, or the highest resolution possible within the
48 certified voting system. All such scans shall be posted and maintained by the program
49 provided for in subsection (j.1) of Code Section 21-2-493."

50

SECTION 4.

51 Said chapter is further amended in Code Section 21-2-493, relating to computation,
52 canvassing, and tabulation of returns, investigation of discrepancies in vote counts, recount
53 procedure, pilot program for posting of digital images of scanned paper ballots, certification
54 of returns, and change in returns, by revising subsection (j.1) as follows:

55 "(j.1) The Secretary of State shall create and maintain a pilot state-wide program for the
56 posting of digital images of the scanned paper ballots created by the voting system. All
57 such scans shall have a resolution of no less than 200 dots per inch. Digital images of the
58 scanned ballots created as part of the preliminary tabulation process shall be posted no later
59 than 5:00 P.M. on the second Friday following the day of the election, and such postings
60 shall be supplemented by the posting of any additional ballot images created in the
61 tabulation process through final certification of such election."

62

SECTION 5.

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

65 "21-2-498.

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

67 (1) 'Incorrect outcome' means the winner of a contest or the answer to a proposed
68 constitutional amendment or question would be different from the results found in a
69 manual recount of paper official ballots.

70 (2) 'Risk limit' means the largest statistical probability that an incorrect outcome is not
71 detected or corrected in a risk-limiting audit; provided, however, that such probability
72 does not exceed:

73 (A) Eight percent in 2024;

74 (B) Six percent in 2026; and

75 (C) Five percent or less in 2028 and thereafter.

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

79 (4) 'Selected contests' means:

80 (A) The contest at the top of a ballot; and

81 (B) If the following races are on a ballot, one contest from the following races as
82 selected pursuant to subsection (d) of this Code section: United States Senate,
83 Governor, Lieutenant Governor, Secretary of State, Attorney General, State School
84 Superintendent, Commissioner of Insurance, Commissioner of Agriculture,
85 Commissioner of Labor, Supreme Court Justice, Judge of the Court of Appeals, or
86 Public Service Commissioner, provided that such selected contest is not the race at the
87 top of the ballot.

88 (b) Local election superintendents shall conduct precertification ~~tabulation~~ or risk-limiting
89 audits on ~~one contest~~ selected contests following any election, special election, election
90 runoff, special election runoff, primary, special primary, primary runoff, or special primary
91 runoff with ~~federal~~ federal presidential, United States Senate, or state-wide contests in accordance

92 with requirements set forth by rule or regulation of the State Election Board. Audits
 93 performed under this Code section shall be conducted by manual inspection of random
 94 samples of the paper official ballots.

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

96 (1) Complete the audit prior to final certification of the ~~contest~~ contests;

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

99 (3) Provide a report of the unofficial final tabulated vote results for the ~~contest~~ contests
 100 to the public prior to conducting the audit;

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

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

103 (d) In the event that multiple qualified races are on a ballot, one race in addition to the race
 104 at the top of the ballot shall be selected as a selected contest for auditing pursuant to this
 105 Code section. The additional selected contest shall be selected by majority vote of the
 106 Governor, Lieutenant Governor, and the Speaker of the House of Representatives, the
 107 minority leader of the Senate, and the minority leader of the House of Representatives;
 108 provided, however, that, in the event that a majority vote cannot be obtained by 11:00 A.M.
 109 on the Thursday immediately following the election, special election, election runoff,
 110 special election runoff, primary, special primary, primary runoff, or special primary runoff,
 111 the additional selected contest shall be selected by the chairperson of the State Election
 112 Board. The selection vote required by this subsection does not need to occur in person;
 113 such vote may be accomplished telephonically, virtually, or via written or electronic
 114 correspondence.

115 ~~(d)~~(e) The State Election Board shall be authorized to promulgate rules, regulations, and
 116 procedures to implement and administer the provisions of this Code section. The
 117 procedures prescribed by the State Election Board shall include security procedures to

118 ensure that collection of validly cast ballots is complete, accurate, and trustworthy
119 throughout the audit.

120 (f) Nothing in this Code section shall prevent an election superintendent from conducting
121 tabulation or risk-limiting audits in additional contests if circumstances warrant the
122 auditing of one or more additional contests than those required by this Code section."

123 **SECTION 6.**

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

125 "21-2-498.1.

126 The Secretary of State shall create a pilot program for the auditing of paper ballot images
127 using optical character recognition technology or other related technology which shall
128 verify the human-readable text portion of the ballot. Such auditing program shall not be
129 based on or tabulate any QR code, bar code, or similar machine coding that may be printed
130 on such ballots. Such audits shall include all ballot types, and the audit findings shall be
131 reported prior to final certification of the election."

132 **SECTION 7.**

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