Exhibit 8
Submission 2011-2380
Case 1:11-cv-01428-CKK-MG-ESH   Document 128-8   Filed 06/29/12   Page 2 of 68

SECTION 5 SUBMISSION

NO. 2011-2388

GEORGIA DEPARTMENT OF LAW

40 CAPITOL SQUARE SW
ATLANTA, GA 30334-1300

DATE: June 22, 2011

PLEASE DELIVER TO:

NAME: Deputy Attorney General
Voting Rights Section

FAX NO: (202) 616-9514

FROM: Julie Anderson
Senior Assistant Attorney General
40 Capitol Square, Suite 232B
Atlanta, Georgia 30334-1300
Telephone: (404) 463-3630   FAX: (404) 657-9932

RE:

TOTAL PAGES TRANSMITTED INCLUDING COVER SHEET: 39

COMMENTS:

IF YOU DO NOT RECEIVE ALL THE PAGES, PLEASE CALL
RUBY KAJUMBA AT (404) 651-9305 AS SOON AS POSSIBLE.

This message is intended only for the use of the addressee. It may contain
information, which is confidential, privileged or otherwise not subject to
disclosure. If you are not the intended recipient, employee or agent responsible
for delivering the message to the intended recipient, any use of this information,
dissemination, distribution or copying of this communication is strictly prohibited.
If you have received this communication in error, please notify us immediately by
telephone.

Attached is a complete copy of our submission on Act 241, H.B. 92, which amends
Georgia Law regarding advanced voting. I was unsuccessful in my attempt to submit this
electronically today. Also, I thought I had submitted this electronically on June 6, 2011,
but in checking the status of submissions today, our office discovered that the submission
had not gone through. Anything your office can do to expedite the consideration of this
submission would be appreciated. Please call me at 404-463-3630 if you have any
questions. Thanks. Julie Anderson
Electronic Submission Under Section 5 of the Voting Rights Act

Submission 2997

Information of Person Making Submission

Name: Julia B. Anderson
Street: 46 Capital Square, S.W.
City: Atlanta
State: Georgia
Phone: 404-473-3630
Email: janderson@law.gsu.edu

Title: Senior Assistant Attorney
Zipcode: 30334

Jurisdiction Covered by Submission

Name of Submitting Jurisdiction/Entity: Georgia
In what state is your jurisdiction located? Georgia
In what county: Grady
Jurisdiction Affected: All

If not from list, then enter jurisdiction:

Detail of Change Submitted

28 CFR § 51.27 & 51.28(b)
Each submission should contain the required information or documents to enable the Attorney General to make the required determination pursuant to section 5 with respect to the submitted change affecting voting:

a. A copy of any ordinance, enactment, order, or regulation embodying a change affecting voting and provide the date of its enactment or adoption and its effective date.

A copy of Act No. 341, H.B. 92 is attached to this submission as Exhibit A. For your convenience a copy of the "as passed" version of H.B. 92, which contains the "redlined" changes to the current provisions of the affected statutes is attached as Exhibit B.

b. A copy of any ordinance, enactment, order, or regulation embodying the voting practice that is proposed to be repealed, amended, or otherwise changed and provide the date of compliance with Section 5.

Act 341. H.B. 92 amends several existing statutes. Attached are copies of the current versions of the following statutes:

Exhibit C-1 is a copy of O.C.G.A. § 21-5-7. This statute was last amended in 2009 by Act No. 12, S.B. 47. It was precleared under DOJ File No. 2009-2009. A copy of the preclearance letter is attached as Exhibit C-2.

c. A clear statement of the change explaining the difference between the submitted change and the prior law or practice, or explanatory materials adequate to disclose to the Attorney General the difference between the prior law or practice and proposed situation with respect to voting.

The proposed changes to the four above-referenced statutes are intended to modify Georgia's procedures for advanced voting. While Georgia has been providing advanced in-person voting for several years, including the last two federal elections, the practice has been conducted pursuant to Georgia's current absentee voting laws. H.B. 92 amends those laws to more clearly delineate between the two types of voting.

d. Identification of the person or body responsible for making the change and the mode of decision (e.g. act of state legislature, ordinance of city council, administrative decision by the registrar).

The Georgia General Assembly enacted this statutory change.

e. A statement identifying the statutory or other authority under which the jurisdiction undertakes the change and a description of the procedures the jurisdiction was required to follow in deciding to undertake the change.

The current statutes were enacted pursuant to authority granted the General Assembly by the 1983 Constitution of the State of Georgia, Art. X, Sec. 1, Par. II. On January 29, 1982, the Attorney General precleared the 1983 Constitution. A copy of Act No. 342, H.B. 93, which was signed by Governor Deal on March 13, 2003, is attached hereto as Exhibit A.

f. A statement that the change has not yet been enforced or administered, or an explanation of why such a statement cannot be made.

To the best of my knowledge, this change has not been enforced or administered.

g. Where the change will affect less than the entire jurisdiction, an explanation of the scope of the change.

The proposed changes will affect any registered voter in Georgia who may choose to vote in advance of the date of the election or runoff.

h. A statement of the reasons for the change.
As noted in response to paragraph (b) herein above, Act 94, H.B. 92 was enacted in order to amend the Georgia statutes relating to advanced voting to more clearly delineate between absentee voting and advance in-person voting and also to specifically set by statute the time period during which advance voting shall take place.

i. A statement of the anticipated effect of the change on members of racial or language minority groups. In addition, per §51.28(b), include the names, addresses, daytime telephone numbers, and organizational affiliation (if any) of racial and language minority group members residing in the jurisdiction who can be expected to be familiar with the proposed change or who have been active in the political process.

The change is not anticipated to have any regressive effect on the members of racial or language minority groups.

j. A statement identifying any past or pending litigation concerning the change or related voting practice.
To the best of my knowledge, there is no such pending or related litigation.

k. For redistricting and annexations: the items listed under §51.28(a)(i) and (b)(i); for annexations only: the items listed under §51.28(c)(i).
Not applicable.

l. Other information that the Attorney General determines is required for an evaluation of the purpose or effect of the change. Such information may include items listed in §51.28 and is most likely to be needed with respect to redistricting, annexations, and other complex changes. In the interest of time such information should be furnished with the initial submission relating to voting changes of this type. When such information is required, but not provided, the Attorney General shall notify the submitting authority in the manner provided in §51.37.
Not applicable.

Attachments
The following attached files provide additional information for this submission. Following the file name is the file's current status.

VRA 2011-15 EXHIBIT A.pdf - Complete
VRA 2011-15 EXHIBIT B.pdf - Complete
VRA 2011-15 EXHIBIT C-1.pdf - Complete
VRA 2011-15 EXHIBIT C-2.pdf - Complete
VRA 2011-15 EXHIBIT C-3.pdf - Complete
VRA 2011-15 EXHIBIT C-4.pdf - Complete
VRA 2011-15 EXHIBIT C-5.pdf - Complete
VRA 2011-15 EXHIBIT C-6.pdf - Complete
VRA 2011-15 EXHIBIT C-7.pdf - Complete

Do not select the "Submit completed form" button until all fields have been completed and any attachments for this submission have been uploaded.

Submit completed form  Reset

Julia Anderson

From: Julia Anderson  
Sent: Monday, June 06, 2011 4:20 PM  
To: 'voting.section@usdoj.gov'  
Subject: Submission 2961 —Georgia

Attachments: VRA 2011-15 SUBMISS CONF.pdf; ATTORNEY_GENERAL-#631107-v1-H_B__92_-_DOJ_Submission_-_Final_Version.DOC

I just submitted Act. 241, H.B. 92 for Section 5 review. Attached hereto is a copy of the page confirming that the submission was sent today. I had copied all the answers to questions A through L onto the form. However, after I attached the exhibits and the computer went back to the main page, the answers were all gone, except for the answer to Question A. Therefore, I'm attaching to this email, a separate document which contains the answers to questions B through L.

Please let me know if you have any questions or if there was any problem with the transmission of the exhibits.

Thanks.  
Julie Anderson  
(404) 463-3630
Electronic Submission Under Section 5 of the Voting Rights Act

Submission 2961

Information of Person Making Submission

Name: Julia E. Anderson  
Title: Senior Assistant Att
Street: 40 Capitol Square, S.W.  
City: Atlanta  
State: Georgia  
Zipcode: 30334  
Phone: 404-463-3820  
Email: justin@law.gsu.edu

Jurisdiction Covered by Submission

In what state is your jurisdiction located? Georgia  
In what county APPLING  
Jurisdiction Affected  
If not from list, then enter jurisdiction:

Detail of Change Submitted

28 CFR § 51.27 & 51.28(b)
Each submission should contain the following information or documents to enable the Attorney General to make the required determination pursuant to section 5 with respect to the submitted change affecting voting:

a. A copy of any ordinance, enactment, order, or regulation embodying a change affecting voting.

A copy of Act No. 241, H.B. 92 is attached to this submission as Exhibit A. For your convenience a copy of the

b. A copy of any ordinance, enactment, order, or regulation embodying the voting practice that is proposed to be repealed, amended, or otherwise changed.

c. A clear statement of the change explaining the difference between the submitted change and the prior law or practice, or explanatory materials adequate to disclose to the Attorney General the difference between the prior and proposed situation with respect to voting.

d. Identification of the person or body responsible for making the change and the mode of decision (e.g. act of state legislature, ordinance of city council, administrative decision by the registrar).

e. A statement identifying the statutory or other authority under which the jurisdiction undertakes the change and a description of the procedures the jurisdiction was required to follow in deciding to undertake the change.

f. A statement that the change has not yet been enforced or administered, or an explanation of why such a statement cannot be made.

g. Where the change will affect less than the entire jurisdiction, an explanation of the scope of the change.
h. A statement of the reasons for the change.

i. A statement of the anticipated effect of the change on members of racial or language minority groups. In addition, per §51.28(b), include the names, addresses, daytime telephone numbers, and organizational affiliation (if any) of racial and language minority group members residing in the jurisdiction who can be expected to be familiar with the proposed change or who have been active in the political process.

j. A statement identifying any past or pending litigation concerning the change or related voting practice.

k. For redistricting and annexation: the items listed under §51.28(a)(1) and (b)(1); for annexation only: the items listed under §51.28(c)(3).

l. Other information that the Attorney General determines is required for an evaluation of the purpose or effect of the change. Such information may include items listed in §51.28 and is most likely to be needed with respect to redistricting, annexation, and other complex changes. In the interest of time such information should be furnished with the initial submission relating to voting changes of this type. When such information is required, but not provided, the Attorney General shall notify the submitting authority in the manner provided in §51.37.

Attachments

The following attached files provide additional information for this submission. Following the file name is the file's current status.

VRA 2011-15 EXHIBIT A.pdf - Complete
VRA 2011-15 EXHIBIT B.pdf - Complete
VRA 2011-15 EXHIBIT C-1.pdf - Complete
VRA 2011-15 EXHIBIT C-2.pdf - Complete
VRA 2011-15 EXHIBIT C-3.pdf - Complete
VRA 2011-15 EXHIBIT C-4.pdf - Complete
VRA 2011-15 EXHIBIT C-5.pdf - Complete
VRA 2011-15 EXHIBIT C-6.pdf - Complete
VRA 2011-15 EXHIBIT C-7.pdf - Complete

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Submit completed form  Reset
Detail of Change Submitted

28 CFR §51.27 & 51.28(h)

Each submission should contain the following information or documents to enable the Attorney General to make the required determination pursuant to section 5 with respect to the submitted change affecting voting:

a.  A copy of any ordinance, enactment, order, or regulation embodying a change affecting voting.

A copy of Act No. 241, H.B. 92 is attached to this submission as Exhibit A. For your convenience a copy of the “as passed” version of H.B. 92, which contains the “redlined” changes to the current provisions of the effected statutes is attached as Exhibit B.

b.  A copy of any ordinance, enactment, order, or regulation embodying the voting practice that is proposed to be repealed, amended, or otherwise changed.

