

# GEORGIA DEMOCRACY TASK FORCE

August 18, 2024

VIA ELECTRONIC MAIL

Chairman John Fervier  
Georgia State Election Board  
2 Martin Luther King Jr. Drive  
Suite 802, Floyd West Tower Atlanta, GA 30334  
sebpubliccomments@sos.ga.gov

Re: Proposed Amendments to SEB Rules 183-1-12-.12(a)(5) and Rule 183-1-12-.12

Dear Chairman Fervier and State Election Board Members:

The Georgia Democracy Task Force is a group comprised mostly of lawyers aiming to support the rule of law in the context of elections, to bolster voter confidence by safeguarding the integrity and non-partisan administration of elections, and to support election workers and officials.

We write to express our concerns and opposition regarding the proposed amendments to SEB Rule 183-1-12-.12(a)(5) and SEB Rule 183-1-12-.12.

These rules, if enacted, would not serve the stated purpose of enhancing election integrity and accuracy in results or reducing the opportunity for collusion to sabotage election results. Nor would they serve the stated purpose of ensuring that county election superintendents and boards of elections follow the required procedures and uniformly, properly, and lawfully fulfill their duties.

Rather, they would unnecessarily complicate election administration, run contrary to Georgia law, burden election workers, and raise further doubt about the competence and judgment of the State Election Board itself, especially so close to the November 2024 general election.

## **I. Proposed Amendment to SEB Rule 183-1-12-.12(a)(5)**

The proposed amendment to SEB Rule 183-1-12-.12(a)(5) seeks to require manual ballot counting at each polling location on election night before closing. If approved, this petition would inject unnecessary delays, risks, and burdens into election administration at the county level. This

petition threatens to undermine the integrity, efficiency, and accuracy of the election process. The proposal presents several critical issues:

***Misinterpretation of Legal Authority:*** The petition appears to misinterpret Georgia Code Section 21-2-483, which does not authorize or require precinct-level hand counting of original ballots as proposed. Rather, Section 21-2-483 provides detailed and exacting requirements for the counting of ballots at tabulation centers. If the legislature had intended to authorize or require hand counting at precincts, the statute would similarly detail such procedures. That absence, especially juxtaposed with the detailed tabulation center counting requirements, clearly indicates that the legislature did not intend to authorize or require hand counting at the precinct level.

***Burden on Election Officials:*** This requirement would be unduly burdensome and tedious for election officials after a long election day, potentially leading to inaccuracies and delays. In addition, many hours of additional time and paid labor would be required across the state amounting to a significant unfunded mandate.

***Ballot Integrity and Chain of Custody Risks:*** Requiring multiple individuals to handle all original ballots to perform manual counts prior to sealing them in containers for transport to tabulation centers increases the likelihood of ballots being damaged or misplaced. Sealing the ballots immediately in the transport container is safer than spreading ballots out on tables for manual counting by election workers. It would be extremely problematic if these ballots need to be reviewed later for audits or challenges. In addition, such handling of original ballots opens a window within which they are arguably vulnerable to interference, alteration, manipulation, or destruction.

***Uniformity Concerns:*** Implementing manual counting requirements would unduly burden more populous precincts and counties, especially at polling locations where thousands of voters cast ballots on election day. It would likely be impossible for all of Georgia's counties and precincts to uniformly comply with such requirements and could lead to significant delays within the existing tabulation process prescribed by the General Assembly.

***Accuracy Concerns:*** Machine counting of ballots has been repeatedly proven to be more accurate than hand counting. Every academic study on this issue has found machine counts to be more accurate. As election expert and MIT Professor Charles Stewart has stated, "Computers - which ballot scanners rely on - are very good at tedious, repetitive tasks. Humans are bad at them."

***Redundancy with Existing Checks:*** Many counties already perform hourly reconciliations across multiple systems (poll pads, touch screens, and scanners) on Election Day. Current checks and balances in the system serve to identify specific problems and discrepancies. And existing processes - such as recounts - provide ongoing accuracy checks without the need for mandatory, end-of-day hand counts in all polling locations across Georgia.

***Potential Conflicts with Georgia Code:*** This new requirement would create significant delays and potentially interfere with the timely reporting and certification of election results, conflicting specifically with Georgia code provisions in SB 202, which added a requirement that counties must report the total number of ballots cast by 10PM on election night. If enacted, this proposal would mean that election officials could still be in the process of hand counting ballots by 10PM in large precincts.

We respectfully ask that you reject this petition, which seeks to inject new hand-counting requirements. Instead, we encourage the Board to focus on measures that actually serve to enhance the integrity, efficiency, and security of our current electronic voting and counting systems, in ways that have proven to be more reliable and less burdensome.

## **II. Proposed Amendment to Rule 183-1-12-.12 Tabulating Results**

We strongly oppose the proposed new rule 183-1-12-.12 including (.1) Preparing for County Certification and (.2) Certification Meeting, for the following reasons:

***Overreach of Individual Board Member Authority:*** The proposed rule inappropriately grants individual county election board members the power to "examine all election related documentation created during the conduct of elections prior to certification of results." This oversteps the legal framework established by Georgia's Election Code, which assigns specific responsibilities to the "election superintendent" as a whole and not to board members individually.

***Lack of Guardrails and Potential for Abuse:*** The rule provides no substantive qualifications or time limits on document requests. This opens the door for potentially burdensome, irrelevant, or bad faith inquiries that could delay or undermine the certification process.

***Misalignment with Existing Legal Framework:*** Georgia law (O.C.G.A. § 21-2-493(b)) authorizes the summoning of poll officers with election papers only in specific circumstances related to numerical discrepancies. But the proposed rule far exceeds this narrow authorization, potentially leading to improper refusals to certify results.

***Interference with Established Timelines:*** The proposed rule introduces a new deadline of "not later than 3PM on the Friday following the date on which the election was held" that "the Board shall meet to conduct a review of precinct returns." This new deadline conflicts with existing legal guidelines for processing certain ballots (including provisional, cured, overseas, etc.) by 5PM on that same Friday. This creates unnecessary complications in an already time-sensitive process.

***Unnecessary Duplication of Safeguards:*** Georgia already has robust mechanisms in place to ensure election integrity, including audits, recounts, and post-certification legal challenges. This rule adds unnecessary complexity without clear benefits.

*Undermining the Mandatory Nature of Certification:* Georgia law clearly establishes that certification of election results is a mandatory duty for county election boards. By suggesting broad discretion for individual members to demand documentation, this rule could lead to improper delays or refusals to certify, contravening O.C.G.A. § 21-2-493(k).

## CONCLUSION

In conclusion, while election integrity is paramount, these proposed rule changes do not serve that goal. Instead, they introduce unnecessary complications, misalign with existing law, and create potential avenues for undermining the democratic process. We urge the Georgia State Election Board to reject these proposed rule changes and maintain the current, well-established procedures for election certification and tabulation.

Thank you for your consideration.

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