

House Resolution 993 (AS PASSED HOUSE AND SENATE)

By: Representatives Efration of the 104th, Rogers of the 10th, Rhodes of the 120th, Coomer of the 14th, Willard of the 51st, and others

A RESOLUTION

1 Proposing an amendment to the Constitution so as to create a state-wide business court with
2 state-wide jurisdiction for use under certain circumstances; to provide for venue, jurisdiction,
3 and powers; to provide for selection, terms, and qualifications of state-wide business court
4 judges; to provide for the submission of this amendment for ratification or rejection; to
5 provide for related matters; and for other purposes.

6 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 SECTION 1.

8 Article VI of the Constitution is amended by revising Sections I, II, III, IV, and VII as
9 follows:

10 "SECTION I.
11 JUDICIAL POWER

12 Paragraph I. *Judicial power of the state.* The judicial power of the state shall be vested
13 exclusively in the following classes of courts: magistrate courts, probate courts, juvenile
14 courts, state courts, superior courts, state-wide business court, Court of Appeals, and
15 Supreme Court. Nothing in this paragraph shall preclude a superior court from creating a
16 business court division for its circuit in a manner provided by law. Magistrate courts,
17 probate courts, juvenile courts, and state courts shall be courts of limited jurisdiction. In
18 addition, the General Assembly may establish or authorize the establishment of municipal
19 courts and may authorize administrative agencies to exercise quasi-judicial powers.
20 Municipal courts shall have jurisdiction over ordinance violations and such other
21 jurisdiction as provided by law. Except as provided in this Paragraph and in Section X,
22 municipal courts, county recorder's courts, and civil courts in existence on June 30, 1983,
23 and administrative agencies shall not be subject to the provisions of this article. The
24 General Assembly shall have the authority to confer 'by law' jurisdiction upon municipal
25 courts to try state offenses.

26 Paragraph II. *Unified judicial system.* All courts of the state shall comprise a unified
27 judicial system.

28 Paragraph III. *Judges; exercise of power outside own court; scope of term 'judge.'*
29 Provided the judge is otherwise qualified, a judge may exercise judicial power in any court
30 upon the request and with the consent of the judges of that court and of the judge's own
31 court under rules prescribed by law. The term 'judge,' as used in this article, shall include
32 Justices, judges, senior judges, magistrates, and every other such judicial office of whatever
33 name existing or created.

34 Paragraph IV. *Exercise of judicial power.* Each court may exercise such powers as
35 necessary in aid of its jurisdiction or to protect or effectuate its judgments; but only the
36 superior and appellate courts and state-wide business court shall have the power to issue
37 process in the nature of mandamus, prohibition, specific performance, quo warranto, and
38 injunction. Each superior court, state court, and other courts of record and the state-wide
39 business court may grant new trials on legal grounds.

40 Paragraph V. *Uniformity of jurisdiction, powers, etc.* Except as otherwise provided in
41 this Constitution, the courts of each class shall have uniform jurisdiction, powers, rules of
42 practice and procedure, and selection, qualifications, terms, and discipline of judges. The
43 provisions of this Paragraph ~~shall be effected by law within 24 months of the effective date~~
44 ~~of this Constitution~~, as related to the state-wide business court, shall be effective as
45 provided by law.

46 Paragraph VI. *Judicial circuits; courts in each county; court sessions.* The state shall
47 be divided into judicial circuits, each of which shall consist of not less than one county.
48 Each county shall have at least one superior court, magistrate court, a probate court, and,
49 where needed, a state court, ~~and a juvenile court, and a business court division of superior~~
50 court. The General Assembly may provide by law that the judge of the probate court may
51 also serve as the judge of the magistrate court. In the absence of a state court or a juvenile
52 court, the superior court shall exercise that jurisdiction. Superior courts shall hold court
53 at least twice each year in each county.

54 Paragraph VII. *Judicial circuits, courts, and judgeships, law changed.* The General
55 Assembly may abolish, create, consolidate, or modify judicial circuits and courts and
56 judgeships; but no circuit shall consist of less than one county.

57 Paragraph VIII. *Transfer of cases.* Any court shall transfer to the appropriate court in
58 the state any civil case in which it determines that jurisdiction or venue lies elsewhere.

