

House Bill 523

By: Representatives Wiles of the 34<sup>th</sup>, Westmoreland of the 104<sup>th</sup>, Smith of the 19<sup>th</sup>, Richardson of the 26<sup>th</sup>, Massey of the 86<sup>th</sup> and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 15 of the Official Code of Georgia Annotated, relating to courts, so as to  
2 require that judges or Justices filling newly created Supreme Court, Court of Appeals,  
3 superior court, or state court judgeships or vacancies in those offices be elected; to change  
4 the provisions relating to filling vacancies in the offices of Court of Appeals, superior court,  
5 and state court judges and Supreme Court Justices; to amend Article 14 of Chapter 2 of Title  
6 21 of the Official Code of Georgia Annotated, relating to special elections, so as to allow  
7 special elections for Supreme Court, Court of Appeals, superior court, or state court judicial  
8 vacancies or for the creation of a new judgeship; to provide for related matters; to provide  
9 for submission for preclearance; to provide for a contingent effective date; to repeal  
10 conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by  
14 designating the existing provisions of Code Section 15-2-1.1, relating to the number of  
15 Justices, as subsection (a) and adding a new subsection (b) to read as follows:

16 "(b) In the event the number of Justices increases or a vacancy is created, the new Justice  
17 shall be elected in the manner provided by law for the election of Supreme Court Justices  
18 and by special election as provided in Code Section 21-2-546."

19 style="text-align:center">**SECTION 2.**

20 Said title is further amended by striking subsection (a) of Code Section 15-3-1, relating to  
21 the composition of the Court of Appeals, and inserting in lieu thereof the following:

22 "(a) The Court of Appeals shall consist of 12 Judges who shall elect one of their number  
23 as Chief Judge, in such manner and for such time as may be prescribed by rule or order of  
24 the court. In the event the number of Judges increases or a vacancy is created, the new

1 Judge shall be elected in the manner provided by law for the election of Judges in the Court  
 2 of Appeals and by special election as provided in Code Section 21-2-546."

3 **SECTION 3.**

4 Said title is further amended by designating the existing provisions of Code Section 15-6-2,  
 5 relating to number of judges, as subsection (a) and adding a new subsection (b) to read as  
 6 follows:

7 "(b) In the event the number of judges for any circuit increases, the new judge shall be  
 8 elected in the manner provided by law for the election of judges in the superior courts of  
 9 this state and by special election as provided in Code Section 21-2-546."

10 **SECTION 4.**

11 Said title is further amended by adding, following Code Section 15-6-4.1, a new Code  
 12 section to read as follows:

13 "15-6-4.2.

14 In the event of a vacancy in the office of judge of the superior court for any reason except  
 15 the expiration of the term of office, the vacancy shall be filled as provided in Code Section  
 16 21-2-546."

17 **SECTION 5.**

18 Said title is further amended by striking Code Section 15-7-23, relating to vacancies in the  
 19 office of judge of the state court, and inserting in its place a new Code section to read as  
 20 follows:

21 "15-7-23.

22 In the event of a vacancy in the office of judge of the state court for any reason except the  
 23 expiration of the term of office, the ~~Governor shall appoint a qualified person who shall~~  
 24 ~~serve as provided in Article VI, Section VII, Paragraphs III and IV of the Constitution~~  
 25 vacancy shall be filled as provided in Code Section 21-2-546. In the event a new judgeship  
 26 is created by the General Assembly, the new judge shall be elected in the manner provided  
 27 by law for the election of judges in the state courts of this state and by special election as  
 28 provided in Code Section 21-2-546."

29 **SECTION 6.**

30 Article 14 of Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to  
 31 special elections, is amended by adding, following Code Section 21-2-545, a new Code  
 32 section to read as follows:

1 "21-2-546.  
2 Whenever a vacancy shall occur or exist in the office of Supreme Court Justice or Judge  
3 of the Court of Appeals or superior or state court judge or a new judgeship is created by the  
4 General Assembly, the Governor shall issue, within ten days after the occurrence of such  
5 vacancy or creation of a judgeship, a writ of election to the Secretary of State for a special  
6 election to fill such position, which election shall be held on the date named in the writ,  
7 which shall not be less than 30 days after its issuance. Upon receiving the writ of election  
8 from the Governor, the Secretary of State shall then transmit the writ of election to the  
9 superintendent of each county involved and shall publish the call of the election."

10 **SECTION 7.**

11 It shall be the duty of the Attorney General to submit this Act for preclearance pursuant to  
12 Section 5 of the federal Voting Rights Act of 1965, as amended. If implementation of this  
13 Act is not permissible under the federal Voting Rights Act of 1965, as amended, then this Act  
14 shall be void and stand repealed in its entirety.

15 **SECTION 8.**

16 Except as otherwise provided in Section 5 of this Act, this Act shall become effective  
17 January 1, 2003, only if the constitutional amendment which provides for new Supreme  
18 Court, Court of Appeals, superior, and state court judgeships and vacancies in the office of  
19 Supreme Court Justices, Court of Appeals Judges, and superior and state court judges is  
20 ratified at the November, 2002, election; otherwise this Act shall stand repealed in its entirety  
21 January 1, 2003.

22 **SECTION 9.**

23 All laws and parts of laws in conflict with this Act are repealed.