



Candidate Handbook and Resource Guide Reference Calendar & Documents

State House District 68 Special Election



Prepared by
Office of the Secretary of State
Elections Division
(404) 656-2871 | sos.ga.gov



Office of the Secretary of State Elections Division

March 21, 2023

TO: Candidates, Campaign Managers, and other Interested Parties

FROM: Blake Evans, Elections Director

SUBJECT: CANDIDATE HANDBOOK & RESOURCE GUIDE – HOUSE DISTRICT 68

This Candidate Handbook and Resource Guide has been prepared to assist candidates filing for State House District 68 vacancy due to the passing of Representative Letitia “Tish” Naghise for the Special Election to be held on **Tuesday, May 16, 2023**, pursuant to Georgia Constitution Article V, § II, Paragraph VIII and O.C.G.A § 21-2-544.

This handbook provides a general overview of major events and valuable information related to critical deadlines for the candidate filing process, campaign finance disclosure filing requirements, and general voting.

Online access to this handbook is available on our website, www.sos.ga.gov. Daily listings of candidates filing will also be posted to the website for public access. Our office staff is committed to providing the best possible service to you, your campaign staff, and voters.

If you have questions or comments, please email Elections@sos.ga.gov or contact us by phone at (404) 656-2871.

NOTICE: This Candidate Handbook and Resource Guide has been prepared to assist you in filing documents relating to the election. It includes a calendar of events and summary of provisions and filing requirements. It is not intended to provide legal advice and is for general guidance only. Please note that it is not within the purview of this office to determine whether a candidate meets the requirements for holding office. Individuals with questions concerning their own or other candidate qualifications or other related matters should seek legal counsel. Candidates and others using this Candidate Handbook and Resource Guide must bear full responsibility to make their own determinations as to all legal standards, duties and factual material contained therein.

CALENDAR OF EVENTS

DATE	DAY	DESCRIPTION
03/31/23	Friday	Publication Date of Call for Election
04/03/23	Monday	Qualifying BEGINS at 9:00 AM
04/05/23	Wednesday	Qualifying ENDS at 1:00 PM
04/17/23	Monday	Voter Registration/Change of Address Deadline. O.C.G.A. § 21-2-224(a)
04/17/23	Monday	Earliest day registrar/absentee ballot clerk may issue an absentee by mail ballot O.C.G.A. § 21-2-384(2)
04/24/23	Monday	Advance In Person (Early) Voting Begins/Opens. O.C.G.A. § 21-2-385(d)(1)(A)
05/05/23	Friday	Last day to submit an absentee ballot application O.C.G.A. 21-2-381(a)(1)(A)
05/12/23	Friday	Advance In Person (Early) Voting Ends/Closes O.C.G.A. § 21-2-385(d)(1)
05/13/23	Saturday	Deadline to submit the name(s) of poll watchers in each precinct on Election Day
05/16/23	Tuesday	ELECTION DAY (Polls Open from 7am to 7pm)
ASAP	As soon as possible	Earliest day registrar/absentee ballot clerk may issue an absentee ballot for the runoff O.C.G.A. § 21-2-384(a)(1)
ASAP	As soon as possible	Advance In Person (Early) Voting Begins/Opens for Runoff O.C.G.A. § 21-2-385(d)(1)(B)
06/09/23	Friday	Advance In Person (Early) Voting Ends/Closes for Runoff O.C.G.A. § 21-2-385(d)(1)
06/13/23	Tuesday	Special Election Runoff, if necessary. (Polls Open from 7am to 7pm)

O.C.G.A. § 21-2-14. When the last day for the exercise of any privilege or discharge of any duty prescribed or required by this chapter shall fall on a Saturday, Sunday, or legal holiday, the next succeeding business day shall be the last day for the exercise of such privilege or the discharge of such duty.

QUALIFYING LOCATION
ELECTIONS DIVISION
 2 Martin Luther King Jr., Drive SE
 West Tower - Suite 802
 Atlanta, Georgia 30334

NOTICE TO WRITE-IN CANDIDATES

Pursuant to O.C.G.A. § 21-2-133(c) no person shall be eligible as a write-in candidate in a special or general primary, a special or general primary runoff, or in a special or general election runoff.