59 Paragraph IX. *Rules of evidence; law prescribed.* All rules of evidence shall be as
60 prescribed by law.

61 Paragraph X. *Authorization for pilot projects.* The General Assembly may by general
62 law approved by a two-thirds' majority of the members of each house enact legislation
63 providing for, as pilot programs of limited duration, courts which are not uniform within
64 their classes in jurisdiction, powers, rules of practice and procedure, and selection,
65 qualifications, terms, and discipline of judges for such pilot courts and other matters
66 relative thereto. Such legislation shall name the political subdivision, judicial circuit, and
67 existing courts affected and may, in addition to any other power, grant to such court created
68 as a pilot program the power to issue process in the nature of mandamus, prohibition,
69 specific performance, quo warranto, and injunction. The General Assembly shall provide
70 by general law for a procedure for submitting proposed legislation relating to such pilot
71 programs to the Judicial Council of Georgia or its successor. Legislation enacted pursuant
72 to this Paragraph shall not deny equal protection of the laws to any person in violation of
73 Article I, Section I, Paragraph II of this Constitution.

74 SECTION II.

75 VENUE

76 Paragraph I. *Divorce cases.* Divorce cases shall be tried in the county where the
77 defendant resides, if a resident of this state; if the defendant is not a resident of this state,
78 then in the county in which the plaintiff resides; provided, however, a divorce case may be
79 tried in the county of residence of the plaintiff if the defendant has moved from that same
80 county within six months from the date of the filing of the divorce action and said county
81 was the site of the marital domicile at the time of the separation of the parties, and
82 provided, further, that any person who has been a resident of any United States army post
83 or military reservation within the State of Georgia for one year next preceding the filing
84 of the petition may bring an action for divorce in any county adjacent to said United States
85 army post or military reservation.

86 Paragraph II. *Land titles.* Cases respecting titles to land shall be tried in the county
87 where the land lies, except where a single tract is divided by a county line, in which case
88 the superior court of either county shall have jurisdiction.

89 Paragraph III. ***Equity cases.*** Equity cases shall be tried in the county where a defendant
90 resides against whom substantial relief is prayed.

91 Paragraph IV. ***Suits against joint obligors, copartners, or joint trespassers.*** Suits
92 against joint obligors, joint tort-feasors, joint promisors, copartners, or joint trespassers
93 residing in different counties may be tried in either county.

94 Paragraph V. ***Suits against maker, endorser, etc.*** Suits against the maker and endorser
95 of promissory notes, or drawer, acceptor, and endorser of foreign or inland bills of
96 exchange, or like instruments, residing in different counties, shall be tried in the county
97 where the maker or acceptor resides.

98 Paragraph VI. ***All other cases.*** All other civil cases, except juvenile court cases as may
99 otherwise be provided by the Juvenile Court Code of Georgia, shall be tried in the county
100 where the defendant resides; venue as to corporations, foreign and domestic, shall be as
101 provided by law; and all criminal cases shall be tried in the county where the crime was
102 committed, except cases in the superior courts where the judge is satisfied that an impartial
103 jury cannot be obtained in such county.

104 Paragraph VII. ***Venue in third-party practice.*** The General Assembly may provide by
105 law that venue is proper in a county other than the county of residence of a person or entity
106 impleaded into a pending civil case by a defending party who contends that such person
107 or entity is or may be liable to said defending party for all or part of the claim against said
108 defending party.

109 Paragraph VIII. ***Power to change venue.*** The power to change the venue in civil and
110 criminal cases shall be vested in the superior courts to be exercised in such manner as has
111 been, or shall be, provided by law.

112 Paragraph IX. ***Venue of state-wide business court.*** All cases before the state-wide
113 business court may conduct pretrial proceedings in any county as provided by law. Any
114 trial of a case that is before the state-wide business court shall take place in the county as
115 is otherwise prescribed by this section.

116

SECTION III.

117

CLASSES OF COURTS OF LIMITED JURISDICTION

118 Paragraph I. *Jurisdiction of classes of courts of limited jurisdiction.* The magistrate,
 119 juvenile, and state courts shall have uniform jurisdiction as provided by law. Probate
 120 courts shall have such jurisdiction as now or hereafter provided by law, without regard to
 121 uniformity.

122

123

Paragraph II. *Jurisdiction of state-wide business court.* The state-wide business court
 shall have state-wide jurisdiction as provided by law.

124

SECTION IV.

125

SUPERIOR COURTS

126 Paragraph I. *Jurisdiction of superior courts.* The superior courts shall have jurisdiction
 127 in all cases, except as otherwise provided in this Constitution. They shall have exclusive
 128 jurisdiction over trials in felony cases, except in the case of juvenile offenders as provided
 129 by law; in cases respecting title to land; and in divorce cases; and. They shall have
 130 concurrent jurisdiction with the state-wide business court in equity cases. A superior court
 131 by agreement of the parties may order removal of a case to the state-wide business court
 132 as provided by law. The superior courts shall have such appellate jurisdiction, either alone
 133 or by circuit or district, as may be provided by law."

