

David A. Cross
Suwanee, GA 30024

April 10, 2024

Georgia State Election Board
2 MLK Dr.
Suite 802 Floyd West Tower
Atlanta Ga. 30334

**PETITION FOR AMENDMENT TO ELECTION RULES
(Printing Color for Emergency Ballots)**

Mr. John Fervier, Chairman
Mrs. Sara Tindall Ghazal,
Mr. Edward Lindsey,
Dr. Janice W. Johnston,
Mr. Rick Jeffares

This petition for an amendment to an election rule incorporates a minor change to the way ballots are printed to improve chain of custody for emergency ballots.

I am filing this notarized petition for the proposed rule amendment in a good faith attempt to prevent the theft or misappropriation of emergency ballots. The intent of this rule is to improve security and chain of custody of Georgia elections on behalf of all Georgia voters. I urge your prompt attention to this matter submitted in accordance with the provisions of Rule 183-1-1-.01(3):

1. The name and post office address of the Petitioner is:

David Cross

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The full text of the rule requested to be amended and desired to promulgate:

Rule 183-1-12-.01 Conduct of Elections

Beginning with the 2020 Presidential Preference Primary, all federal, state, and county general primaries and elections, special primaries and elections, and referendums in the State of Georgia shall be conducted via an Optical Scanning Voting System as defined by O.C.G.A. 21-2-1(19.1). Voting at the polls, including both Election Day and absentee-in-person voting shall be conducted via ballots marked by electronic ballot markers and tabulated by ballot scanners. The electronic ballot markers and ballot scanners shall be supplied by the Secretary of State or purchased by the counties with the authorization of the Secretary of State. Absentee-by-mail voting shall also be conducted through the use of an optical scanning voting system.

The Superintendent shall cause every polling place and advance voting location to have a sufficient number of salmon colored blank paper ballots that can be marked by pen available for use in the event of emergency. The election superintendent shall also be prepared to resupply polling places with salmon colored emergency paper ballots in needed ballot styles in a timely manner while voting is occurring so that polling places do not run out of emergency paper ballots.

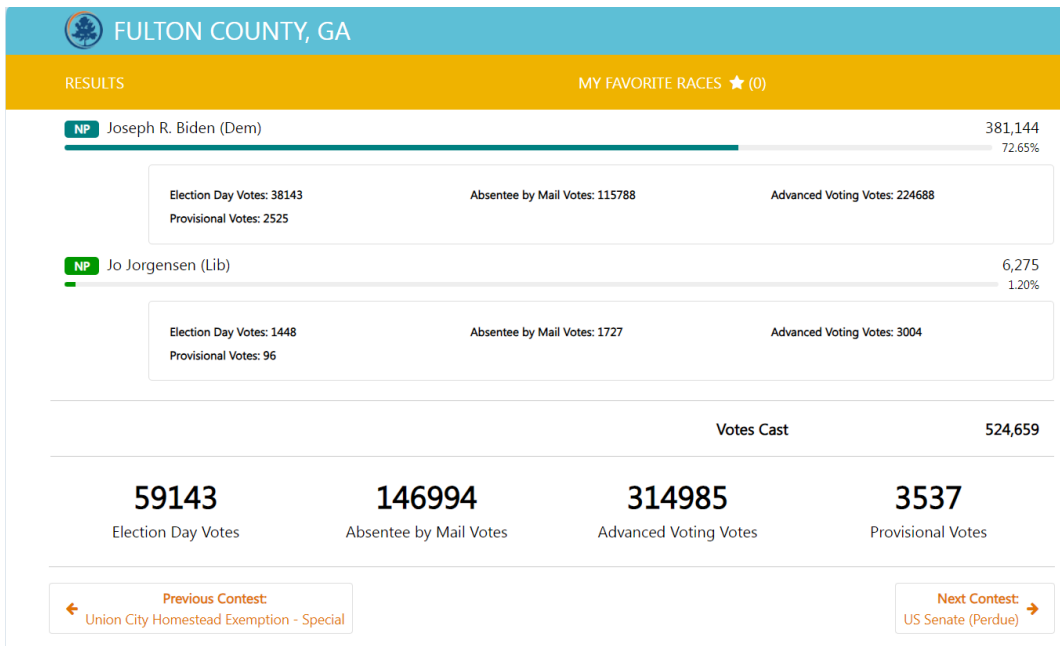
2. The reason such rule should be amended, repealed or promulgated

Rule 183-1-12-.01. Conduct of Elections, does not specify that emergency ballots be visibly distinct from non-emergency ballots. The lack of visual distinction could lead to standard emergency ballots being inadvertently mixed in with non-emergency ballots or possibly mishandled without detection. Maintaining proper chain of custody during elections is a daunting task even for the most prepared elections staff and colored emergency ballots can be a simple visual cue to help maintain chain of custody.