Qualifying Fees for State Office

<u>OFFICE</u>	<u>SALARY</u>	<u>QUALIFYING FEE</u>
State Representative		\$400.00

https://sos.ga.gov/sites/default/files/2022-01/qualifying_fees_for_state_and_federal_2022.pdf

Qualifying Checklist:

- ☒ **Valid Photo I.D.**
- ☒ **Registered Voter in district for at least one (1) year – See additional qualifications in Ga. Const. Art. 3, § 2, ¶ 3 (a) and O.C.G.A. § 28-2-2 (b)**
- ☒ **Payment**
 - Check, Debit/Credit, or Money Order
 - Payable to: **Georgia Secretary of State**
- ☒ **Documents:** *(All documents must be notarized).*
Documents can be found under the “Forms and Fees for Qualifying Candidates” section of this webpage: <https://sos.ga.gov/candidate-resources>
 - ***Notice of Candidacy & Affidavit - State***
- ☒ **Location, Date, and Time:**

Qualifying will be conducted at the Office of the Secretary of State’s Elections Division Office only:

ELECTIONS DIVISION
2 Martin Luther King Jr., Drive SE
West Tower - Suite 802
Atlanta, Georgia 30334

- **Begins:** 9:00 AM on Monday, April 3, 2023
- **Ends:** 1:00 PM on Wednesday, April 5, 2023
- **Daily Times:**
 - Monday (4/3): 9:00 AM to 5:00 PM
 - Tuesday (4/4): 8:00 AM to 5:00 PM
 - Wednesday (4/5): 8:00 AM to 1:00 PM

For additional questions or information, please contact the Elections Services Section of the Elections Division at (404) 656-2871 or email Elections@sos.ga.gov

IMPORTANT: Please note that all campaign finance filings are done through the Georgia Government Transparency and Campaign Finance Commission. Their website is <http://ethics.ga.gov/> and contains a full listing of campaign reporting forms & requirement.

Updated 3/21/23



THE STATE OF GEORGIA

EXECUTIVE ORDER

BY THE GOVERNOR:

House District 68 in the Georgia House of Representatives has become vacant due to the passing of Representative Letitia “Tish” Naghise.

Therefore, pursuant to GA. CONST. Art. V, § II, ¶ VIII and Code Section 21-2-544, a writ of election is hereby issued to the Secretary of State for a special election to be held on Tuesday, May 16, 2023, to fill the District 68 seat in the Georgia House of Representatives.

This 17th day of March 2023.

GOVERNOR



The Office of Secretary of State

Brad Raffensperger
SECRETARY OF STATE

2 Martin Luther King Jr., Drive
802 West Tower
Atlanta, Georgia 30334

Blake Evans
ELECTIONS DIRECTOR

LEGAL NOTICE

PLEASE PRINT
NOTICE ONCE ON
March 31, 2023

CALL FOR SPECIAL ELECTION FOR STATE HOUSE, DISTRICT 68

Notice is hereby given that a Special Election shall be held on May 16, 2023, in parts of Fulton and Fayette County for Georgia House District 68 to fill a vacancy due to the death of Representative Letitia “Tish” Naghise. A run-off, if needed, shall be held on June 13, 2023.

Qualifying for the special election shall be held at the Georgia Secretary of State’s Office at 2 MLK Jr. Drive, Suite 802, Floyd West Tower, Atlanta, Georgia 30334. The dates and hours of qualifying will be Monday, April 3, 2023, beginning at 9:00 a.m. and ending at 5:00 p.m., Tuesday, April 4, 2023, beginning at 8:00 a.m. and ending at 5:00 p.m., and Wednesday, April 5, 2023, beginning at 8:00 a.m. and ending at 1:00 p.m. The qualifying fee shall be \$400.00.

Monday, April 17, 2023, is the last day to register to vote for all persons who are not registered to vote and who desire to vote in the Special Election. Advance in-person absentee voting will begin on April 24, 2023.