134

"SECTION VII.

135

SELECTION, TERM, COMPENSATION,

136

AND DISCIPLINE OF JUDGES

137 Paragraph I. ***Election Selection; term of office.*** (a) All superior court and state court
 138 judges shall be elected on a nonpartisan basis for a term of four years. All Justices of the
 139 Supreme Court and the Judges of the Court of Appeals shall be elected on a nonpartisan
 140 basis for a term of six years. The terms of all judges thus elected shall begin the next
 141 January 1 after their election. All other judges shall continue to be selected in the manner
 142 and for the term they were selected on June 30, 1983, until otherwise provided by local
 143 law.

144

145

146

(b) All state-wide business court judges shall serve a term of five years; provided,
however, that the initial term of such judges shall be as provided by law. Such judges shall
be appointed by the Governor, subject to approval by a majority vote of the Senate

147 Judiciary Committee and a majority vote of the House Committee on Judiciary. Such
148 judges may be reappointed for any number of consecutive terms as long as he or she meets
149 the qualifications of appointment at the time of each appointment and is approved as
150 required by this subparagraph. The state-wide business court shall consist of the number
151 of judges as provided for by law. For purposes of qualifications, state-wide business court
152 judges shall be deemed to serve the geographical area of this state.

153 Paragraph II. *Qualifications.* (a) Appellate, ~~and superior, and state-wide business court~~
154 judges shall have been admitted to practice law for seven years.

155 (b) State court judges shall have been admitted to practice law for seven years, provided
156 that this requirement shall be five years in the case of state court judges elected or
157 appointed in the year 2000 or earlier. Juvenile court judges shall have been admitted to
158 practice law for five years.

159 (b.1) State-wide business court judges shall have such qualifications as provided by law.

160 (c) Probate and magistrate judges shall have such qualifications as provided by law.

161 (d) All judges shall reside in the geographical area in which they are selected to serve.

162 (e) The General Assembly may provide by law for additional qualifications, including,
163 but not limited to, minimum residency requirements.

164 Paragraph III. *Vacancies.* Vacancies shall be filled by appointment of the Governor
165 except as otherwise provided by law in the magistrate, probate, and juvenile courts.
166 Vacancies in the state-wide business court shall be filled by appointment of the Governor,
167 subject to approval as specified in subparagraph (b) of Paragraph (I) of this section.

168 Paragraph IV. *Period of service of appointees.* An appointee to an elective office shall
169 serve until a successor is duly selected and qualified and until January 1 of the year
170 following the next general election which is more than six months after such person's
171 appointment.

172 Paragraph V. *Compensation and allowances of judges.* All judges shall receive
173 compensation and allowances as provided by law; county supplements are hereby
174 continued and may be granted or changed by the General Assembly. County governing
175 authorities which had the authority on June 30, 1983, to make county supplements shall
176 continue to have such authority under this Constitution. An incumbent's salary, allowance,
177 or supplement shall not be decreased during the incumbent's term of office.

178 Paragraph VI. *Judicial Qualifications Commission; power; composition.* (a) The
179 General Assembly shall by general law create and provide for the composition, manner of
180 appointment, and governance of a Judicial Qualifications Commission, with such
181 commission having the power to discipline, remove, and cause involuntary retirement of
182 judges as provided by this Article. Appointments to the Judicial Qualifications
183 Commission shall be subject to confirmation by the Senate as provided for by general law.

184 (b) The procedures of the Judicial Qualifications Commission shall comport with due
185 process. Such procedures and advisory opinions issued by the Judicial Qualifications
186 Commission shall be subject to review by the Supreme Court.

187 (c) The Judicial Qualifications Commission which existed on June 30, 2017, is hereby
188 abolished.

189 Paragraph VII. *Discipline, removal, and involuntary retirement of judges.* (a) Any
190 judge may be removed, suspended, or otherwise disciplined for willful misconduct in
191 office, or for willful and persistent failure to perform the duties of office, or for habitual
192 intemperance, or for conviction of a crime involving moral turpitude, or for conduct
193 prejudicial to the administration of justice which brings the judicial office into disrepute.
194 Any judge may be retired for disability which constitutes a serious and likely permanent
195 interference with the performance of the duties of office. The Supreme Court shall adopt
196 rules of implementation.