Act 241, H.B. 92 amends several existing statutes. Attached are copies of the current versions of the following statutes:

Exhibit C-1 is a copy of O.C.G.A. § 381. This statute was last amended in 2009 by Act No. 14, S.B. 47. It was precleared under DOJ File No. 2009-2096. A copy of the preclearance letter is attached as Exhibit C-2.

Exhibit C-3 is a copy of O.C.G.A. § 384. This statute was last amended in 2008 by Act No. 453, S.B. 456. It was also precleared under DOJ File No. 2009-2096. A copy of the preclearance letter is attached as Exhibit C-2.

Exhibit C-4 is a copy of O.C.G.A. § 385. This statute was last amended in 2007 by Act No. 259, S.B. 40. It was precleared under DOJ File No. 2007-3167. A copy of the preclearance letter is attached as Exhibit C-5.

Exhibit C-6 is a copy of O.C.G.A. § 385.1. This statute was last amended in 2008 by Act No. 788, H.B. 993. It was precleared under DOJ File No. 2008-2971. A copy of the preclearance letter is attached as Exhibit C-7.
c. A clear statement of the change explaining the difference between the submitted change and the prior law or practice, or explanatory materials adequate to disclose to the Attorney General the difference between the prior and proposed situation with respect to voting.

The proposed changes to the four above-referenced statutes are intended to codify Georgia’s procedures for advanced voting. While Georgia has been providing advanced in-person voting for several years, including the last two federal elections, the practice has been conducted pursuant to Georgia’s current absentee voting laws. H.B. 92 amends those laws to more clearly delineate between the two types of voting.

Section one of the bill revises O.C.G.A. § 21-2-381(b)(2) to divide that Code section into further subsections to delineate between an absentee ballot, which is mailed, and a ballot issued to a person who is advanced voting in-person.

Section 2 of the bill contains a few minor typographical changes to O.C.G.A. § 21-2-384. In addition, it amends subsections (a)(1) and subsection (a)(2) of that Code Section to add the phrase “as soon as possible prior to a runoff” with reference to the delivery of an adequate supply of, and the mailing of official absentee ballots. Subsection (b) of this Code Section addresses the procedures to be followed in mailing out absentee ballots. The proposed amendment to this Code section adds the following phrase at the beginning of this subsection: “[e]xcept for ballots voted within the confines of the registrar’s or absentee ballot clerk’s office, in.”

Section 3 of the bill amends O.C.G.A. § 21-2-384 to add a new subsection (d)(1), which establishes the time period during which “advanced voting” shall be conducted. Previously, a voter could vote absentee in-person at any time during the 45 day absentee voting period provided by this statute. However, this created problems for the county registrars by interrupting their efforts to send out absentee ballots by mail when requested and in performing the other duties of their offices. In-person voting also required that voting machines be programmed, installed and monitored during the entire absentee voting period.
The proposed amendment to this Code Section provides that in-person absentee voting, designated "advanced voting," shall begin on the fourth Monday prior to each primary or election and as soon as possible prior to any runoff and shall end on the Friday immediately prior to the primary, election or runoff. This results in there being a 21 day period in which a person may vote absentee in-person. For the time period before then, absentee voting will be conducted only by use of a mail-in ballot. The bill also provides that voting shall be conducted between 9 a.m. through 4 p.m. during the second Saturday prior to any primary or election unless no state or federal candidates are on the ballot. This provision does not preclude a county from holding "advance voting" on more than this Saturday. Subsection (d)(2) requires that registrars provide reasonable notice to electors of the availability of advanced voting.

Section 4 amends O.C.G.A. § 385.1 to ensure that any older and disabled voter who is disabled and requires assistance receive such assistance in connection with the advanced voting process as amended in O.C.G.A. § 21-2-384(d).

d. Identification of the person or body responsible for making the change and the mode of decision (e.g. act of state legislature, ordinance of city council, administrative decision by the registrar).

The Georgia General Assembly enacted this statutory change.

e. A statement identifying the statutory or other authority under which the jurisdiction undertakes the change and a description of the procedures the jurisdiction was required to follow in deciding to undertake the change.

The current statutes were enacted pursuant to authority granted the General Assembly by the 1983 Constitution of the State of Georgia, Art. X, Sec. I, Par. II. On January 29, 1982, the Attorney General precleared the 1983 Constitution. A copy of Act No. 241, H.B. 92, which was signed by Governor Deal on May 13, 2011, is attached hereto as Exhibit A.

f. A statement that the change has not yet been enforced or administered, or an explanation of why such a statement cannot be made.

To the best of my knowledge, this change has not been enforced or administered.
g. Where the change will affect less than the entire jurisdiction, an explanation of the scope of the change.

The proposed changes will affect any registered voter in Georgia who may choose to vote in advance of the date of the election or runoff.

h. A statement of the reasons for the change.

As noted in response to paragraph (h) herein above, in past elections in Georgia, a voter could vote absentee in-person at any time during the 45 day absentee voting period. O.C.G.A. § 21-2-384. However, this created problems for the county registrars by interrupting their efforts to send out absentee ballots by mail when requested and in performing the other duties of their offices. In-person voting also required that voting machines be programmed, installed and monitored during the entire absentee voting period. Act 241, H.B. 92 was enacted in order to amend Georgia law to provide for a three-week period for in-person advance voting.

i. A statement of the anticipated effect of the change on members of racial or language minority groups. In addition, per § 51.28(h), include the names, addresses, daytime telephone numbers, and organizational affiliation (if any) of racial and language minority group members residing in the jurisdiction who can be expected to be familiar with the proposed change or who have been active in the political process.

The change is not anticipated to have any retrogressive effect on the members of racial or language minority groups.

Minority contacts:

Stacy Abrams  
Georgia House of Representatives  
House Minority Leader  
408 Coverdell Legislative Office Building  
Atlanta, Georgia 30334  
404.656.5058

Keith Heard  
Georgia House of Representatives
j. A statement identifying any past or pending litigation concerning the change or related voting practice.

To the best of my knowledge, there is no such pending or related litigation.

k. For redistricting and annexations: the items listed under § 51.28(a)(1) and (b)(1); for annexations only: the items listed under § 51.28(c)(3).

Not applicable.

l. Other information that the Attorney General determines is required for an evaluation of the purpose or effect of the change. Such information may include items listed in § 51.28 and is most likely to be needed with respect to redistrictings, annexations, and other complex changes. In the interest of time such information should be furnished with the initial submission relating to voting changes of this type. When such information is required, but not provided, the Attorney General shall notify the submitting authority in the manner provided in § 51.37.

Not applicable.
ENROLLMENT

April 21, 2011

The Committee of the House on Information and Audits has examined the within and finds the same properly enrolled.

[Signature]
Chairman

[Signature]
Speaker of the House

[Signature]
Clerk of the House

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

Received
Secretary, Executive Department

This 21st day of April 2011

Approved
Governor

This 13th day of May 2011, 9:45 a.m.

H.B. No. 92 Act No. 241
General Assembly

AN ACT

To amend Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and elections generally, so as to provide limitations on when in-person absentee balloting may be conducted; to provide for a period of advance voting; to provide for procedures; to provide for exceptions; to provide for related matters; to repeal conflicting laws; and for other purposes.

IN HOUSE

Read 1st time 1-31-11
Read 2nd time 2-01-11
Read 3rd time 2-22-11
And Passed
Yea 148 Nays 20

Robert F. Ramsey
Clerk of the House

IN SENATE

Read 1st time 2-23-11
Read 2nd time 3-23-11
Read 3rd time 4-11-11
And Passed
Yea 34 Nays 20

Robert F. Ramsey
Secretary of the Senate

Passed Both Houses

By: Reps. Hamilton of the 23rd, Meadows of the 5th, England of the 108th, and others
AN ACT

To amend Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and elections generally, so as to provide limitations on when in-person absentee balloting may be conducted; to provide for a period of advance voting; to provide for procedures; to provide for exceptions; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and elections generally, is amended by revising paragraph (2) of subsection (b) of Code Section 21-2-381, relating to making application for an absentee ballot, as follows:

"(2) If found eligible, the registrar or absentee ballot clerk shall certify by signing in the proper place on the application and then:

(A) Shall mail the ballot as provided in this Code section;

(B) If the application is made in person, shall issue the ballot to the elector to be voted within the confines of the registrar's or absentee ballot clerk's office if issued during the advance voting period established pursuant to subsection (d) of Code Section 21-2-385; or

(C) May deliver the ballot in person to the elector if such elector is confined to a hospital."

SECTION 2.

Said chapter is further amended by revising subsections (a) and (b) of Code Section 21-2-384, relating to preparation and delivery of absentee ballots and supplies, as follows:

"(a)(1) The superintendent shall, at least 45 days prior to any general primary or general election other than a municipal general primary or general election, as soon as possible prior to a runoff, and at least 21 days prior to any municipal general primary or general election, prepare, obtain, and deliver an adequate supply of official absentee ballots to the board of registrars or absentee ballot clerk for use in the primary or election. Envelopes and other supplies as required by this article may be ordered by the superintendent, the board of registrars, or the absentee ballot clerk for use in the primary or election."
(2) The board of registrars or absentee ballot clerk shall, within two days after the receipt of such ballots and supplies, mail or issue official absentee ballots to all eligible applicants. As additional applicants are determined to be eligible, the board or clerk shall mail or issue official absentee ballots to such additional applicants immediately upon determining their eligibility, provided, however, that no absentee ballot shall be mailed by the registrars or absentee ballot clerk on the day prior to a primary or election and provided, further, that no absentee ballot shall be issued on the day prior to a primary or election. The board of registrars shall, at least 45 days prior to any general primary, or general election other than a municipal general primary or general election, as soon as possible prior to a runoff, and at least 21 days prior to any municipal general primary or general election, mail or electronically transmit official absentee ballots to all electors who are entitled to vote by absentee ballot under the federal Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff, et seq., as amended.

(3) The date a ballot is voted in the registrar's or absentee ballot clerk's office or the date a ballot is mailed or issued to an elector and the date it is returned shall be entered on the application record therefor.

(4) The delivery of an absentee ballot to a person confined in a hospital may be made by the registrar or clerk on the day of a primary or election or during a five-day period immediately preceding the day of such primary or election.

(5) In the event an absentee ballot which has been mailed by the board of registrars or absentee ballot clerk is not received by the applicant, the applicant may notify the board of registrars or absentee ballot clerk and sign an affidavit stating that the absentee ballot has not been received. The board of registrars or absentee ballot clerk shall then issue a second absentee ballot to the applicant and cancel the original ballot issued. The affidavit shall be attached to the original application. A second application for an absentee ballot shall not be required.

(b) Except for ballots voted within the confines of the registrar's or absentee ballot clerk's office, in addition to the mailing envelope, the superintendent, board of registrars, or absentee ballot clerk shall provide two envelopes for each official absentee ballot, of such size and shape as shall be determined by the Secretary of State, in order to permit the placing of one within the other and both within the mailing envelope. On the smaller of the two envelopes to be enclosed in the mailing envelope shall be printed the words 'Official Absentee Ballot' and nothing else. On the back of the larger of the two envelopes to be enclosed within the mailing envelope shall be printed the form of oath of the elector and the oath for persons assisting electors, as provided for in Code Section 21-2-409, and the penalties provided for in Code Sections 21-2-568, 21-2-573, 21-2-579, and 21-2-599 for violations of oaths; and on the face of such envelope shall be printed the name and
address of the board of registrars or absentee ballot clerk. The mailing envelope addressed to the elector shall contain the two envelopes, the official absentee ballot, and the uniform instructions for the manner of preparing and returning the ballot, in form and substance as provided by the Secretary of State and nothing else. The uniform instructions shall include information specific to the voting system used for absentee voting concerning the effect of overvoting or voting for more candidates than one is authorized to vote for a particular office and information concerning how the elector may correct errors in voting the ballot before it is cast including information on how to obtain a replacement ballot if the elector is unable to change the ballot or correct the error.

SECTION 3.