Brad Raffensperger
Secretary of State

TO: Secretary of State

**NOTICE OF CANDIDACY AND AFFIDAVIT
(STATE)**

I, the undersigned, being first duly sworn on oath, do depose and say: my name is _____
_____;

my residence address is _____;

(Street Number) (Street)

(City) (County) (State) (Zip Code)

my post office address is _____;

my telephone number is _____ ;
(Business) (Home)

my profession, business, or occupation (if any) is _____;

the name of my precinct is _____; I am an elector of the county of my residence _____

eligible to vote in the election in which I am a candidate; the name of the office I am seeking is

_____; my date of birth is _____; as of the general election for this office,
(Circuit, District, or Post if Applicable)

I will have been a legal resident of the State of Georgia for _____ consecutive years; a legal resident of _____
county for _____ consecutive years; a legal resident of my district (if applicable) for _____ consecutive years; and
a legal resident of my circuit (if applicable) for _____ consecutive years; I am a citizen of the United States; I am eligible
to hold such office; I am a candidate for such office in the _____ to be held on the _____ day of
(Election)
_____, 20____; ;

I have never been convicted and sentenced in any court of competent jurisdiction for fraudulent violation of primary or election laws, malfeasance in office, or felony involving moral turpitude or conviction of domestic violence under the laws of this State, any other State, or of the United States, or, if so convicted that my civil rights have been restored; and at least ten years have elapsed from the date of completion of the sentence without subsequent conviction of another felony involving moral turpitude; I am not a defaulter for any federal, state, county, municipal, or school system taxes required of such officeholder or candidate if such person has been finally adjudicated by a court of competent jurisdiction to owe those taxes, but such ineligibility may be removed at any time by full payment thereof, or by making payments to the tax authority pursuant to a payment plan, or under such other conditions as the General Assembly may provide by general law (pursuant to Ga. Const. Art. II, Sec. II, paragraph III); I will not knowingly violate any provisions of the Georgia Election Code (O.C.G.A. § 21-2) or of the rules or regulations adopted thereunder.

I understand that any false statement knowingly made by me in this Notice of Candidacy and Affidavit will subject me to criminal penalties as provided by law and I hereby request you to cause my name to be placed on the ballots to be used in such election as a candidate for the office I am seeking.

(Signature of Candidate)

Sworn to and subscribed before me this _____ day of _____, 20_____.

(Notary Public)

My Commission Expires _____

(Required by Ga. Election Code O.C.G.A. § 21.2.132.)

I desire that my name appear on the ballot as follows
(the surname of the candidate shall be as it appears
on the candidate's voter registration card):

Should I be elected, I desire that my name appear on official documents as follows:

(Please Print)

(Please Print)

(over)

Check only one

1. ☐ I am running in a special election for a partisan office and my party affiliation is _____.

☐ I am running as a nonpartisan candidate.

☐ I am running as an independent candidate.

☐ I am running to be the nominee of the _____ Party (Body) nominated by:

☐ Convention;

☐ Other (Specify method of nomination and statute and party rule governing and allowing such method of nomination):

2. ☐ I am required to file the above Notice followed by a nomination petition containing at least _____ valid signatures due _____, _____.

☐ I am not required to submit a nomination petition pursuant to O.C.G.A. §21-2-132, because I am:

☐ Running as a nonpartisan candidate.

☐ Running as an incumbent.

☐ Running in a special election.

☐ Running for a state-wide office nominated by a duly constituted political body convention.

3. ☐ I hereby tender check/money order in the amount of \$_____.

NAME OF BANK:_____

CHECK NUMBER:_____

In the event that a candidate pays his or her qualifying fee with a check that is subsequently returned for insufficient funds, the Secretary of State shall automatically find that such candidate has not met the qualifications for holding the office being sought, unless the bank, credit union, or other financial institution returning the check certifies in writing by an officer's or director's oath that the bank, credit union, or financial institution erred in returning the check as prescribed in O.C.G.A. § 21-2-5(d).

☐ I hereby file a Pauper’s Affidavit, accompanied by a qualifying petition as prescribed in O.C.G.A. § 21-2-132(g), in lieu of paying the qualifying fee.

Office of the Secretary of State

Elections Division



HOW A CANDIDATE'S NAME SHALL APPEAR ON THE BALLOT

The rules regarding how a candidate's name shall appear on the ballot are set out in Georgia State Election Board (SEB) Rule 183-1-11-.02.

