

1986 Ga. AG LEXIS 33

Office of the Attorney General of the State of Georgia

1986 Op. Atty Gen. Ga. 72

Reporter

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Core Terms

special election, elect, assembly, general election, candidate, same time, registration, ballot, time period, qualification, deadline, span

Syllabus

[*1]

Re: An election superintendent is vested with the authority and discretion to choose a period between the date of the call for the special election and 25 days prior to the special election for candidates to qualify to seek office in a special election.

Request By: Honorable Max Cleland

Secretary of State

State Capitol

Atlanta, Georgia 30334

Opinion By: MICHAEL J. BOWERS, Attorney General
Prepared by: H. JEFF LANIER, Assistant Attorney General

Opinion

This letter is in response to your recent request for my official opinion concerning the authority of an election superintendent to set the dates for qualifying in special elections.

The time period during which a candidate must qualify to seek office in a special election is set forth in O.C.G.A. § 21-2-132(c). That Code section provides that each candidate in a special election must file a notice of candidacy and qualify "no earlier than the date of the call of the election and no later than 25 days prior to the election in the case of a special election." You have asked whether the election superintendent has authority to set a time period between the date of the call and 25 days prior to the election or must the qualification period open on the date of call [*2] and close 25 days prior to the election.

In the interpretation of statutes, it is a cardinal rule that statutes must be construed so as to conform with the intent of the General Assembly. O.C.G.A. § 1-3-1(a); *Erwin v. Moore*, 15 Ga. 361 (1854); *Vansant v. Allstate Insurance Company*, 142 Ga.App. 684, 686 (1977). In addition, it is a well-established principle that a statute must be viewed so as to make all its parts harmonize and to give sensible and intelligent effect to each part. It is not presumed that the General Assembly intended that any part be without meaning. *Houston v. Lowes of Savannah, Inc.*, 235 Ga. 201, 203 (1975).

Applying these rules to the statute at hand, it appears that the General Assembly intended to authorize the election superintendent to choose a period for qualifying between the two dates specified. Otherwise, the words "no earlier than" and "no later than" would have no meaning. If the General Assembly had intended for the entire period to be used in each and every special election, the General Assembly would have simply said that a candidate must qualify during the period beginning on the date of the call of the election and continuing [*3] until 25 days prior to the election. Instead, the General Assembly set broad parameters between which an election superintendent may in the exercise of best judgment, set the period for qualifying. The election superintendent may choose to use the full time span or to choose a shorter time span.

This interpretation is consistent with the apparent desire of the General Assembly to save costs for special elections by making it easier to hold special elections at the same time as regularly scheduled elections. For example, Ga. Laws 1986, p. 382, amended O.C.G.A. § 21-2-228 to provide that "when a special primary or special election is held at the same time as the general primary, the registration deadline for the special primary or special election shall be the same as the general primary, and when a special primary or special election is held at the same time as the general election, the registration deadline for the special primary or special election shall be the same as the general election." Previously, holding a special primary or special election in conjunction with a general primary or general election was more difficult because the closing date for registering to vote in [*4] the elections was difficult to synchronize. See O.C.G.A. § 21-2-541. The amendment to O.C.G.A. § 21-2-228 removed this impediment.

An election superintendent is authorized to place the names of the candidates in a special primary or special election on the same ballot as the general primary and general election if the dates for the closing of the registration lists are the same. O.C.G.A. § 21-2-541. Since, in the case of a general primary or general election, absentee ballots must be printed and ready for distribution at least 30 days prior to the general primary or general election (O.C.G.A. § 21-2-384(a)), requiring that the qualification period for a special election remain open until 25 days prior to the special election would prevent the superintendent from being able to place the special primary or special election candidates on the same ballot as the general primary or general election. This would result in greater costs and would be contrary to the apparent intent of the General Assembly.

Based upon the foregoing, it is my official opinion that an election superintendent is vested with the authority and discretion to choose a period between the date of the call [*5] for the special election and 25 days prior to the special election for candidates to qualify to seek office in a special election.

I trust this has been responsive to your inquiry.