Said chapter is further amended by revising subsection (c) of Code Section 21-2-385, relating to procedure for voting by absentee ballot, and adding a new subsection to read as follows:

"(c) When an elector applies in person for an absentee ballot, after the absentee ballots have been printed, the absentee ballot may be issued to the elector at the time of the application therefor within the confines of the registrar's or absentee ballot clerk’s office if such application is made during the advance voting period as provided in subsection (d) of this Code section or may be mailed to the elector, depending upon the elector's request. If the ballot is issued to the elector at the time of application, the elector shall then and there within the confines of the registrar's or absentee ballot clerk's office vote and return the absentee ballot as provided in subsections (a) and (b) of this Code section. In the case of persons voting in accordance with subsection (d) of this Code section, the board of registrars or absentee ballot clerk shall furnish accommodations to the elector to ensure the privacy of the elector while voting his or her absentee ballot.

(d)(1) There shall be a period of advance voting that shall commence on the fourth Monday immediately prior to each primary or election and as soon as possible prior to a runoff and shall end on the Friday immediately prior to each primary, election, or runoff. Voting shall be conducted during normal business hours on weekdays during such period and shall be conducted on the second Saturday prior to a primary or election during the hours of 9:00 A.M. through 4:00 P.M.; provided, however, that in primaries and elections in which there are no federal or state candidates on the ballot, no Saturday voting hours shall be required. Except as otherwise provided in this paragraph, counties and municipalities may extend the hours for voting beyond regular business hours and may provide for additional voting locations pursuant to Code Section 21-2-382 to suit the needs of the electors of the jurisdiction at their option.

(2) The registrars or absentee ballot clerk, as appropriate, shall provide reasonable notice to the electors of their jurisdiction of the availability of advance voting as well as the

H. B. 92
times, dates, and locations at which advance voting will be conducted. In addition, the registrars or absentee ballot clerk shall notify the Secretary of State in the manner prescribed by the Secretary of State of the times, dates, and locations at which advance voting will be conducted.

SECTION 4.
Said chapter is further amended by revising Code Section 21-2-385.1, relating to preferential treatment for older and disabled voters, as follows:

"21-2-385.1.
During the period of advance voting established pursuant to subsection (d) of Code Section 21-2-385, each elector who is 75 years of age or older or who is disabled and requires assistance in casting an absentee ballot in person at the registrar's office, absentee ballot clerk's office, or other locations as provided for in Code Section 21-2-382 shall, upon request to a designated office employee or other individual, be authorized to vote immediately at the next available voting compartment or booth without having to wait in line if such location utilizes direct recording electronic voting systems or be authorized to go to the head of any line necessary to cast a written absentee ballot. Notice of the provisions of this Code section shall be prominently displayed in the registrar's office or absentee ballot clerk's office."

SECTION 5.
All laws and parts of laws in conflict with this Act are repealed.

APPROVED
MAY 3 2011
BY GOVERNOR
House Bill 92 (AS PASSED HOUSE AND SENATE)
By: Representatives Hamilton of the 23rd, Meadows of the 5th, England of the 108th, Mosby of the 90th, Heard of the 114th, and others

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and elections generally, so as to provide limitations on when in-person absentee balloting may be conducted; to provide for a period of advance voting; to provide for procedures; to provide for exceptions; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.
Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and elections generally, is amended by revising paragraph (2) of subsection (b) of Code Section 21-2-381, relating to making application for an absentee ballot, as follows:

"(2) If found eligible, the registrar or absentee ballot clerk shall certify by signing in the proper place on the application and shall either then:

(A) Shall mail the ballot as provided in this Code section;

(B) If the application is made in person, shall or issue the ballot to the elector to be voted within the confines of the registrar's or absentee ballot clerk's office if issued during the advance voting period established pursuant to subsection (d) of Code Section 21-2-385; or

(C) May deliver the ballot in person to the elector if such elector is confined to a hospital."

SECTION 2.
Said chapter is further amended by revising subsections (a) and (b) of Code Section 21-2-384, relating to preparation and delivery of absentee ballots and supplies, as follows:

"(a)(1) The superintendent shall, at least 45 days prior to any general primary or general election other than a municipal general primary or general election, as soon as possible prior to a runoff, and at least 21 days prior to any municipal general primary or

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27 general election, prepare, obtain, and deliver an adequate supply of official absentee
28 ballots to the board of registrars or absentee ballot clerk for use in the primary or election.
29 Envelopes and other supplies as required by this article may be ordered by the
30 superintendent, the board of registrars, or the absentee ballot clerk for use in the primary
31 or election.
32 (2) The board of registrars or absentee ballot clerk shall, within two days after the receipt
33 of such ballots and supplies, mail or issue official absentee ballots to all eligible
34 applicants. As additional applicants are determined to be eligible, the board or clerk shall
35 mail or issue official absentee ballots to such additional applicants immediately upon
36 determining their eligibility; provided, however, that no absentee ballot shall be mailed
37 by the registrars or absentee ballot clerk on the day prior to a primary or election and
38 provided, further, that no absentee ballot shall be issued on the day prior to a primary or
39 election. The board of registrars shall, at least 45 days prior to any general primary, or
40 general election other than a municipal general primary or general election, as soon as
41 possible prior to a runoff, and at least 21 days prior to any municipal general primary or
42 general election, mail or electronically transmit official absentee ballots to all electors
43 who are entitled to vote by absentee ballot under the federal Uniformed and Overseas
45 (3) The date a ballot is voted in the registrar's registrars' or absentee ballot clerk's office
46 or the date a ballot is mailed or issued to an elector and the date it is returned shall be
47 entered on the application record therefor.
48 (4) The delivery of an absentee ballot to a person confined in a hospital may be made by
49 the registrar or clerk on the day of a primary or election or during a five-day period
50 immediately preceding the day of such primary or election.
51 (5) In the event an absentee ballot which has been mailed by the board of registrars or
52 absentee ballot clerk is not received by the applicant, the applicant may notify the board
53 of registrars or absentee ballot clerk and sign an affidavit stating that the absentee ballot
54 has not been received. The board of registrars or absentee ballot clerk shall then issue a
55 second absentee ballot to the applicant and cancel the original ballot issued. The affidavit
56 shall be attached to the original application. A second application for an absentee ballot
57 shall not be required.
58 (b) In Except for ballots voted within the confines of the registrar's or absentee ballot
59 clerk's office, in addition to the mailing envelope, the superintendent, board of registrars,
60 or absentee ballot clerk shall provide two envelopes for each official absentee ballot, of
61 such size and shape as shall be determined by the Secretary of State, in order to permit the
62 placing of one within the other and both within the mailing envelope. On the smaller of
63 the two envelopes to be enclosed in the mailing envelope shall be printed the words

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"Official Absentee Ballot" and nothing else. On the back of the larger of the two envelopes
to be enclosed within the mailing envelope shall be printed the form of oath of the elector
and the oath for persons assisting electors, as provided for in Code Section 21-2-409, and
the penalties provided for in Code Sections 21-2-568, 21-2-573, 21-2-579, and 21-2-599
for violations of oaths; and on the face of such envelope shall be printed the name and
address of the board of registrars or absentee ballot clerk. The mailing envelope addressed
to the elector shall contain the two envelopes, the official absentee ballot, and the uniform
instructions for the manner of preparing and returning the ballot, in form and substance as
provided by the Secretary of State and nothing else. The uniform instructions shall include
information specific to the voting system used for absentee voting concerning the effect of
overvoting or voting for more candidates than one is authorized to vote for a particular
office and information concerning how the elector may correct errors in voting the ballot
before it is cast including information on how to obtain a replacement ballot if the elector
is unable to change the ballot or correct the error."

SECTION 3.

Said chapter is further amended by revising subsection (c) of Code Section 21-2-385, relating
to procedure for voting by absentee ballot, and adding a new subsection to read as follows:
"(c) When an elector applies in person for an absentee ballot, after the absentee ballots
have been printed, the absentee ballot may be issued to the elector at the time of the
application therefor within the confines of the registrars' or absentee ballot clerk's office
if such application is made during the advance voting period as provided in subsection (d)
of this Code section or may be mailed to the elector, depending upon the elector's request.
If the ballot is issued to the elector at the time of application, the elector shall then and
there within the confines of the registrar's or absentee ballot clerk's office vote and return
the absentee ballot as provided in subsections (a) and (b) of this Code section. The In the
case of persons voting in accordance with subsection (d) of this Code section, the board of
registrars or absentee ballot clerk shall furnish accommodations to the elector to ensure the
privacy of the elector while voting his or her absentee ballot.

(d)(1) There shall be a period of advance voting that shall commence on the fourth
Monday immediately prior to each primary or election and as soon as possible prior to
a runoff and shall end on the Friday immediately prior to each primary, election, or
runoff. Voting shall be conducted during normal business hours on weekdays during
such period and shall be conducted on the second Saturday prior to a primary or election
during the hours of 9:00 A.M. through 4:00 P.M.; provided, however, that in primaries
and elections in which there are no federal or state candidates on the ballot, no Saturday
voting hours shall be required. Except as otherwise provided in this paragraph, counties:

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and municipalities may extend the hours for voting beyond regular business hours and
may provide for additional voting locations pursuant to Code Section 21-2-382 to suit the
needs of the electors of the jurisdiction at their option.

(2) The registrars or absentee ballot clerk, as appropriate, shall provide reasonable notice
to the electors of their jurisdiction of the availability of advance voting as well as the
times, dates, and locations at which advance voting will be conducted. In addition, the
registrars or absentee ballot clerk shall notify the Secretary of State in the manner
prescribed by the Secretary of State of the times, dates, and locations at which advance
voting will be conducted."

SECTION 4.

Said chapter is further amended by revising Code Section 21-2-385.1, relating to preferential
treatment for older and disabled voters, as follows:

"21-2-385.1.

Each during the period of advance voting established pursuant to subsection (d) of Code
Section 21-2-385, each elector who is 75 years of age or older or who is disabled and
requires assistance in casting an absentee ballot in person at the registrar's office, absentee
ballot clerk's office, or other locations as provided for in Code Section 21-2-382; shall,
upon request to a designated office employee or other individual, be authorized to vote
immediately at the next available voting compartment or booth without having to wait in
line if such location utilizes direct recording electronic voting systems or be authorized to
go to the head of any line necessary to cast a written absentee ballot. Notice of the
provisions of this Code section shall be prominently displayed in the registrar's office or
absentee ballot clerk's office."

SECTION 5.

All laws and parts of laws in conflict with this Act are repealed.
O.C.G.A. § 21-2-381

OFFICIAL CODE OF GEORGIA ANNOTATED
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*** ARCHIVE DATA ***

*** Current Through the 2009 Regular Session ***
*** Annotations Current Through January 29, 2010 ***

TITLE 21. ELECTIONS
CHAPTER 2. ELECTIONS AND PRIMARIES GENERALLY
ARTICLE 10. ABSENTEE VOTING


§ 21-2-381. Making of application for absentee ballot; determination of eligibility by ballot clerk; furnishing of applications to colleges and universities; persons entitled to make application

(a)(1)(A) Except as otherwise provided in Code Section 21-2-219, not more than 180 days prior to the date of the primary or election, or runoff of either, in which the elector desires to vote, any absentee elector may make, either by mail, by facsimile transmission, or in person in the registrar's or absentee ballot clerk's office, an application for an official ballot of the elector's precinct to be voted at such primary, election, or runoff. Persons who are entitled to vote by absentee ballot under the federal Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff, et seq., as amended, may additionally make application for an official ballot by electronic transmission.

(B) In the case of an elector residing temporarily out of the county or municipality or a physically disabled elector residing within the county or municipality, the application for the elector's absentee ballot may, upon satisfactory proof of relationship, be made by such elector's mother, father, grandparent, aunt, uncle, sister, brother, spouse, son, daughter, niece, nephew, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, or sister-in-law of the age of 18 or over.

(C) The application shall be in writing and shall contain sufficient information for proper identification of the elector; the permanent or temporary address of the elector to which the absentee ballot shall be mailed; the identity of the primary, election, or runoff in which the elector wishes to vote; the reason for requesting the absentee ballot, if applicable; and the
name and relationship of the person requesting the ballot if other than the elector.