197 (b)(1) Upon indictment for a felony by a grand jury of this state or by a grand jury of
198 the United States of any judge, the Attorney General or district attorney shall transmit a
199 certified copy of the indictment to the Judicial Qualifications Commission. The
200 commission shall, subject to subparagraph (b)(2) of this Paragraph, review the
201 indictment, and, if it determines that the indictment relates to and adversely affects the
202 administration of the office of the indicted judge and that the rights and interests of the
203 public are adversely affected thereby, the commission shall suspend the judge
204 immediately and without further action pending the final disposition of the case or until
205 the expiration of the judge's term of office, whichever occurs first. During the term of
206 office to which such judge was elected and in which the indictment occurred, if a nolle
207 prosequi is entered, if the public official is acquitted, or if after conviction the conviction
208 is later overturned as a result of any direct appeal or application for a writ of certiorari,
209 the judge shall be immediately reinstated to the office from which he was suspended.
210 While a judge is suspended under this subparagraph and until initial conviction by the
211 trial court, the judge shall continue to receive the compensation from his office. After
212 initial conviction by the trial court, the judge shall not be entitled to receive the
213 compensation from his office. If the judge is reinstated to office, he shall be entitled to

214 receive any compensation withheld under the provisions of this subparagraph. For the
215 duration of any suspension under this subparagraph, the Governor shall appoint a
216 replacement judge. Upon a final conviction with no appeal or review pending, the office
217 shall be declared vacant and a successor to that office shall be chosen as provided in this
218 Constitution or the laws enacted in pursuance thereof.

219 (2) The commission shall not review the indictment for a period of 14 days from the
220 day the indictment is received. This period of time may be extended by the commission.
221 During this period of time, the indicted judge may, in writing, authorize the commission
222 to suspend him from office. Any such voluntary suspension shall be subject to the same
223 conditions for review, reinstatement, or declaration of vacancy as are provided in this
224 subparagraph for a nonvoluntary suspension.

225 (3) After any suspension is imposed under this subparagraph, the suspended judge may
226 petition the commission for a review. If the commission determines that the judge should
227 no longer be suspended, he shall immediately be reinstated to office.

228 (4)(A) The findings and records of the commission and the fact that the public
229 official has or has not been suspended shall not be admissible in evidence in any court
230 for any purpose.

231 (B) The findings and records of the commission shall not be open to the public except
232 as provided by the General Assembly by general law.

233 (5) The provisions of this subparagraph shall not apply to any indictment handed down
234 prior to January 1, 1985.

235 (6) If a judge who is suspended from office under the provisions of this subparagraph
236 is not first tried at the next regular or special term following the indictment, the
237 suspension shall be terminated and the judge shall be reinstated to office. The judge shall
238 not be reinstated under this provision if he is not so tried based on a continuance granted
239 upon a motion made only by the defendant.

240 (c) Upon initial conviction of any judge for any felony in a trial court of this state or the
241 United States, regardless of whether the judge has been suspended previously under
242 subparagraph (b) of this Paragraph, such judge shall be immediately and without further
243 action suspended from office. While a judge is suspended from office under this
244 subparagraph, he shall not be entitled to receive the compensation from his office. If the
245 conviction is later overturned as a result of any direct appeal or application for a writ of
246 certiorari, the judge shall be immediately reinstated to the office from which he was
247 suspended and shall be entitled to receive any compensation withheld under the provisions
248 of this subparagraph. For the duration of any suspension under this subparagraph, the
249 Governor shall appoint a replacement judge. Upon a final conviction with no appeal or
250 review pending, the office shall be declared vacant and a successor to that office shall be

251 chosen as provided in this Constitution or the laws enacted in pursuance thereof. The
 252 provisions of this subparagraph shall not apply to any conviction rendered prior to
 253 January 1, 1987.

254 Paragraph VIII. *Due process; review by Supreme Court.* No action shall be taken
 255 against a judge except after hearing and in accordance with due process of law. No
 256 removal or involuntary retirement shall occur except upon order of the Supreme Court after
 257 review."

258 **SECTION 2.**

259 The above proposed amendment to the Constitution shall be published and submitted as
 260 provided in Article X, Section I, Paragraph II of the Constitution. The ballot submitting the
 261 above proposed amendment shall have written or printed thereon the following:

262 "() YES Shall the Constitution of Georgia be amended so as to create a state-wide
 263 business court, authorize superior court business court divisions, and allow
 264 () NO for the appointment process for state-wide business court judges in order to
 265 lower costs, improve the efficiency of all courts, and promote predictability
 266 of judicial outcomes in certain complex business disputes for the benefit of
 267 all citizens of this state?"

268 All persons desiring to vote in favor of ratifying the proposed amendment shall vote "Yes."
 269 All persons desiring to vote against ratifying the proposed amendment shall vote "No." If
 270 such amendment shall be ratified as provided in said Paragraph of the Constitution, it shall
 271 become a part of the Constitution of this state.