The SEB rule specifies that:

1. The candidate's name on the ballot has to contain the last name as it appears on their voter registration record and at least one of the following:
 - a. The first name (or initial with period) as it appears on their voter registration record;
 - i. **EXAMPLE: JONATHAN DOE or J. DOE**
 - b. The middle name (or initial with period) as it appears on their voter registration record;
 - i. **EXAMPLE: WILLIAM DOE or W. DOE**
 - c. An abbreviated first name by which the candidate is commonly known; or
 - i. **EXAMPLE: JOHN DOE**
 - d. A nickname by which the candidate is commonly known.
 - i. **EXAMPLE: BUDDY DOE**
 - ii. **EXAMPLE: JONATHAN "BUDDY" DOE**
2. As mentioned above, a candidate's name on the ballot may include a nickname by which the candidate is commonly known, but cannot contain any titles referring to the business, fraternal, religious, or professional affiliation of the candidate, or political slogan or message. A title or degree includes, but is not limited to, military or professional title or rank, or references such as "Dr.", "Rev.", "Judge", "Mr.", "Ms.", "Mrs.", or "Miss."
 - i. **EXAMPLES:**
 1. **Acceptable: BUDDY DOE**
 2. **Acceptable: JOHN "BUDDY" DOE**
 3. **In violation: DR. JOHN DOE; MR. JOHN DOE**
 4. **In violation: JOHN "VOTE FOR ME" DOE**
 5. **In violation: JONATHAN DOE ESQ.**
 6. **In violation: CAPT. JONATHAN DOE**
3. The candidate's name cannot be longer than 25 characters including spaces and punctuation.
 - i. **EXAMPLES:**
 1. **Acceptable: JONATHAN WILLIAM DOE (20 characters)**
 2. **In violation: JONATHAN "BUDDY" WILLIAM DOE (28 characters)**
4. A determination as to whether the candidate's requested name on the ballot complies with all of the rules discussed above is at the discretion of the Secretary of State or election superintendent, as appropriate.
5. The candidate name as it appears on the voter registration record can be checked by using the Secretary of State's "My Voter Page" tool at <https://www.mvp.sos.ga.gov/MVP/mvp.do>

Qualifications and Disqualifications for Holding State or County Elective Office in Georgia

**Contains Provisions of Georgia Election Code
As Amended through Regular Legislative Sessions
2013**



Published by
Brian P. Kemp
Secretary of State
Atlanta, Georgia 30334

MEMBER, STATE HOUSE OF REPRESENTATIVES

Qualifications

1. Must be a citizen of the United States.
2. Must be at least 21 years of age.
3. Must have been a citizen of Georgia for at least two years.
4. Must be a resident of the district which he or she represents, and at the time of his or her election must have been a resident of the territory embraced within such district for at least one year preceding such time. Must be elected only by the voters of his or her representative district.

Ga. Const. Art. 3, § 2, ¶ 3(b)
O.C.G.A. § 28-2-1 (b)

Annotation:

The residency requirement refers to domicile. There must be either the tacit or the explicit intention to change one's domicile before one can change his legal residence. If a person leaves the place of his domicile temporarily, or for a particular purpose, and does not take up an actual residence elsewhere with the avowed intention of making a change in his domicile, he will not be considered as having changed his domicile. Haggard v. Graham, 142 Ga. App. 498, 236 S.E.2d 92 (1977).

Term of Office and Election

5. Elected by the qualified electors of their respective districts for a term of two years and shall serve until the time fixed for the convening of the next General Assembly.
6. Members are elected biennially (every 2 years) in the general election held on the Tuesday following the first Monday in November next preceding the expiration of the term of office, until the date of election is changed by law.

Ga. Const. Art. 3, § 2, ¶ 5
O.C.G.A. § 21-2-9

Annotation:

It is settled in this state and in many other jurisdictions of this country that an election is absolutely void when not held in the proper time and place and by persons qualified to hold it. Davis v. Page, 217 Ga. 751, 125 S.E.2d 60 (1962).

7. A candidate for Representative must pay a qualification fee or file a pauper's affidavit.

O.C.G.A. §§ 21-2-131, 21-2-132, 21-2-153

Annotations:

- i. *If a candidate is unable to pay required qualifying fee, candidate may execute a pauper's affidavit in lieu of qualifying fee and be afforded the opportunity to run. Op. Atty. Gen. 72-48. See Georgia Socialist Workers Party v. Fortson, 315 F. Supp. 1035 (N.D. Ga. 1970).*
- ii. *A candidate for the final half of an unexpired term must pay the full qualification fee just as if he or she were running for a full term. Op. Atty. Gen. U70-77.*
- iii. *For the purpose of computing qualifying fee, only the salary which the law provides for the*

office directly involved should be included and not the additional compensation paid for the ex-officio position held by the incumbent. Op. Atty. Gen. 70-53.