(D) Except in the case of physically disabled electors residing in the county or municipality, no absentee ballot shall be mailed to an address other than the permanent mailing address of the elector as recorded on the elector’s voter registration record or a temporary out-of-county or out-of-municipality address.

(E) Relatives applying for absentee ballots for electors must also sign an oath stating that facts in the application are true.

(F) If the elector is unable to fill out or sign such elector’s own application because of illiteracy or physical disability, the elector shall make such elector’s mark, and the person filling in the rest of the application shall sign such person’s name below it as a witness.

(G) One timely and proper application for an absentee ballot for use in a primary or election shall be sufficient to require the mailing of the absentee ballot for such primary or election as well as for any runoffs resulting therefrom and for all primaries and elections for federal offices and any runoffs therefrom, including presidential preference primaries, held during the period beginning upon the receipt of such absentee ballot application and extending through the second regularly scheduled general election in which federal candidates are on the ballot occurring thereafter to an eligible absentee elector who lives outside the county or municipality in which the election is held and is also a member of the armed forces of the United States, a member of the merchant marine of the United States, or a spouse or dependent of a member of the armed forces or the merchant marine residing with or accompanying said member or overseas citizen.

(H) Any elector meeting criteria of advanced age or disability specified by rule or regulation of the State Election Board may request in writing on one application a ballot for a primary as well as for any runoffs resulting therefrom and for the election for which such primary shall nominate candidates as well as any runoffs resulting therefrom. If not so requested by such person a separate and distinct application shall be required for each primary, run-off primary, election, and run-off election. Except as otherwise provided in this subparagraph, a separate and distinct application for an absentee ballot shall always be required for the presidential preference primary held pursuant to Article 5 of this chapter and for any special election or special primary.

(2) A properly executed registration card submitted under the provisions of subsection (b) of Code Section 21-2-219, if submitted within 180 days of a primary or election in which the registrant is entitled to vote, shall be considered to be an application for an absentee ballot under this Code section, or for a special absentee ballot under Code Section 21-2-381.1, as appropriate.

(3) All applications for an official absentee ballot that are distributed by a person, entity, or organization shall be distributed to all of the legally acceptable categories of absentee electors contained in Code Section 21-2-380 and shall require the elector to select the category which qualifies the elector to vote by absentee ballot, if applicable. Such applications, if properly completed by the elector or other authorized person and returned to the registrar or absentee ballot clerk, as appropriate, shall be processed by the registrar or absentee ballot clerk and, if the elector is found to be qualified, an absentee ballot shall be mailed or delivered in the office of the registrar or absentee ballot clerk to such elector.

(4) In extraordinary circumstances as described in Code Section 21-2-543.1, the registrar or absentee ballot clerk shall determine if the applicants are eligible to vote under this Code section and shall either mail or issue the absentee ballots for the election for representative in the United States Congress to an individual entitled to make application for absentee ballot under subsection (d) of this Code section the same day any such application is received, so long as the application is received by 3:00 P.M., otherwise no later than the next business day.
following receipt of the application. Any valid absentee ballot shall be accepted and processed so long as the ballot is received by the registrar or absentee ballot clerk not later than 45 days after the ballot is transmitted to the absent uniformed services voter or overseas voter, but in no event later than 11 days following the date of the election.

(b) (1) Upon receipt of a timely application for an absentee ballot, a registrar or absentee ballot clerk shall enter thereon the date received. The registrar or absentee ballot clerk shall determine, in accordance with the provisions of this chapter, if the applicant is eligible to vote in the primary or election involved. In order to be found eligible to vote an absentee ballot by mail, the registrar or absentee ballot clerk shall compare the identifying information on the application with the information on file in the registrar's office and, if the application is signed by the elector, compare the signature or mark of the elector on the application with the signature or mark of the elector on the elector's voter registration card. In order to be found eligible to vote an absentee ballot in person at the registrar's office or absentee ballot clerk's office, such person shall show one of the forms of identification listed in Code Section 21-2-417 and the registrar or absentee ballot clerk shall compare the identifying information on the application with the information on file in the registrar's office.

(2) If found eligible, the registrar or absentee ballot clerk shall certify by signing in the proper place on the application and shall either mail the ballot as provided in this Code section or issue the ballot to the elector to be voted within the confines of the registrar's or absentee ballot clerk's office or deliver the ballot in person to the elector if such elector is confined to a hospital.

(3) If found ineligible, the clerk or the board of registrars shall deny the application by writing the reason for rejection in the proper space on the application and shall promptly notify the applicant in writing of the ground of ineligibility, a copy of which notification should be retained on file in the office of the board of registrars or absentee ballot clerk for at least one year.

(4) If the registrar or clerk is unable to determine the identity of the elector from information given on the application, the registrar or clerk should promptly write to request additional information.

(5) In the case of an unregistered applicant who is eligible to register to vote, the clerk or the board shall immediately mail a blank registration card as provided by Code Section 21-2-223, and such applicant, if otherwise qualified, shall be deemed eligible to vote by absentee ballot in such primary or election, if the registration card, properly completed, is returned to the clerk or the board on or before the last day for registering to vote in such primary or election. If the closing date for registration in the primary or election concerned has not passed, the clerk of registrar shall also mail a ballot to the applicant, as soon as it is prepared and available; and the ballot shall be cast in such primary or election if returned to the clerk or board not later than the close of the polls on the day of the primary or election concerned.

(c) In those counties or municipalities in which the absentee ballot clerk or board of registrars provides application forms for absentee ballots, the clerk or board shall provide such quantity of the application form to the dean of each college or university located in that county as said dean determines necessary for the students of such college or university.

(d)(1) A citizen of the United States permanently residing outside the United States is entitled to make application for an absentee ballot from Georgia and to vote by absentee ballot in any election for presidential electors and United States senator or representative in Congress:

(A) If such citizen was last domiciled in Georgia immediately before his or her departure from the United States; and

(B) If such citizen could have met all qualifications, except any qualification relating to minimum voting age, to vote in federal elections even though, while residing outside the United States, he or she does not have a place of abode or other address in Georgia.
(2) An individual is entitled to make application for an absentee ballot under paragraph (1) of this subsection even if such individual's intent to return to Georgia may be uncertain, as long as:

(A) He or she has complied with all applicable Georgia qualifications and requirements which are consistent with 42 U.S.C. Section 1973ff concerning absentee registration for and voting by absentee ballots;

(B) He or she does not maintain a domicile, is not registered to vote, and is not voting in any other state or election district of a state or territory or in any territory or possession of the United States; and

(C) He or she has a valid passport or card of identity and registration issued under the authority of the Secretary of State of the United States or, in lieu thereof, an alternative form of identification consistent with 42 U.S.C. Section 1973ff and applicable state requirements, if a citizen does not possess a valid passport or card of identity and registration.

(e) The State Election Board is authorized to promulgate reasonable rules and regulations for the implementation of paragraph (1) of subsection (a) of this Code section. Said rules and regulations may include provisions for the limitation of opportunities for fraudulent application, including, but not limited to, comparison of voter registration records with death certificates.


NOTES: THE 2006 AMENDMENT, effective April 14, 2006, part of an Act to revise, modernize, and correct the Code, substituted "provided in this subparagraph" for "provided in this paragraph" in the last sentence of subparagraph (a)(1)(H).

THE 2008 AMENDMENTS. --The first 2008 amendment, effective May 12, 2008, in subparagraph (a)(1)(A), added the last sentence; and, in paragraph (b)(1), inserted "for an absentee ballot" near the beginning, substituted ". The registrar or absentee ballot clerk" for "and", inserted ", in accordance with the provisions of this chapter,"; added the third sentence, and added "and the registrar or absentee ballot clerk shall compare the identifying information on the application with the information on file in the registrar's office" at the end. The second 2008 amendment, effective July 1, 2008, added paragraph (a)(4).

THE 2009 AMENDMENT, effective April 21, 2009, part of an Act to revise, modernize, and correct this title, revised language in the last sentence of paragraph (a)(4).

EDITOR'S NOTES. --Ga. L. 1994, p. 1443, § 28, not codified by the General Assembly, provides: "This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval [April 15, 1994] for the purpose of authorizing the Secretary of State to design and distribute such forms and materials and to develop, procure, and install such computer hardware and software as are required under the provisions of this
Act and to exercise such administrative authority as such officer deems necessary and proper for the implementation of this Act. For all other purposes, this Act shall become effective January 1, 1995."


LexisNexis 50 State Surveys, Legislation & Regulations

Ballot Counting

OPINIONS OF THE ATTORNEY GENERAL

GEORGIA RESIDENT WHO MOVES WITHIN 30 DAYS OF ELECTION ELIGIBLE TO VOTE ABSENTEE. --A citizen of Georgia who moves to another state, beginning residence therein after the thirtieth day next preceding the election for President and Vice-President, should be permitted to register to vote for such officers up to 14 days prior to the election, and to vote, either in person, or by absentee ballot, assuming the person satisfied the requirements for absentee voting. 1972 Op. Att'y Gen. No. U72-51.

COUNTY BOARD OF REGISTRARS MAY REQUIRE ADDITIONAL INFORMATION. --Former Code 1933, § 34-1402 (see O.C.G.A. § 21-2-381) requires an application for an absentee voter's ballot to contain certain information, but also allows a county board of registrars to require additional information. 1970 Op. Att'y Gen. No. U70-169.

ABSENTEE ELECTOR WHO IS WITHIN THE STATE MUST APPLY FOR THE ELECTOR'S OWN BALLOT, although the elector may do so by mail as well as in person. 1974 Op. Att'y Gen. No. 74-54.

NUMBER OF APPLICATIONS OBTAINABLE. --It is permissible for an individual to obtain numerous absentee ballot applications from the county registrar, but the county registrar may limit the number of applications to prevent waste and for other similar considerations. 1984 Op. Att'y Gen. No. 84-73.

ONE APPLYING FOR BALLOT MUST BEAR PROPER RELATIONSHIP TO ABSENTEE ELECTOR. --The board of registrars may and should refuse to issue a ballot for an absentee elector when the application is made by anyone not bearing the proper relationship to the elector. 1968 Op. Att'y Gen. No. 68-85.


DELIVERY OF BALLOTS TO HOSPITALIZED INDIVIDUALS. --Registrars may deliver absentee ballots to individuals hospitalized on the date of a primary or election or at times prior to the primary or election. 1990 Op. Att'y Gen. No. 90-30.

REQUEST FOR ALL INFORMATION SOUGHT BY REGISTRATION PROVISIONS. --Where there is an absence of information on a registration card, and a consequent lack of correspondence between that source of information and the information provided on the completed absentee ballot application, the registrar may properly request the absentee ballot applicants to furnish all the information which is sought by former Code 1933 §§ 34-614 and 34A-509 (see O.C.G.A. § 21-2-217) in the event the applicant does not furnish the requested information, the applicant's application may be rejected. 1976 Op. Att'y Gen. No. 76-2.
INCOMPLETE REGISTRATION CARD MAY MAKE APPLICANT INELIGIBLE TO VOTE. --If upon examination of an application for absentee ballot, the appropriate officer ascertains that the supporting registration card is incomplete by reason of the absence of the required signature, the officer should determine the applicant to be ineligible and proceed accordingly. 1976 Op. Att’y Gen. No. 76-2.

Where the appropriate officer, upon examination of the registration card supporting an application for absentee ballot, found the registration complete as to signature but incomplete as to other information required by the statutory form, and where by executing the oath prescribed by the registration card the applicant furnished information, albeit incomplete, as to both the applicant’s identity and the applicant’s qualifications to vote, a summary finding under former Code 1933, § 34-1402(b) (see O.C.G.A. § 21-2-381(b)) that the applicant for an absentee ballot was ineligible to vote was precluded. 1976 Op. Att’y Gen. No. 76-2.

RESEARCH REFERENCES


C.J.S. --29 C.J.S., Elections, § 330 et seq.