I propose that emergency ballots be printed on light pink or salmon colored paper stock, so those ballots are visually distinct from non-emergency ballots and thus easier to track for chain of custody purposes.

3. Any and all pertinent facts as to the Petitioner’s interest in the matter

In a past election, Fulton County ordered approximately 1,000,000 emergency ballots sorted into blocks of 100 ballots by precinct. Secretary of State election records show 59,143 voters cast ballots on Election Day indicating Fulton County ordered approximately 17 times the number of emergency ballots needed assuming every single Election Day voter would need to use an emergency ballot. Normal procedure is for 10% of estimated Election Day ballots to be printed as emergency ballots. Furthermore, the entire county had 524,659 total voters of all types indicating the county ordered nearly 100% more emergency ballots than total ballots cast.



In April 2024, Fulton County BRE member Mark Wingate testified in the Jeffrey Clark disbarment hearing that his requests for multiple chain of custody documents were not fulfilled prior to certification or after certification. You can view his comments below or watch him on video here:

(<https://share.descript.com/view/MNXlgOGHG1q>)

Transcript:

Attorney McDougald: Thank you very much. I interrupted you to get that. So, uh, pick back up where you were talking about, uh, asking for and not receiving chain and custody documents.

Wingate: Okay. Well, that, you know, since we, we asked and did not receive any of it, you know, that to me is just one reason. Well, how can I trust?

You know, as a board member to certify this election when I cannot receive even a sampling anything at all with regards to chain of custody, uh, chain of custody documents. So that was just another one of the things in my mind leading up to certification that was something that, you know, certainly was not fulfilled.

Because emergency ballots are visually indistinguishable from non-emergency ballots they can be easily confused or mixed in with mail in ballots. Many counties struggle to maintain chain of custody documents and separating emergency ballots by color could make the job easier.

4. Any and all facts known to the Petitioner that might influence the decision of the Board to initiate or not initiate rulemaking, including identification of any parties who it is known will or may be affected by the amended rule.

Maintaining chain of custody is critical for election security and for confidence in elections. Colored ballots can serve as an obvious visual cue to assist elections directors and workers should ballots be mistakenly misplaced.

Voters will not be impacted, nor their identity revealed by a requirement to use salmon/pink colored ballot stock because the use of emergency ballots will affect all voters in a precinct if the use of emergency ballots is required.

The Dominion scanners are not capable of “seeing” red on a ballot so a salmon-colored ballot can be read by the system.

Cost estimates for coloring ballots are approximately 1/2 of 1 cent per ballot, per Mark Williams with Printing Trades.

O.C.G.A. 21-2-286 b.1. already allows for colors to be used to indicate party affiliation in primary contests, thus it has already been determined that different colors for ballots are both useful and may be used according to Georgia law.

b.1. Paper ballots other than those printed for optical scanning voting systems shall be at least six inches long and four inches wide and shall have a margin extending beyond any printing thereon. They shall be printed with the same kind of type, which shall not be smaller than the size known as “brevier” or “eight-point body,” upon white paper of uniform quality, without any impression or mark to distinguish one from another, and with sufficient thickness to prevent the printed matter from showing through, except that ballots being used in primaries held by more than one party may be of different colors or may have colored stripes or blocks to distinguish the ballots if the parties so

agree. Each ballot shall be attached to a name stub, and all the ballots for the same precinct shall be bound together in books of 25, 50, or 100, in such manner that each ballot may be detached from its stub and removed separately. The ballots for each party to be used at a primary shall be bound separately. The name stubs of the ballots shall be consecutively numbered; and, in the case of primary ballots, the number shall be preceded by an initial or abbreviation designating the party name. The number and initial or abbreviation which appears upon the stub shall also be printed in the upper portion of the front of the ballot, separated from the remainder of the ballot by a horizontal perforated line so as to constitute a number strip and so prepared that the upper portion of the front of the ballot containing the number may be detached from the ballot before it is deposited in the ballot box. The number strip on the ballot shall also have the following words printed thereon: "Tear off before depositing ballot in ballot box."

5. Citations of legal authorities that require the action requested by Petitioner.

O.C.G.A 21-2-283 Printing and Safekeeping of Ballots and Labels by Superintendent specifies that the election superintendent "shall keep a record of the number of official ballots printed and furnished to each precinct at each primary and election and the number of stubs, unused ballots, and canceled ballots subsequently returned therefrom." This proposed rule will assist Elections Directors with proper accounting and chain of custody related to emergency ballots.

I, David Cross personally appeared before the undersigned officer duly authorized to administer oaths, and on oath deposes that the facts stated in the Petition therein are true and accurate.

Respectfully submitted this the _____ day April, 2024.

David Cross

SUBSCRIBED AND SWORN BEFORE ME

this the _____ day of October, 2023
to certify and witness my hand
and official seal.

Notary Public in and for

_____ County, Georgia.

[AFFIX NOTARIAL SEAL]