

House Bill 426 (AS PASSED HOUSE AND SENATE)

By: Representatives New of the 40th, Efstration of the 104th, Burchett of the 176th, Smith of the 18th, Scoggins of the 14th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 10 of Title 15 of the Official Code of Georgia Annotated, relating to
2 magistrate courts, so as to provide for nonpartisan election of magistrates; to amend Chapter
3 2 of Title 21 of the Official Code of Georgia Annotated, relating to elections and primaries
4 generally, so as to revise provisions related to nonpartisan elections of judges of the probate
5 court and magistrates; to provide for related matters; to provide for an effective date, a
6 contingent effective date and automatic repeal; to repeal conflicting laws; and for other
7 purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 10 of Title 15 of the Official Code of Georgia Annotated, relating to magistrate
11 courts, is amended in Code Section 15-10-20, relating to number, selection, term, filling
12 vacancies, chief magistrate, and bonds, by revising subsection (c) as follows:

13 "(c) Unless otherwise provided by local law, all magistrates taking office on or after
14 January 1, 1985, shall be selected as provided in this subsection. The chief magistrate shall
15 be elected by the voters of the county at the general election next preceding the expiration
16 of the term of the incumbent chief magistrate, in a ~~partisan~~ nonpartisan election in the same

manner as county judicial officers are elected, for a term beginning on the first day of January following his or her election. As of July 1, 2025, no local Act providing for partisan election of a chief magistrate or other magistrate shall be enacted or enforceable. His or her successors shall likewise be elected quadrennially thereafter for terms beginning on the first day of January following their election. Magistrates other than the chief magistrate shall be appointed by the chief magistrate with the consent of the judges of superior court. The term of a magistrate so appointed shall run concurrently with the term of the chief magistrate by whom he or she was appointed."

SECTION 2.

Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to elections and primaries generally, is amended by revising Code Section 21-2-138, relating to nonpartisan elections for judicial offices, as follows:

"21-2-138.

The names of all candidates who have qualified with the Secretary of State for the office of judge of a superior court, Judge of the Court of Appeals, or Justice of the Supreme Court of this state and the names of all candidates who have qualified with the election superintendent for the office of judge of a state court, office of judge of a probate court, office of chief magistrate, or office of magistrate, when nonpartisan elections have been authorized by law for such county judicial office, shall be placed on the ballot in a nonpartisan election to be held and conducted jointly with the general primary in each even-numbered year. No candidates for any such office shall be nominated by a political party or by a petition as a candidate of a political body or as an independent candidate. Candidates for any such office shall have their names placed on the nonpartisan portion of each ballot by complying with the requirements prescribed in Code Section 21-2-132 specifically related to such nonpartisan candidates and by paying the requisite qualifying fees as prescribed in Code Section 21-2-131. Candidates shall be listed on the official

ballot in a nonpartisan election as provided in Code Sections 21-2-284.1 and 21-2-285.1, respectively. Except as otherwise specified in this chapter, the procedures to be employed in conducting the nonpartisan election of judges of probate courts, chief magistrates, magistrates, judges of state courts, judges of superior courts, Judges of the Court of Appeals, and Justices of the Supreme Court shall conform as nearly as practicable to the procedures governing general elections; and such general election procedures as are necessary to complete this nonpartisan election process shall be adopted in a manner consistent with such nonpartisan elections."

SECTION 3.

Said chapter is further amended in Code Section 21-2-139, relating to nonpartisan elections authorized and conduct, by revising subsection (a) as follows:

"(a) Notwithstanding any other provisions of this chapter to the contrary, the General Assembly may provide by local Act for the election in nonpartisan elections of candidates to fill ~~county judicial~~ offices of judges of probate courts, offices of local boards of education, and offices of consolidated governments which are filled by the vote of the electors of said county or political subdivision. Except as otherwise provided in this Code section, the procedures to be employed in such nonpartisan elections shall conform as nearly as practicable to the procedures governing nonpartisan elections as provided in this chapter. Except as otherwise provided in this Code section, the election procedures established by any existing local law which provides for the nonpartisan election of candidates to fill county offices shall conform to the general procedures governing nonpartisan elections as provided in this chapter, and such nonpartisan elections shall be conducted in accordance with the applicable provisions of this chapter, notwithstanding the provisions of any existing local law. For those offices for which the General Assembly, pursuant to this Code section, provided by local Act for election in nonpartisan primaries and elections, such offices shall no longer require nonpartisan primaries. Such officers

shall be elected in nonpartisan elections held and conducted in conjunction with the general primary in even-numbered years in accordance with this chapter without a prior nonpartisan primary. This Code section shall apply to all nonpartisan elections for members of consolidated governments. All nonpartisan elections for members of consolidated governments shall be governed by the provisions of this Code section and shall be considered county elections and not municipal elections for the purposes of this Code section. Nonpartisan elections for municipal offices shall be conducted on the dates provided in the municipal charter."

SECTION 4.

Said chapter is further amended in said Code section as effective on January 1, 2027, by revising subsection (a) as follows:

"(a) Notwithstanding any other provisions of this chapter to the contrary, the General Assembly may provide by local Act for the election in nonpartisan elections of candidates to fill ~~offices of judges of probate courts,~~ offices of local boards of education; and offices of consolidated governments which are filled by the vote of the electors of said county or political subdivision. Except as otherwise provided in this Code section, the procedures to be employed in such nonpartisan elections shall conform as nearly as practicable to the procedures governing nonpartisan elections as provided in this chapter. Except as otherwise provided in this Code section, the election procedures established by any existing local law which provides for the nonpartisan election of candidates to fill county offices shall conform to the general procedures governing nonpartisan elections as provided in this chapter, and such nonpartisan elections shall be conducted in accordance with the applicable provisions of this chapter, notwithstanding the provisions of any existing local law. For those offices for which the General Assembly, pursuant to this Code section, provided by local Act for election in nonpartisan primaries and elections, such offices shall no longer require nonpartisan primaries. Such officers shall be elected in nonpartisan

elections held and conducted in conjunction with the general primary in even-numbered years in accordance with this chapter without a prior nonpartisan primary. This Code section shall apply to all nonpartisan elections for members of consolidated governments. All nonpartisan elections for members of consolidated governments shall be governed by the provisions of this Code section and shall be considered county elections and not municipal elections for the purposes of this Code section. Nonpartisan elections for municipal offices shall be conducted on the dates provided in the municipal charter."

SECTION 5.

(a) Except as provided for in subsection (b) of this section, this Act shall become effective on July 1, 2025.

(b) Section 4 of this Act shall become effective on January 1, 2027, following the ratification of an amendment to the Constitution of Georgia providing that all judges of the probate court shall be elected in nonpartisan elections; provided, however, that to the extent this Act conflicts with law in effect at the time of ratification, this Act and such amendment shall control, and to the extent such law is not in conflict, the law in effect at the time of ratification shall control and shall remain in full force and effect. If such amendment is not so ratified, then this Act shall stand automatically repealed.

SECTION 6.

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