ALR. --Voting by persons in the military service, 140 ALR 1100; 147 ALR 1443; 148 ALR 1402; 149 ALR 1466; 150 ALR 1460; 151 ALR 1464; 152 ALR 1459; 153 ALR 1434; 154 ALR 1459; 155 ALR 1459.

State voting rights of residents of federal military establishment, 34 ALR2d 1193.

Title Note
Chapter Note
Article Note

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August 24, 2009

Dennis R. Dunn, Esq.
Deputy Attorney General
40 Capitol Square, S.W.
Atlanta, Georgia 30334-1300

Dear Mr. Dunn:

This refers to Act No. 453 (S.B. 456) (2008) and Act No. 14 (S.B. 47) (2009), which amend numerous sections of Title 21 of the Official Code of Georgia Annotated, including both the Georgia Elections Code and Georgia Ethics in Government Act, to make non-substantive changes, for the State of Georgia, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c. We received your submission on July 8, 2009.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. In addition, as authorized by Section 5, we reserve the right to reexamine this submission if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 C.F.R. 51.41 and 51.43.

Sincerely,

Christopher Coates
Chief, Voting Section
§ 21-2-384. Preparation and delivery of supplies; mailing of ballots; oath of absentee electors and persons assisting absentee electors; master list of ballots sent; challenges

(a)(1) The superintendent must, at least 45 days prior to any general primary or general election other than a municipal general primary or general election, and at least 21 days prior to any municipal general primary or general election, prepare, obtain, and deliver an adequate supply of official absentee ballots to the board of registrars or absentee ballot clerk for use in the primary or election. Envelopes and other supplies as required by this article may be ordered by the superintendent, the board of registrars, or the absentee ballot clerk for use in the primary or election.

(2) The board of registrars or absentee ballot clerk shall, within two days after the receipt of such ballots and supplies, mail or issue official absentee ballots to all eligible applicants. As additional applicants are determined to be eligible, the board or clerk shall mail or issue official absentee ballots to such additional applicants immediately upon determining their eligibility; provided, however, that no absentee ballot shall be mailed by the registrars or absentee ballot clerk on the day prior to a primary or election and provided, further, that no absentee ballot shall be issued on the day prior to a primary or election.

(3) The date a ballot is voted in the registrars' or absentee ballot clerk's office or the date a ballot is mailed to an elector and the date it is returned shall be entered on the application record therefor.

(4) The delivery of an absentee ballot to a person confined in a hospital may be made by the
(5) In the event an absentee ballot which has been mailed by the board of registrars or absentee ballot clerk is not received by the applicant, the applicant may notify the board of registrars or absentee ballot clerk and sign an affidavit stating that the absentee ballot has not been received. The board of registrars or absentee ballot clerk shall then issue a second absentee ballot to the applicant and cancel the original ballot issued. The affidavit shall be attached to the original application. A second application for an absentee ballot shall not be required.

(b) In addition to the mailing envelope, the superintendent, board of registrars, or absentee ballot clerk shall provide two envelopes for each official absentee ballot, of such size and shape as shall be determined by the Secretary of State, in order to permit the placing of one within the other and both within the mailing envelope. On the smaller of the two envelopes to be enclosed in the mailing envelope shall be printed the words "Official Absentee Ballot" and nothing else. On the back of the larger of the two envelopes to be enclosed within the mailing envelope shall be printed the form of oath of the elector and the oath for persons assisting electors, as provided for in Code Section 21-2-409, and the penalties provided for in Code Sections 21-2-568, 21-2-573, 21-2-579, and 21-2-599 for violations of oaths; and on the face of such envelope shall be printed the name and address of the board of registrars or absentee ballot clerk. The mailing envelope addressed to the elector shall contain the two envelopes, the official absentee ballot, and the uniform instructions for the manner of preparing and returning the ballot, in form and substance as provided by the Secretary of State and nothing else. The uniform instructions shall include information specific to the voting system used for absentee voting concerning the effect of overvoting or voting for more candidates than one is authorized to vote for a particular office and information concerning how the elector may correct errors in voting the ballot before it is cast including information on how to obtain a replacement ballot if the elector is unable to change the ballot or correct the error.

(c)(1) The oaths referred to in subsection (b) of this Code section shall be in substantially the following form:

I, the undersigned, do swear (or affirm) that I am a citizen of the United States and of the State of Georgia; that my residence address is \[Elector's Residence\] County, Georgia; that I possess the qualifications of an elector required by the laws of the State of Georgia; that I am entitled to vote in the precinct containing my residence in the primary or election in which this ballot is to be cast; that I am eligible to vote by absentee ballot; that I have not marked or mailed any other absentee ballot, nor will I mark or mail another absentee ballot for voting in such primary or election; nor shall I vote therein in person; and that I have read and understand the instructions accompanying this ballot; and that I have carefully complied with such instructions in completing this ballot. I understand that the offer or acceptance of money or any other object of value to vote for any particular candidate, list of candidates, issue, or list of issues included in this election constitutes an act of voter fraud and is a felony under Georgia law.

Elector's Residence

Address

Month and Day of

Elector's Birth
Signature or Mark of Elector

Oath of Person Assisting Elector (If any):

I, the undersigned, do swear (or affirm) that I assisted the above-named elector in marking such elector's absentee ballot as such elector personally communicated such elector's preference to me; and that such elector is entitled to receive assistance in voting under provisions of subsection (a) of Code Section 21-2-409.

This, the day of ,

Signature of Person Assisting

Elector -- Relationship

Reason for assistance (Check appropriate square):

[ ] Elector is unable to read the English language.
[ ] Elector requires assistance due to physical disability.

The forms upon which such oaths are printed shall contain the following information:

Georgia law provides, in subsection (b) of Code Section 21-2-409, that no person shall assist more than ten electors in any primary, election, or runoff in which there is no federal candidate on the ballot.

Georgia law further provides that any person who knowingly falsifies information so as to vote illegally by absentee ballot or who illegally gives or receives assistance in voting, as specified in Code Section 21-2-568 or 21-2-573, shall be guilty of a felony.

(2) In the case of absent uniformed services or overseas voters, if the presidential designee under Section 705(b) of the federal Help America Vote Act promulgates a standard oath for use by such voters, the Secretary of State shall be required to use such oath on absentee ballot materials for such voters and such oath shall be accepted in lieu of the oath set forth in paragraph (1) of this subsection.

(d) Each board of registrars or absentee ballot clerk shall maintain for public inspection a master list, arranged by precincts, setting forth the name and residence of every elector to whom an official absentee ballot has been sent. Absentee electors whose names appear on the master list may be challenged by any elector prior to 5:00 P.M. on the day before the primary or election.


NOTES: THE 2006 AMENDMENT, effective January 1, 2007, in the form contained in subsection (c)(1), deleted "that I am satisfied that such elector presently possesses the disability noted below" and deleted "by reason of such disability" near the middle of the paragraph following "Oath of Person Assisting Elector (if any)", and substituted "requires assistance due to physical disability" for "has following physical disability" in the second line following "Reason for assistance (Check appropriate square)"); and in the next-to-last paragraph of subsection (c)(1), substituted "primary, election or runoff in which there is no federal candidate on the ballot" for "primary or election".

THE 2008 AMENDMENT, effective May 6, 2008, part of an Act to revise, modernize, and correct this title, revised punctuation in the form in paragraph (c)(1).


**LexisNexis 50 State Surveys, Legislation & Regulations**

**Ballot Counting**

**JUDICIAL DECISIONS**


**OPINIONS OF THE ATTORNEY GENERAL**

DELEGATION OF RESPONSIBILITIES BY BOARD OF REGISTRARS PERMISSIBLE. --Read together, former Code 1933, §§ 34-604 and 34-1405 (see O.C.G.A. §§ 21-2-212 and 21-2-384) allow the conclusion that boards of registrars have authority to delegate to deputy registrars any tasks for which they are responsible under the Georgia Election Code. 1981 Op. Att'y Gen. No. 81-70.

WHEN VOTING IS COMPLETE. --Absentee elector has voted when the elector returns the ballot to the registrar with complete identifying information required by former Code 1933, § 44-1404 (see O.C.G.A. § 21-2-384) so that the elector's name is placed upon the list of certified absentee electors as required by former Code 1933, § 34-1407 (see O.C.G.A. § 21-2-386). 1974 Op. Att'y Gen. No. 74-133.

PUBLIC RIGHT TO COPY LIST OF ABSENTEE NAMES. --The right given to the public by the Election Code includes the right to copy the list of absentee names while in the proper official's office. 1968 Op. Att'y Gen. No. 68-450.

INSPECTION OF RETURNED ABSENTEE BALLOTS PRIOR TO POLLS CLOSING NOT REQUIRED. --Boards of registrars are not required to make returned absentee ballots subject to inspection prior to the closing of the polls. 1990 Op. Att'y Gen. No. 90-31.

DELIVERY OF BALLOTS TO HOSPITALIZED INDIVIDUALS. --Registrars may deliver absentee ballots to individuals hospitalized on the date of a primary or election or at times prior to the primary or election. 1990 Op. Att'y Gen. No. 90-30.

**RESEARCH REFERENCES**


C.J.S. --29 C.J.S., Elections, § 330 et seq.

Title Note
Chapter Note
Article Note

Source: Legal /.../ > GA - Official Code of Georgia Annotated, 2009
O.C.G.A. § 21-2-385

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*** ARCHIVE DATA ***

*** Current Through the 2009 Regular Session ***
*** Annotations Current Through January 29, 2010 ***

TITLE 21. ELECTIONS
CHAPTER 2. ELECTIONS AND PRIMARIES GENERALLY
ARTICLE 10. ABSENTEE VOTING


§ 21-2-385. Procedure for voting by absentee ballot

(a) At any time after receiving an official absentee ballot, but before the day of the primary or election, except electors who are confined to a hospital on the day of the primary or election, the elector shall vote his or her absentee ballot, then fold the ballot and enclose and securely seal the same in the envelope on which is printed "Official Absentee Ballot." This envelope shall then be placed in the second one, on which is printed the form of the oath of the elector, the name, relationship, and oath of the person assisting, if any, and other required identifying information. The elector shall then fill out, subscribe, and swear to the oath printed on such envelope. Such envelope shall then be securely sealed and the elector shall then mail or personally deliver same to the board of registrars or absentee ballot clerk, provided that delivery by a physically disabled elector may be made by any adult person upon satisfactory proof that such adult person is such elector's mother, father, grandparent, aunt, uncle, brother, sister, spouse, son, daughter, niece, nephew, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, sister-in-law, or an individual residing in the household of such disabled elector. An elector who is confined to a hospital on a primary or election day to whom an absentee ballot is delivered by the registrar or absentee ballot clerk shall then and there vote the ballot, seal it properly, and return it to the registrar or absentee ballot clerk. If the elector registered to vote for the first time in this state by mail and has not previously provided the identification required by Code Section 21-2-220 and votes for the first time by absentee ballot and fails to provide the identification required by Code Section 21-2-220 with such absentee ballot, such absentee ballot shall be treated as a provisional ballot and shall be counted only if the registrars are able to verify the identification and registration of the elector during the time provided pursuant to Code Section 21-2-419.
(b) A physically disabled or illiterate elector may receive assistance in preparing his or her ballot from one of the following: any elector who is qualified to vote in the same county or municipality as the disabled or illiterate elector; an attendant care provider or a person providing attendant care; or the mother, father, grandparent, aunt, uncle, brother, sister, spouse, son, daughter, niece, nephew, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, or sister-in-law of the disabled or illiterate elector. The person rendering assistance to the elector in preparing the ballot shall sign the oath printed on the same envelope as the oath to be signed by the elector. If the disabled or illiterate elector is sojourning outside his or her own county or municipality, a notary public of the jurisdiction may give such assistance and shall sign the oath printed on the same envelope as the oath to be signed by the elector. No person shall assist more than ten such electors in any primary, election, or runoff in which there is no federal candidate on the ballot. Any person who willfully violates this subsection shall be guilty of a felony and, upon conviction thereof, shall be sentenced to imprisonment for not less than one nor more than ten years or to pay a fine not to exceed $100,000.00, or both, for each such violation.