- iv. *An elected official cannot rely on payment of an incorrectly advertised qualifying fee to compel the governing authority to compensate the elected official beyond the salary permitted by statute. Rowland v. Tattnall County, 260 Ga. 109, 390 S.E. 2d 217 (1990).*

- 8. In the event that a candidate pays his or her qualifying fee with a check that is subsequently returned for insufficient funds, the Secretary of State shall automatically find that such candidate has not met the qualifications for holding the office being sought, unless the bank, credit union, or other financial institution returning the check certifies in writing by an officer's or director's oath that the bank, credit union, or financial institution erred in returning the check.

O.C.G.A. § 21-2-5 (d)

- 9. Eligibility of write-in candidate:

- a) No person shall be eligible as a write-in candidate in a special or general primary, a special or general primary runoff, or in a special or general election runoff.
- b) No person shall be eligible as a write-in candidate in a general or special election if such person was a candidate for nomination or election to the same office in the immediately preceding primary.
- c) No person elected on a write-in vote shall be eligible to hold office unless notice of his or her intention of candidacy was filed and published no earlier than January 1 and no later than the Tuesday after the first Monday in September prior to the election in the case of a general election or at least 20 or more days prior to a special election. In a state general or no later than seven days after the close of the special election qualifying period for a special election. In a general special election of county officers,
 - i. notice must be filed with the Secretary of State and published in a paper of general circulation in the state by the person giving notice of intention to be a writein candidate or by some other person or group of persons qualified to vote in the subject election; and
 - ii. a copy of the notice as published and an affidavit that the notice has been published, including the name of the newspaper and date of publication, must be filed with the Secretary of State not later than the fifth day after the deadline for filing and publishing such notice.

Ga. Const. Art. 2, § 2, ¶ 3

O.C.G.A. § 21-2-133

- 10. No person shall be nominated, nor shall any person be a candidate in a primary, election, or special election for more than one of the following public offices to be filled at any one election or special election: Governor, Lieutenant Governor, Secretary of State, Attorney General, State School Superintendent, Commissioner of Insurance, Commissioner of Agriculture, Commissioner of Labor, United States Senator or Representative in Congress, Public Service Commissioner, Justice of the Supreme Court, Judge of the Court of Appeals, members of the Senate and House of Representatives of the General Assembly, judge of superior court, district attorney, any elected county officer, and any elected municipal officer.

O.C.G.A. § 21-2-136

- 11. No person shall be nominated or elected who has been adjudged a "subversive person," as defined in the Sedition and Subversive Activities Act of 1953.

Oath of Office

12. Each Representative, before taking his or her seat, shall take the following oath:

“I do hereby solemnly swear or affirm that I will support the Constitution of this state and of the United States, and on all questions and measures which may come before me, I will so conduct myself, as will, in my judgment, be most conducive to the interests and prosperity of this state.”

Ga. Const. Art. 3, § 4, ¶ 2

O.C.G.A. § 28-1-4

Cross-Reference:

Any public officer who willfully and intentionally violates the terms of his or her oath as prescribed by law shall, upon conviction thereof, be punished by imprisonment for not less than one nor more than five years. O.C.G.A. § 16 -10-1.

Annotation:

A state legislator can be required to swear to support the U.S. Constitution as a condition of holding office. Bond v. Floyd, 385 U.S. 116, 87 S.Ct. 339 (1966).

13. Every public officer must take the oath of office and any oath prescribed by the Constitution of Georgia, and must swear that he or she is not the holder of any unaccounted for public money due this state; is not the holder of any office of trust under the government of the United States, any other state, or any foreign state which he or she is by the laws of the State of Georgia prohibited from holding; is otherwise qualified to hold said office according to the constitution and laws of Georgia; and will support the constitutions of the United States and of this state.

O.C.G.A. § 45-3-1

Notes:

- a) The federal constitution requires that a state Representative be bound by oath or affirmation to support the federal constitution. See U.S. Constitution Art. 6, § 3.
- b) The official acts of an officer are valid regardless of his or her omission to take and file the oath, except in cases where so specially declared. See O.C.G.A. § 45-3-10.

14. A loyalty oath, which must state that such person will support the Constitution of the United States and the Constitution of Georgia and is not a member of the Communist Party, is also required for all elected officers of this state.

O.C.G.A. §§ 45-3-11, 45-3-12, 45-3-13

Annotations:

- i. *See Georgia Conference of Am. Ass'n. of University Professors v. Bd. of Regents of University System of Ga., 246 F. Supp. 553 (N.D. Ga. 1965), limiting the coverage of the loyalty oath.*
- ii. *The portion of the Georgia loyalty oath which requires one to swear to support the constitutions of Georgia and the United States is valid, and that portion of the oath which requires disavowal of membership in the Communist Party is unconstitutional and should not be administered. Op. Atty. Gen. 85-19.*

Vacancies in and Succession to Office

15. All elected or appointed offices are deemed vacant upon the incumbent's
- a) death or resignation;
 - b) ceasing to be a resident of the state, county, or district from which elected;
 - c) failing to obtain commissions or give bond within the time prescribed by law; or abandoning the office or ceasing to perform its duties. Upon the occurrence of a vacancy, the officer or body authorized to fill the vacancy or call for an election to fill the vacancy shall do so without the necessity of a judicial determination that a vacancy has occurred.

O.C.G.A. § 45-5-1

16. The seat of a member of the House of Representatives shall be vacant when such member moves his or her legal residence from the district from which elected.

Ga. Const. Art. 3, § 4, ¶ 5

17. The Governor shall issue writs of election to fill all vacancies that may occur in the House of Representatives.

Ga. Const. Art. 5, § 2, ¶ 5; Art. 3, § 4, ¶ 5
O.C.G.A. § 21-2-544

General Disqualifications

18. The following persons are ineligible to hold any civil office, and the existence of any of the following acts shall be a sufficient reason for vacating any office held by such person, but the acts of such person, while holding a commission, shall be valid as the acts of an officer de facto, namely:
- a) Persons who are not citizens of this state and persons under the age of 21 years, provided, however, that upon passage of appropriate ordinances, citizens of this state who are otherwise qualified and who are 18 years old shall be eligible to hold any county or municipal office, other than a judicial office.
 - b) Persons who are the holders of public funds who have refused or failed to account for and pay over such funds to the proper officer.
 - c) Persons holding any office of profit or trust under the government of the United States other than that of postmaster and officers and enlisted persons of the armed forces. Membership on any federal commission, panel, or other fact-finding or policy-making agency, where the appointment is temporary and the duties do not interfere materially with the person's duties as a public officer, shall not bar any person from holding office in this state or acceding to a state office.
 - d) Persons of unsound mind and persons who, from advanced age or bodily infirmity, are unfit to discharge the duties of the office to which they are chosen or appointed.
 - e) Persons who are not registered and qualified voters entitled to vote.
 - f) Persons who have been convicted of a felony involving moral turpitude, unless that person's civil rights have been restored and at least 10 years have elapsed from the date of the completion of the sentence without a subsequent conviction of another felony involving moral turpitude.
 - g) Persons who have been convicted and sentenced in any court of competent jurisdiction for fraudulent violation of primary or election laws or malfeasance in office unless such person's civil rights have been restored.
 - h) Persons who are constitutionally disqualified for any cause.

Cross-Reference:

“Public office” means every federal, state, county, and municipal office to which persons can be elected by a vote of the electors under the laws of this state or under the respective municipal charters, except the office of soil and water conservation officer. O.C.G.A. § 21-2-2 (30).

Note:

Each candidate is required to file an affidavit which states that he or she is eligible to hold the office for which he or she is running. See O.C.G.A. §§ 21-2-132 (e), 21-2-153 (e).

Annotations:

- i. *To prevent persons convicted of certain crimes from holding office, the “conviction” must be a final one. There is no “conviction” within the constitutional provision if jury’s verdict has been set aside or is under review and thus subject to be set aside either by motion for new trial, bill of exceptions, or other appropriate procedures. Summerour v. Cartrett, 220 Ga. 31, 136 S.E.2d 724 (1964).*
- ii. *While pardon restores a person to full rights of citizenship, including the right to hold office, it does not operate to confer or restore public office previously held. Morris v. Hartsfield, 186 Ga. 171, 197 S.E. 251 (1938).*
- iii. *A convicted felon who has had his or her civil rights restored is eligible to vote and hold public office. Op. Atty. Gen. U77- 43.*
- iv. *The conviction of the crime of “having liquor” does not render a person disqualified from holding public office if at the time of commission such crime carried only misdemeanor punishment. Op. Atty. Gen. 67-26.*
- v. *Examples of crimes which always involve moral turpitude were pointed out in Johnson v. Riley, 13 Ga. 97, 131(2) (1853); Holloway v. Holloway, 126 Ga. 459, 460 (1), 55 S.E. 191 (1906) (murder); Ng Sui Wing v. United States, 46 F.2d 755 (7th Cir. 1931) (statutory rape); United States ex rel. Volpe v. Smith, 289 U.S. 422 (1933) (counterfeiting); United States ex rel. Karpay v. Uhl, 70 F.2d 792 (2d Cir. 1934) (perjury); United States ex rel. Cerami v. Uhl, 78 F.2d 698 (2d Cir. 1935) (robbery); In re King, 165 Ore. 103, 105 P.2d 870 (1940) (false swearing); In re Sutton, 213 Minn. 76, 5 N.W.2d 396 (1942) (embezzlement); Evans v. State, 70 Ga. App. 500, 501(3), 28 S.E. 2d 671 (1944) (soliciting for prostitutes); Thompson v. State, 72 Ga. App. 852, cert. denied, 329 U.S. 714 (1946) (cheating and swindling); Bancroft v. Board of Governors of Registered Dentists of Oklahoma, 202 Okla. 108, 210 P.2d 666 (1949) (issuing checks without sufficient funds with intent to defraud); Librarian v. State Bar, 38 Cal.2d 328, 239 P.2d 865, 866(2) (1952) (extortion); United States ex rel. Abbenante v. Butterfield, 112 F. Supp. 324, 326(2) (E.D. Mich. 1953) (forgery); State ex rel. Ricco v. Biggs, 198 Ore. 413, 255 P.2d 1055 (1953) (keeping a bawdy-house); Huff v. Anderson, 212 Ga. 32, 90 S.E.2d 329 (1955) (presenting fraudulent claims against the government); Matter of Brooks, 263 Ga. 30, 436 S.E.2d 493 (1993) (sexual battery); and Rehnberger v. State, 1998 WL 69072 (false imprisonment). However, moral turpitude was found not to be involved in the following crimes: Curry v. State, 17 Ga. App. 312, 86 S.E. 742 (1915) (fighting); United States ex rel. Andreacchi v. Curran, 38 F.2d 498 (S.D.N.Y. 1926) (carrying a concealed weapon); Groves v. State, 175 Ga. 37, 164 S.E. 822 (1932) (driving a vehicle on a public road while in an intoxicated state); Wyatt v. Cerf, 64 Cal. App. 2d 732, 149 P.2d 309 (1944) (disturbing the peace); Duke v. Meyers, 86 Ga. App. 271, 71 S.E.2d 297 (1952) (unlawfully selling intoxicating liquor). 1963-65 Op. Atty. Gen. p. 115, Op. Atty. Gen. 76-69. Other crimes not involving moral turpitude include*

Seaboard Coastline R. Co. v. West, 155 Ga. App. 391, 271 S.E.2d 36 (1980) (child abandonment); *Mingo v. State*, 195 Ga. App. 438, 394 S.E.2d 104 (1990) (writing bad checks); *Hall v. Hall*, 261 Ga. 188, 402 S.E.2d 726 (1991) (DUI misdemeanor conviction); and *Barker v. State*, 211 Ga. App. 279, 254 S.E.2d 850 (1993) (misdemeanor criminal trespass).

- vi. Any citizen and taxpayer of a community or the state may challenge qualifications of public officials to hold office in that community or the state. Such a person has standing to bring a quo warranto action claiming that a public official is ineligible to hold the office. *Highsmith v. Clark* 245 Ga. 158, 264 S.E.2d 1 (1980).
- vii. A potential candidate who completed his sentence for conviction of a felony prior to the enactment of the 1990 amendment to this paragraph did not have any vested rights to seek office. Constitutional amendment prescribing ineligibility to hold office for 10 years after the completion of the sentence applies retroactively. Eligibility to hold public office is determined by the statutory and constitutional requirements in effect on the date of election. *McIntyre v. Miller*, 236 Ga. 578, 436 S.E.2d 2 (1993).
- viii. The 1990 constitutional amendment requiring that potential candidates fulfil a 10-year waiting period following completion of a sentence for conviction of a felony involving moral turpitude does not violate the principal of double jeopardy. *McIntyre v. Miller*, 236 Ga. 578, 436 S.E.2d 2 (1993).
- ix. The 1990 constitutional amendment does not preempt the enforcement of other qualifications for office that may provide for the temporary suspension from office where no felony conviction exists. *Eaves v. Harris*, 258 Ga. 1, 364 S.E.2d 854 (1988).
- x. An indictment alone would not disqualify a person as a candidate for public office. *Op. Atty. Gen.* U68-102.
- xi. Where a potential candidate has been convicted of a felony involving moral turpitude, pardon or restoration of civil rights is necessary to hold any office or appointment of honor or trust even if the sentence has been completed. *Op. Atty.* 83-33.
- xii. A person seeking to hold any office or appointment of honor and trust in this state must meet the eligibility requirements as set forth in Ga. Const. Art. 2, § 2, ¶ 3, as amended by the 1990 amendment. *Op. Atty. Gen.* 92-3.
- xiii. A candidate who registers to vote only after his or her qualification for office and the closing of the qualifications process is not legally qualified to run for office. *Op. Atty. Gen.* U92-14.