(c) When an elector applies in person for an absentee ballot, after the absentee ballots have been printed, the absentee ballot shall be issued to the elector at the time of the application therefor within the confines of the registrar's or absentee ballot clerk's office; and the elector shall then and there vote and return the absentee ballot as provided in subsections (a) and (b) of this Code section. The board of registrars or absentee ballot clerk shall furnish accommodations to the elector to ensure the privacy of the elector while voting his or her absentee ballot.


NOTES: THE 2006 AMENDMENT, effective January 1, 2007, in subsection (b), inserted "; an attendant care provider or a person providing attendant care;" near the beginning, and added "in which there is no federal candidate on the ballot" at the end.

THE 2007 AMENDMENT, effective July 1, 2007, added the last sentence in subsection (b).

LAW REVIEWS. --For survey article on local government law, see 60 Mercer L. Rev. 263 (2008).

LexisNexis 50 State Surveys, Legislation & Regulations

Ballot Counting

JUDICIAL DECISIONS

EDITOR'S NOTES. --In light of the similarity of the provisions, decisions under Code 1933, § 34A-1006 and former Code Section 21-3-188 are included in the annotations for this Code section.

VOTER MUST REMOVE STUBS BEFORE MAILING. --Unless stubs on ballots are removed by voter a prior to being mailed, ballots are void. Nobles v. Osborne, 124 Ga. App. 454, 184 S.E.2d 207

http://www.lexis.com/research/retrieve?cc=&pushme=1&tmpFBSet=all&totaldocs=&tagge... 6/1/2011

WHO MAY MAIL BALLOTS FOR A VOTER. --In an election contest, the election winner was not entitled to attorney fees under O.C.G.A. § 9-15-14(a). Given the language of O.C.G.A. § 21-2-385(a) as to who could mail ballots for a voter, the complaint could not be described as lacking any justiciable issue of law or fact, and a sufficient number of ballots could have been found invalid so as to change the election result. Kendall v. Delaney, 283 Ga. 34, 656 S.E.2d 812 (2008).

OPINIONS OF THE ATTORNEY GENERAL

RESTRICTIONS UNENFORCEABLE IN PRESIDENTIAL PREFERENCE PRIMARY. --The restrictions contained in O.C.G.A. § 21-2-409, limiting the class of persons permitted to assist disabled or illiterate electors at the polls, and the restrictions contained in O.C.G.A. § 21-2-385, limiting the class of persons permitted to assist disabled or illiterate electors voting by absentee ballot, cannot be enforced in the presidential preference primary nor can the limitations contained in these Code sections concerning the number of persons one individual may assist be enforced. 1984 Op. Att'y Gen. No. 84-15.

DELIVERY OF BALLOTS TO HOSPITALIZED INDIVIDUALS. --Registrars may deliver absentee ballots to individuals hospitalized on the date of a primary or election or at times prior to the primary or election. 1990 Op. Att'y Gen. No. 90-30.

RESEARCH REFERENCES

C.J.S. --29 C.J.S., Elections, § 330 et seq.
Title Note
Chapter Note
Article Note

Source: Legal > / . . / > GA - Official Code of Georgia Annotated, 2009 [x]
Terms: 21-2-385 (Edit Search | Suggest Terms for My Search)
View: Full
Date/Time: Wednesday, June 1, 2011 - 3:33 PM EDT
August 15, 2007

Mr. Dennis R. Dunn
Deputy Attorney General
40 Capitol Square, S.W.
Atlanta, Georgia 30334-1300

Re: Georgia Sec. 5 Submission 2007-06

Dear Mr. Dunn:


The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.41).

Sincerely,

John Tanner
Chief, Voting Section
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*** ARCHIVE DATA ***

*** Current Through the 2009 Regular Session ***
*** Annotations Current Through January 29, 2010 ***

TITLE 21. ELECTIONS
CHAPTER 2. ELECTIONS AND PRIMARIES GENERALLY
ARTICLE 10. ABSENTEE VOTING


§ 21-2-385.1. Preferential treatment for older and disabled voters

Each elector who is 75 years of age or older or who is disabled and requires assistance in casting an absentee ballot in person at the registrar’s office, absentee ballot clerk’s office, or other locations as provided for in Code Section 21-2-382, shall, upon request to a designated office employee or other individual, be authorized to vote immediately at the next available voting compartment or booth without having to wait in line if such location utilizes direct recording electronic voting systems or be authorized to go to the head of any line necessary to cast a written absentee ballot. Notice of the provisions of this Code section shall be prominently displayed in the registrar’s office or absentee ballot clerk’s office.


NOTES: EFFECTIVE DATE. --This Code section became effective July 1, 2008.
Title Note
Chapter Note
Article Note

LexisNexis 50 State Surveys, Legislation & Regulations

Ballot Counting

Source: Legal > / ... / > GA - Official Code of Georgia Annotated, 2009
Terms: 21-2-385.1 (Edit Search | Suggest Terms for My Search)
July 28, 2008

Dennis R. Dunn, Esq.
Deputy Attorney General
40 Capitol Square, S.W.
Atlanta, Georgia 30334-1300

Dear Mr. Dunn:

This refers to Act No. 788 (H.B. 993) (2008), which establishes procedures for elderly and disabled voters casting absentee ballots in-person to bypass lines in certain circumstances, for the State of Georgia, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on May 30, 2008.

The Attorney General does not interpose any objection to the specified change. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the change. Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.41).

Sincerely,

[Signature]
Christopher Coates
Chief, Voting Section
Attached is a statement from the ACLU in opposition to Georgia House Bill 92.

Representative Tyrone Brooks opposed the bill and his office number is: 404.656.6372.

The Coalition for the People’s Agenda also spoke out in opposition to the bill and the Executive Director, Helen Butler, can be reached at 404-314-8982.

Thank you.

Nancy G. Abudu  
Senior Staff Counsel  
ACLU Southern Regional Office  
Voting Rights Project  
230 Peachtree Street  
Atlanta, Georgia 30303-1227  
Tel: 404-523-2721  
Fax: 404-653-0331

This message may contain information that is confidential or legally privileged. If you are not the intended recipient, please immediately advise the sender by reply e-mail that this message has been inadvertently transmitted to you and delete this e-mail from your system.
STATEMENT OF THE ACLU VOTING RIGHTS PROJECT AND THE ACLU OF GEORGIA IN OPPOSITION TO HOUSE BILL 92

The ACLU Voting Rights Project and the ACLU of Georgia wish to express our opposition to House Bill 92, and we urge you to vote against the bill.

House Bill 92 proposes to amend O.C.G.A. § 21-2-385 of the election code by limiting the advance voting period for general elections from the current 45 days to only 21 days. Advance voting in Georgia has been in effect for less than four years, and the state became one of the leaders in the nation when it enacted the law. One of the primary objectives of the law is to increase voter participation by increasing the range of times and locations for casting a ballot. The list of advantages also includes:

- Relieving congestion at polling stations on election day
- Making voting easier by reducing the ratio of poll workers to voters
- Ensuring greater accuracy in the counting of ballots because voting machines are less impacted on any given day
- Providing voters and election administrators more time to address any registration or other voting-related issues prior to election day

The proposed reduction of the advance voting period would undermine all of these benefits that voters and election officials have enjoyed by condensing the period to only 21 days. The proponents of the bill have not offered any significant justifications for the proposed change, nor have they explained how these goals can still be adequately met within this much shorter time period. Therefore, we urge you to vote against House Bill 92.

Contact persons:

Nancy Abudu
Senior Staff Counsel
ACLU Voting Rights Project
(404) 523-2721
nabudu@aclu.org

Chara Fisher Jackson
Legal Director
ACLU of Georgia
(770) 303-8111
cjackson@aclu.org
From: Victor
To: Mark Hamilton
Subject: FW: Early Voting Numbers
Date: Monday, July 18, 2011 6:13:25 PM
Attachments: EV analysis (2008 and 2010).pdf
image001.jpg

Victor,

I am forwarding the file that had been supplied to me with the 2008 & 2010 General election numbers. It reveals where the 77% and 83% comparison numbers came from during the last 3 weeks of voting. I will call you tomorrow to ensure you received this communication and see what else I may be able to do to assist you. Thanks,

Mark Hamilton
State Representative (R)
Georgia House District 23
Phone 770-844-6768 X103
FAX 770-844-6232
Mark@VoteHamilton.com
www.VoteHamilton.com

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From: Russo, Vincent [mailto:vrusso@sos.ga.gov]
Sent: Monday, July 18, 2011 2:51 PM
To: mark@votehamilton.com
Subject: Early Voting Numbers

Representative Hamilton,

Attached is the early voting breakdown that our legislative affairs compiled. The information was captured on a day-by-day basis during the referenced elections, and it is based on figures reported by the counties during early voting in those elections. Please let me know if you have any questions about the attachment or if we can be of any further assistance.

Best regards,

Vincent R. Russo, Esq.
General Counsel
Office of Secretary of State Brian P. Kemp
214 State Capitol
Atlanta, Georgia 30334
P: (404) 656-2881
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**2008 General Election Early Voting Statistics**
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<td>3.27%</td>
<td>3.13%</td>
<td>3.59%</td>
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<td>4.76%</td>
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<tr>
<td>4</td>
<td>5.91%</td>
<td>9.02%</td>
<td>5.86%</td>
<td>6.84%</td>
<td>12.50%</td>
<td>6.25%</td>
<td>6.40%</td>
<td>8.01%</td>
</tr>
<tr>
<td>3</td>
<td>8.55%</td>
<td>10.88%</td>
<td>8.12%</td>
<td>8.84%</td>
<td>9.38%</td>
<td>8.56%</td>
<td>7.99%</td>
<td>10.11%</td>
</tr>
<tr>
<td>2</td>
<td>17.97%</td>
<td>17.58%</td>
<td>16.70%</td>
<td>14.80%</td>
<td>15.63%</td>
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<td>15.88%</td>
<td>17.67%</td>
</tr>
<tr>
<td>1</td>
<td>60.65%</td>
<td>53.01%</td>
<td>62.79%</td>
<td>64.09%</td>
<td>56.25%</td>
<td>61.32%</td>
<td>62.95%</td>
<td>55.58%</td>
</tr>
</tbody>
</table>
Victor,

I neglected to add the above reference in the Subject Line. Thanks,

Mark Hamilton
State Representative (R)
Georgia House District 23
Phone 770-844-6768 X103
FAX 770-844-6232
Mark@VoteHamilton.com
www.VoteHamilton.com

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Victor,

I am forwarding the file that had been supplied to me with the 2008 & 2010 General election numbers. It reveals where the 77% and 83% comparison numbers came from during the last 3 weeks of voting. I will call you tomorrow to ensure you received this communication and see what else I may be able to do to assist you. Thanks,

Mark Hamilton
State Representative (R)
Georgia House District 23
Phone 770-844-6768 X103
FAX 770-844-6232
Mark@VoteHamilton.com
www.VoteHamilton.com

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prohibited from disseminating, distributing, or copying the information contained in this message. If you have received this message in error, please notify the sender immediately and destroy all copies of the original message.

From: Russo, Vincent [mailto:vrusso@sos.ga.gov]
Sent: Monday, July 18, 2011 2:51 PM
To: mark@votehamilton.com
Subject: Early Voting Numbers

Representative Hamilton,

Attached is the early voting breakdown that our legislative affairs compiled. The information was captured on a day-by-day basis during the referenced elections, and it is based on figures reported by the counties during early voting in those elections. Please let me know if you have any questions about the attachment or if we can be of any further assistance.

Best regards,

Vincent R. Russo, Esq.
General Counsel
Office of Secretary of State Brian P. Kemp
214 State Capitol
Atlanta, Georgia 30334
P: (404) 656-2881
F: (404) 656-0513
<table>
<thead>
<tr>
<th>Week</th>
<th>Black</th>
<th>White</th>
<th>Asian</th>
<th>Hispanic</th>
<th>Nat Am</th>
<th>Unknown</th>
<th>Other</th>
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<td>668</td>
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<td>13</td>
<td>3,901</td>
<td>525</td>
<td>85,631</td>
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</table>

| Share | 96.3% | 57.1% | 0.6% | 0.8% | 0.0% | 4.5% | 0.7% | 100.0% |

<table>
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<tr>
<th>Week</th>
<th>Proportion voting</th>
<th>0.06%</th>
<th>0.14%</th>
<th>0.14%</th>
<th>0.16%</th>
<th>0.32%</th>
<th>0.09%</th>
<th>0.12%</th>
<th>0.11%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>48.09%</td>
<td>49.19%</td>
<td>65.66%</td>
<td>62.56%</td>
<td>52.72%</td>
<td>53.02%</td>
<td>58.96%</td>
<td>49.23%</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>17.37%</td>
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<td>14.66%</td>
<td>17.57%</td>
<td>16.42%</td>
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<td>9.74%</td>
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<td>4.87%</td>
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<td>6.70%</td>
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<tr>
<td>7</td>
<td>21.6%</td>
<td>72.1%</td>
<td>0.7%</td>
<td>1.1%</td>
<td>0.1%</td>
<td>3.6%</td>
<td>0.8%</td>
<td>100.0%</td>
<td></td>
</tr>
</tbody>
</table>

| Share | 56.3% | 68.7% | 0.6% | 0.8% | 0.0% | 4.5% | 0.7% | 100.0% |

<table>
<thead>
<tr>
<th>Week</th>
<th>Share of vote by week</th>
<th>21.6%</th>
<th>72.1%</th>
<th>0.7%</th>
<th>1.1%</th>
<th>0.1%</th>
<th>3.6%</th>
<th>0.8%</th>
<th>100.0%</th>
</tr>
</thead>
<tbody>
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<td>35.4%</td>
<td>57.1%</td>
<td>0.8%</td>
<td>1.0%</td>
<td>0.0%</td>
<td>4.9%</td>
<td>0.9%</td>
<td>100.0%</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>35.2%</td>
<td>59.0%</td>
<td>0.4%</td>
<td>0.6%</td>
<td>0.0%</td>
<td>4.2%</td>
<td>0.6%</td>
<td>100.0%</td>
<td></td>
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<tr>
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<td>57.7%</td>
<td>0.4%</td>
<td>0.6%</td>
<td>0.0%</td>
<td>4.1%</td>
<td>0.6%</td>
<td>100.0%</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>40.1%</td>
<td>54.4%</td>
<td>0.3%</td>
<td>0.5%</td>
<td>0.0%</td>
<td>4.1%</td>
<td>0.6%</td>
<td>100.0%</td>
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</tr>
<tr>
<td>5</td>
<td>39.4%</td>
<td>55.3%</td>
<td>0.3%</td>
<td>0.4%</td>
<td>0.0%</td>
<td>4.1%</td>
<td>0.6%</td>
<td>100.0%</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>21.6%</td>
<td>72.1%</td>
<td>0.7%</td>
<td>1.1%</td>
<td>0.1%</td>
<td>3.6%</td>
<td>0.8%</td>
<td>100.0%</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>48.09%</td>
<td>49.19%</td>
<td>65.66%</td>
<td>62.56%</td>
<td>52.72%</td>
<td>53.02%</td>
<td>58.96%</td>
<td>49.23%</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Week</th>
<th>Total EV</th>
<th>646,400</th>
<th>1,018,124</th>
<th>10,106</th>
<th>13,709</th>
<th>313</th>
<th>80,368</th>
<th>13,020</th>
<th>1,782,040</th>
</tr>
</thead>
<tbody>
<tr>
<td>Share</td>
<td>96.3%</td>
<td>57.1%</td>
<td>0.6%</td>
<td>0.8%</td>
<td>0.0%</td>
<td>4.5%</td>
<td>0.7%</td>
<td>100.0%</td>
<td></td>
</tr>
</tbody>
</table>
### 2010 General Election Early Voting Statistics

<table>
<thead>
<tr>
<th>EV by week &amp; race</th>
<th>Black</th>
<th>White</th>
<th>Asian</th>
<th>Hispanic</th>
<th>Nat Am</th>
<th>Unknown</th>
<th>Other</th>
<th>Subtotal</th>
</tr>
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<td>123</td>
<td>839</td>
<td>5</td>
<td>4</td>
<td>-</td>
<td>28</td>
<td>5</td>
<td>1,004</td>
</tr>
<tr>
<td>5</td>
<td>8,410</td>
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<tr>
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<tr>
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<td>265</td>
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<td>1,781</td>
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<td>54</td>
<td>12,763</td>
<td>2,331</td>
<td>435,176</td>
</tr>
</tbody>
</table>

| Total EV          | 227,349| 525,051| 3,018 | 2,999    | 96     | 20,814  | 3,703 | 783,030  |
| Share             | 29.0%  | 67.1%  | 0.4%  | 0.4%     | 0.0%   | 2.7%    | 0.5%  | 100.0%   |

<table>
<thead>
<tr>
<th>Share of vote by week</th>
<th>12.3%</th>
<th>83.6%</th>
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<th>0.4%</th>
<th>0.0%</th>
<th>2.8%</th>
<th>0.5%</th>
<th>100.0%</th>
</tr>
</thead>
<tbody>
<tr>
<td>6</td>
<td>24.6%</td>
<td>72.8%</td>
<td>0.3%</td>
<td>0.2%</td>
<td>0.0%</td>
<td>1.8%</td>
<td>0.4%</td>
<td>100.0%</td>
</tr>
<tr>
<td>5</td>
<td>22.6%</td>
<td>74.5%</td>
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<td>0.3%</td>
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<td>2.0%</td>
<td>0.4%</td>
<td>100.0%</td>
</tr>
<tr>
<td>4</td>
<td>21.4%</td>
<td>75.5%</td>
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<td>0.3%</td>
<td>0.0%</td>
<td>2.1%</td>
<td>0.4%</td>
<td>100.0%</td>
</tr>
<tr>
<td>3</td>
<td>24.6%</td>
<td>72.2%</td>
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<td>0.3%</td>
<td>0.0%</td>
<td>2.2%</td>
<td>0.4%</td>
<td>100.0%</td>
</tr>
<tr>
<td>2</td>
<td>29.5%</td>
<td>66.7%</td>
<td>0.3%</td>
<td>0.3%</td>
<td>0.0%</td>
<td>2.7%</td>
<td>0.4%</td>
<td>100.0%</td>
</tr>
<tr>
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<td>31.7%</td>
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<td>0.4%</td>
<td>0.0%</td>
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<td>0.5%</td>
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</table>

### Proportion Voting

<table>
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<th>0.17%</th>
<th>0.13%</th>
<th>0.00%</th>
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<th>0.14%</th>
<th>0.13%</th>
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</thead>
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<td>3.41%</td>
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<td>3.13%</td>
<td>3.59%</td>
<td>3.65%</td>
<td>4.76%</td>
</tr>
<tr>
<td>4</td>
<td>5.91%</td>
<td>9.02%</td>
<td>5.86%</td>
<td>6.84%</td>
<td>12.50%</td>
<td>6.25%</td>
<td>6.40%</td>
<td>8.01%</td>
</tr>
<tr>
<td>3</td>
<td>8.55%</td>
<td>10.88%</td>
<td>8.12%</td>
<td>8.84%</td>
<td>9.38%</td>
<td>8.56%</td>
<td>7.99%</td>
<td>10.11%</td>
</tr>
<tr>
<td>2</td>
<td>17.97%</td>
<td>17.58%</td>
<td>16.70%</td>
<td>14.80%</td>
<td>15.63%</td>
<td>17.66%</td>
<td>15.88%</td>
<td>17.67%</td>
</tr>
<tr>
<td>1</td>
<td>60.65%</td>
<td>53.01%</td>
<td>62.79%</td>
<td>64.09%</td>
<td>56.25%</td>
<td>61.32%</td>
<td>62.95%</td>
<td>55.58%</td>
</tr>
</tbody>
</table>
Attached is an addendum to Georgia's submission regarding H.B.92, Act 241 relating to advanced voting. Please forward to the attention of Victor Williamson. Thank you.

Julie Anderson

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RE: DOJ File No. 2011-2380

1. Statutory Basis For 45-day Advance Voting

Advanced voting was previously authorized in Georgia pursuant to O.C.G.A. §§ 21-2-384 and 21-2-385. As enacted prior to July 1, 2011, O.C.G.A. § 21-2-384(a)(1) provided that absentee ballots shall be delivered to county registrars at least 45 days prior to the general election. O.C.G.A. § 21-2-385(c) provided that when an elector applied in person to vote by absentee ballot, they could also choose to vote the absentee ballot at that time. The Code section specifically provided that the county registrar shall "furnish accommodations to the elector to ensure the privacy of the elector while voting his or her absentee votes." Subparagraph (c) was added to O.C.G.A. § 21-2-385(c) in 1998. Ga. L. 1998, p. 295 at 433. Please let me know if you would like a copy of Ga. L. 1998 or any more detailed information regarding that law.

2. The Effect of H.B.92, Act 241 on S.B. 82, Act 240

H.B. 92, Act 241 amends two of the same Code sections that were amended by S.B. 82, Act 240 (O.C.G.A. §§ 21-2-381(b)(2) and 21-3-384). H.B. 92 was signed into law by Governor Nathan Deal on May 13, 2011, at 9:45 a.m., one minute after he signed S.B. 82 into law. When two bills are signed into law on the same day, and if there is any conflict between the two, the latter controls. Otherwise, both bills are given their full effect.

Please let me know if you have any questions regarding either of these issues or if you need any additional information.
DATE: August 10, 2011

PLEASE DELIVER TO:

NAME: Victor Williamson
Re: DOJ File No. 2011-2380
Voting Rights Section

FAX NO: (202) 616-9514

FROM: Julie Anderson
Senior Assistant Attorney General
40 Capitol Square, Suite 232B
Atlanta, Georgia 30334-1300
Telephone: (404) 463-3630 FAX: (404) 657-9932

RE:
TOTAL PAGES TRANSMITTED INCLUDING COVER SHEET: 2

COMMENTS:

IF YOU DO NOT RECEIVE ALL THE PAGES, PLEASE CALL RUBY KAJUMBA AT (404) 651-9305 AS SOON AS POSSIBLE.

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Victor – I hope the attached sufficiently addresses your two questions. I will be in the office all day tomorrow (Thursday) so please feel free to call me and let me know if you need me to revise this attachment or if you need any other information. Thanks. Julie
RE: DOJ File No. 2011-2380

1. Statutory Basis For 45-day Advance Voting

Advanced voting was previously authorized in Georgia pursuant to O.C.G.A. §§ 21-2-384 and 21-2-385. As enacted prior to July 1, 2011, O.C.G.A. § 21-2-384(a)(1) provided that absentee ballots shall be delivered to county registrars at least 45 days prior to the general election. O.C.G.A. § 21-2-385(c) provided that when an elector applied in person to vote by absentee ballot, they could also choose to vote the absentee ballot at that time. The Code section specifically provided that the county registrar shall “furnish accommodations to the elector to ensure the privacy of the elector while voting his or her absentee votes.” Subparagraph (c) was added to O.C.G.A. § 21-2-385(c) in 1998. Ga. L. 1998, p. 295 at 433. Please let me know if you would like a copy of Ga. L. 1998 or any more detailed information regarding that law.

2. The Effect of H.B.92, Act 241 on S.B. 82, Act 240

H.B. 92, Act 241 amends two of the same Code sections that were amended by S.B. 82, Act 240 (O.C.G.A. §§ 21-2-381(b)(2) and 21-3-384). H.B. 92 was signed into law by Governor Nathan Deal on May 13, 2011, at 9:45 a.m., one minute after he signed S.B. 82 into law. When two bills are signed into law on the same day, and if there is any conflict between the two, the latter controls. Otherwise, both bills are given their full effect.