19. Suspension and removal from office upon felony indictment or conviction:

- a) Upon indictment for a felony by a grand jury of this state, which felony relates to the performance or activities of the indicted official, the state constitution provides a means by which such official may be suspended, with pay, pending the final disposition of the case or until the expiration of the official's term of office, whichever occurs first.
- b) Upon initial conviction for any felony in a trial court of this state or the United States, the convicted official shall be immediately and without further action suspended from office without pay.
- c) Upon final conviction of a felony, the office shall be vacated immediately without further action. Said vacancy shall be filled in the manner provided by law for filling vacancies in such office caused by death or resignation.

Ga. Const. Art. 2, § 3, ¶¶ 1 and 2
O.C.G.A. § 45-5-2

20. Other Disqualifications:

- a) Must not be on active duty with any branch of the armed forces of the United States unless

otherwise provided by law.

- b) Must not be holding any civil appointment or office having any emolument annexed thereto under the United States, Georgia, or any other state.
- c) Must not be elected by the General Assembly or appointed by the Governor to any office or appointment having any emolument annexed thereto during the time for which such person is elected, unless he or she first resigns the seat. During the term for which elected, a Representative cannot be appointed to any civil office which has been created during such term.

Ga. Const. Art. 3, § 2, ¶ 4

Annotations:

- i. *Any citizen and taxpayer of a community or the state may challenge qualifications of public officials to hold office in that community or the state. Such a person has standing as an individual to bring a quo warranto action claiming that a public official is ineligible to hold office. Highsmith v. Clark, 245 Ga. 158, 264 S.E.2d 1 (1980).*
- ii. *A member of the General Assembly cannot serve simultaneously as a juvenile court judge. Op. Atty. Gen. U84- 46.*
- iii. *There is no per se conflict of interest if a member of the General Assembly also serves as either a city or county attorney, or performs contract work for a city or county within that legislator's district. Opp. Atty. Gen. U84-34.*
- iv. *A member of the General Assembly or his or her law firm may serve as city attorney when such representation includes service as solicitor of the municipal court. But a conflict of interest could occur if a partner of a legislator's law firm acts as a registered agent on behalf of the firm's clients if the legislator receives a pecuniary benefit from such activity. Op. Atty. Gen. U91- 4.*
- v. *There is no per se conflict of interest for an attorney who serves in the General Assembly to represent and provide legal services to a community services board as defined in O.C.G.A. § 37-2-11.1(c)(1) with respect to general matters as well as in conjunction with employee disciplinary proceedings, as long as the legislator, in his or her capacity as the board's legal representative, does not take any adverse action against the state or any of its agencies. Op. Atty. Gen. U95-26.*

21. No elected county or municipal official shall be eligible to serve as a member of the General Assembly.

O.C.G.A. § 28-1-13

22. It is unlawful for a member of the General Assembly to accept or hold office or employment in the executive branch of the government, or any agency thereof, or in the judicial branch of the state government.

O.C.G.A. § 16-10-9 (a) (1)

Ga. Const. Art. 1, § 2, ¶ 3

Annotations:

- i. *A member of the General Assembly cannot hold employment as a faculty member of a member institution of the University System of Georgia. Op. Atty. Gen. 76-117.*
- ii. *There is no prohibition against a member of the General Assembly being an employee of the county or city board of education. Op. Atty. Gen. 77- 47.*
- iii. *The Supreme Court of Georgia upheld the constitutionality of the provision in Galer v. Bd. of*