Please let me know if you have any questions regarding either of these issues or if you need any additional information.
DATE: August 10, 2011

PLEASE DELIVER TO:

NAME: Victor Williamson
Re: DOJ File No. 2011-2380
Voting Rights Section

FAX NO: (202) 616-9514

FROM: Julie Anderson
Senior Assistant Attorney General
40 Capitol Square, Suite 232B
Atlanta, Georgia 30334-1300
Telephone: (404) 463-3630 FAX: (404) 657-9932

RE: TOTAL PAGES TRANSMITTED INCLUDING COVER SHEET: 2

COMMENTS:

IF YOU DO NOT RECEIVE ALL THE PAGES, PLEASE CALL RUBY KAUMBA AT (404) 651-9305 AS SOON AS POSSIBLE.

This message is intended only for the use of the addressee. It may contain information, which is confidential, privileged or otherwise not subject to disclosure. If you are not the intended recipient, employee or agent responsible for delivering the message to the intended recipient, any use of this information, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone.
OFFICIAL ELECTION INFORMATION

May 30, 2008

TO: County Election Officials

FROM: Wesley B. Tailor, Elections Division Director

RE: Absentee Ballot Processing

The Georgia Election Officials Association conference begins Sunday, June 1, 2008 and most counties will have staff attending this conference. However, every county must ensure they have qualified staff, with credentials and requirements set forth in Sections 21-2-212 through 21-2-215 of the Georgia Election Code, available to handle the distribution of absentee ballots by mail and in-person voting during regular business hours during the entire absentee voting period; there are no exceptions.

Absentee voting for the July 15, 2008 General Primary election begins Monday, June 2, 2008. Every county must have absentee ballots available for in-person voting on Monday, June 2, 2008 and must ensure that all UOCAVA ballots as well as any other request for mail-out absentee ballots are sent out immediately.

Section 21-2-384(a)(1) of the Georgia Election Code states that "The superintendent must, at least 45 days prior to any general primary or general election, prepare, obtain, and deliver an adequate supply of official absentee ballots to the board of registrars or absentee ballot clerk for use in the primary or election." If the ballots arrive prior to the 45th day, there is nothing in the law prohibiting the issuance of the ballots sooner than the 45th day.
August 22, 2011

Julie B. Anderson, Esq.
Senior Assistant Attorney General
40 Capitol Square SW
Atlanta, Georgia 30334-1300

Dear Ms. Anderson:

This refers to the Act No. 241 (HB 92) (2011), which amends Sections 21-2-381 (b) (2), 21-2-384 (a), 21-2-384 (b), 21-2-385 (c), and 21-2-385.1, and adds Section 21-2-285 (d), to provide for a reduction in the in-person advance voting period from 45 to 21 days, including the second Saturday in the period, and to make other conforming changes, for the State of Georgia, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c. We received your submission on June 22, 2011; additional information was received through August 15, 2011.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 C.F.R. 51.41.

Act No. 241 (HB 92) (2011) includes provisions that are enabling in nature. Therefore, local jurisdictions are not relieved of their responsibility to seek Section 5 review of any changes affecting voting that are adopted pursuant to this legislation (e.g., amending early voting dates, hours, or location). 28 C.F.R. 51.15.

Sincerely,

T. Christian Herren, Jr.
Chief, Voting Section
Memorandum of Telephonic Communication

Date: 7/14/11  Attorney/Analyst: VW  File No.: 2011-2380

Other Party: Julie Anderson  Race:  Tel. No.: 404-463-3630

Title/Organization: Senior Assistant Attorney General

Jurisdiction: Georgia

Subject: ABV

7/14: I called and left a message.

8/2: I asked Ms. Anderson what portions of the state code specifically allow for a 45-day in-person early voting period. She was unable to answer, and said that she would have Vincent Russo, general counsel to the Secretary of State, contact me with the answer.

8/9: I asked Ms. Anderson if she could have what Mr. Russo told me put in writing, specifically spelling out 1) why the 45-day period was being used, what portions of what code sections were being interpreted as to require it, and what legislation established those portions; and 2) the repeal by signature process and how it applied to Act 240 as it amended what would have been the benchmark for HB 92, but was apparently not because it never went into effect. Ms. Anderson said that she would work with the Secretary of State's office to have what I requested put in writing and sent to us as soon as possible.

8/11: Ms. Anderson said that the portion of Section 384 that assists in providing the 45-day early voting period was precleared in Submission File No. 2005-2029, and that the relevant portions of Section 385 were precleared in Submission File Nos. 1998-1651, 1998-1771, and 1998-1822. I asked her when the state initially started interpreting those sections to provide a 45-day early voting period, and what prompted the state to do so. She did not know, and said she would find out and have that information sent to me.

8/12: I called to check on the status of the explanation of why the state started to interpret the law to grant the 45-day early
voting period. Ms. Anderson said she had been working with the office of the Secretary of State to acquire the explanation, and the office had not gotten back to her. She said that she would try again. I told her to try to get it to us by Monday, and if we haven't received anything by Monday afternoon, I would call again.
Memorandum of Telephonic Communication

Date: 7/14/11 Attorney/Analyst: VW File No.: 2011-2380

Other Party: Rep. Mark Hamilton Race: w Tel. No.: 770-844-6768

Title/Organization: State Representative

Jurisdiction: Georgia

Subject: ABV

7/14: I left a detailed voicemail message.

7/18: Representative Hamilton said that while deciding what portion of the existing advance in-person voting period would be eliminated, he used early voting statistics from the 2008 and 2010 statewide general elections to determine that 77 to 83 percent of votes cast were made in the latter three weeks of the seven-week voting period. I asked Rep. Hamilton what source he used to determine that. He said he acquired that information from the Secretary of State, and he agreed to send it. I asked about whether counties and municipalities could add early voting days (like Saturdays or Sundays) or hours in addition to what is provided in HB 92 (in other words, is HB 92 limiting?). He responded that he consulted with both the House’s legal counsel and the Secretary of State’s office, and both indicated that it was their understanding that HB 92 does not preclude the addition of early voting days, hours, or locations by counties and municipalities. In other words, they can expand hours, but not limit hours, by state law. I asked about why the Saturday was made optional if no federal or state candidates were on the ballot, and he said that if it were required, municipalities would be forced to operate on days they are not normally open to accommodate early voting for elections that are frequently low in voter turnout. He said that this will help small towns that can’t afford to stay open on a non-regular day, but for jurisdictions that do anticipate greater turnout, the day is still available.

Rep. Hamilton said that during the process, he worked hard to get minority and bipartisan support.
Hamilton said that he worked hard to find a balance, that he knew it would be impossible to achieve universal support, but that he tried to work with both sides, one of which wanted reduction in early voting days, and the other that was willing to compromise, but not willing to support a bill that reduced in-person early voting to a period under three weeks. He counseled him to keep at least three weeks, noting that it was good policy and that anything less would fall under Department of Justice scrutiny. There was no support from for any bill under three weeks. Rep. Hamilton said that he even added the Saturday to further attempt not to disenfranchise voters.
Memorandum of Telephonic Communication

Date: 8/8/11  Attorney/Analyst: VW  File No.: 2011-2380

Other Party: Vincent Russo  Race: Tel. No.: 404-656-2881

Title/Organization: General Counsel to Secretary of State

Jurisdiction: Georgia

Subject: ABV

I asked Mr. Russo (and Michael O'Sullivan, who was on the call) why the 45-day period was being used, and what portions of what code sections were being interpreted as to require it. He said there is not a single section that outright establishes the period, but the state has, at least since 2008, been interpreting the language of Sections 21-2-384 and 21-2-385 to require a 45-day advance in-person voting period, based on the 45 day requirement for the sending of absentee ballots and the ability granted by these sections for absentee voters to vote in person at registrar offices. I asked about Act 240 and the apparent conflict between that act's treatment of Section 21-2-384 and Act 241's treatment, and he replied that the passage of Act 241 repealed any conflicting changes, specifically lines 278-299 of Act 240 that amend Section 21-2-384. He said that those changes made by Act 240 were never in effect, and that they were repealed by signature (the Governor's signature), and therefore that act does not establish the benchmark for purposes of our review of any changes to Section 21-2-384.

8/9: I asked Mr. Russo if I could have his explanation put into writing and sent to us. He said that he would be unable to do that without a request from the State Attorney General's office, but that if he received such a request through the proper channels, he would accommodate. I told him that I would make such a request.
Memorandum of Telephonic Communication

Date: 7/14/11  Attorney/Analyst: VW  File No.: 2011-2380

Other Party: [Redacted] Race: b  Tel. No.: [Redacted]

Title/Organization: [Redacted]

Jurisdiction: Georgia

Subject: ABV

[Redacted] against the bill because [Redacted] run numbers to determine the impact of the changes on minority voters, and [Redacted] determined that the legislation would disproportionately affect minority voters. [Redacted] complaints from members of the minority community, and that the change was politically driven because black voters vote early.
Memorandum of Telephonic Communication

Date: 7/14/11  Attorney/Analyst: VW  File No.: 2011-2380

Other Party: [REDACTED]  Race: b  Tel. No.: [REDACTED]

Title/Organization: [REDACTED]

Jurisdiction: Georgia

Subject: ABV

7/14: I left a detailed voicemail message for [REDACTED]

7/20: I left another detailed message at an alternate phone number.
Memorandum of Telephonic Communication

Date: 7/14/11  Attorney/Analyst: VW  File No.: 2011-2380

Other Party: [Redacted] Race:  Tel. No.: [Redacted]

Title/Organization: [Redacted]

Jurisdiction: Georgia

Subject: ABV

[Redacted] opposes HB 92,
Memorandum of Telephonic Communication

Date: 7/14/11 Attorney/Analyst: VW File No.: 2011-2380

Other Party: Race: b Tel. No.: 

Title/Organization: 

Jurisdiction: Georgia

Subject: ABV

[Redacted] approves of the changes and said that the changes will benefit minority voters, giving them more time before voting to vote with adequate information. [Redacted] said that [Redacted] frequently receives requests from minority and elderly voters to have their votes changed after they became more informed about candidates. Those voters voted in the earliest part of the early voting period. [Redacted] said the intent of the bill was financial and practical, to reduce the burden on counties. [Redacted] said that [Redacted] considers the effort to be positive, and [Redacted] only concern was that only one Saturday was included. However, [Redacted] said that [Redacted] was pleased that the legislation will allow counties and municipalities to add whatever early voting days they want. [Redacted] said that [Redacted] was aware of some minority community opposition to the changes, specifically that any reduction of days is to be considered retrogressive, but [Redacted] said [Redacted] disagrees with that notion. [Redacted] said that some legislators argued that there was a discriminatory intent to minimize minority voting potential, but [Redacted] said that such was not the intent of the bill, and that such a notion was negated by the fact that the bill's sponsors negotiated with minority legislators to achieve a three-week early voting period satisfactory to the majority of the minority legislators that would pass muster with the Voting Rights Act.
Memorandum of Telephonic Communication

Date: 7/20/11  Attorney/Analyst: VW  File No.: 2011-2380

Other Party:  Race: b  Tel. No.: 

Title/Organization: 

Jurisdiction: Georgia

Subject: ABV

[Redacted] said that the changes amount to a strategic attack on early voting by the Republican Party. [Redacted] said that the strategy resulted in the suppression of minority votes, and that it was just one example of a trend of voter suppression tactics such as voter ID laws. [Redacted] stated that the majority of votes cast for President Obama were made during early voting, and that reducing the number of early voting days is a terrible political move. [Redacted] said that when asked why a number of legislators voted in favor of the changes, [Redacted] said that those legislators lacked an understanding of the ramifications of the changes, and that they did not have the civil rights voting experience to understand the depth and history of voting rights.
Memorandum of Telephonic Communication

Date: 7/20/11  Attorney/Analyst: VW  File No.: 2011-2380

Other Party: [REDACTED]  Race: b  Tel. No.: [REDACTED]

Title/Organization: [REDACTED]

Jurisdiction: Georgia

Subject: ABV

7/20: I left a detailed voicemail message for [REDACTED]