

The House Committee on Judiciary offers the following substitute to HB 269:

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 15-6-2 of the Official Code of Georgia Annotated, relating to the
2 number of judges of superior courts, so as to provide for a fourth judge of the superior courts
3 of the Cherokee Judicial Circuit; to provide for the appointment of such additional judge by
4 the Governor; to provide for the election of successors to the judge initially appointed; to
5 prescribe the powers of said judge; to prescribe the compensation, salary, and expense
6 allowance of said judge to be paid by the State of Georgia and the counties comprising said
7 circuit; to authorize the judges of said court to divide and allocate the work and duties
8 thereof; to provide for the manner of impaneling jurors; to provide for an additional court
9 reporter for said circuit; to authorize the governing authority of the counties which comprise
10 the Cherokee Judicial Circuit to provide facilities, office space, supplies, equipment, and
11 personnel for said judges; to declare inherent authority; to provide for a conditional effective
12 date; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 SECTION 1.

15 Code Section 15-6-2 of the Official Code of Georgia Annotated, relating to the number of
16 judges of superior courts, is amended by striking paragraph (9) and inserting in its place a
17 new paragraph to read as follows:

18 "(9) Cherokee Circuit 34"

19 SECTION 2.

20 One additional judge of the superior courts is added to the Cherokee Judicial Circuit, thereby
21 increasing to four the number of judges of said circuit.

22 SECTION 3.

23 Said additional judge shall be appointed by the Governor for a term beginning January 1,
24 2005, and continuing through December 31, 2006, and until his or her successor is elected

1 and qualified; such judge shall take office on the date of his or her appointment by the
2 Governor. His or her successor shall be elected in the manner provided by law for the
3 election of judges of the superior courts of this state at the nonpartisan judicial election in
4 2006, for a term of four years beginning on January 1, 2007, and until his or her successor
5 is elected and qualified. Future successors shall be elected at the nonpartisan judicial
6 election each four years after such election for terms of four years and until their successors
7 are elected and qualified. They shall take office on the first day of January following the date
8 of the election.

9 **SECTION 4.**

10 The additional judge of the superior courts of the Cherokee Judicial Circuit of Georgia shall
11 have and may exercise all powers, duties, dignity, jurisdiction, privileges, and immunities
12 of the present judges of the superior courts of this state. Any of the judges of the Cherokee
13 Judicial Circuit may preside over any cause, whether in their own or in other circuits, and
14 perform any official act as judge thereof, including sitting on appellate courts as provided by
15 law.

16 **SECTION 5.**

17 The qualifications of such additional judge and his or her successors and his or her
18 compensation, salary, and expense allowance from the State of Georgia and from the
19 counties of the superior courts of the Cherokee Judicial Circuit shall be the same as are now
20 provided by law for all other superior court judges. The provisions, if any, enacted for the
21 supplementation by the counties of said circuit of the salary of the judges of the superior
22 courts of the Cherokee Judicial Circuit shall also be applicable to the additional judge
23 provided for by this Act.

24 **SECTION 6.**

25 All writs and processes in the superior courts of the Cherokee Judicial Circuit shall be
26 returnable to the terms of said superior courts as they are now fixed and provided by law, or
27 as they may hereafter be fixed or determined by law, and all terms of said courts shall be held
28 in the same manner as though there were but one judge, it being the intent and purpose of this
29 Act to provide four judges equal in jurisdiction and authority to attend and perform the
30 functions, powers, and duties of the judges of said superior courts and to direct and conduct
31 all hearings and trials in said courts.

SECTION 7.

1
2 Upon and after qualification of the additional judge of the superior court of the Cherokee
3 Judicial Circuit, the four judges of said court may adopt, promulgate, amend, and enforce
4 such rules of practice and procedure in consonance with the Constitution and laws of the
5 State of Georgia as they deem suitable and proper for the effective transaction of the business
6 of the court; and, in transacting the business of the court and in performing their duties and
7 responsibilities, they shall share, divide, and allocate the work and duties to be performed by
8 each. In the event of a disagreement among the judges in respect hereof, the majority shall
9 rule, or failing a majority, the decision of the senior judge in point of service, who shall be
10 known as the chief judge, shall be controlling.

SECTION 8.

11
12 The drawing and impaneling of all jurors, whether grand, petit, or special, may be by any of
13 the judges of the superior court of said circuit; and they, or any one of them, shall have full
14 power and authority to draw and impanel jurors for service in said courts so as to have jurors
15 for the trial of cases before any of said judges separately or before each of them at the same
16 time.

SECTION 9.

17
18 The four judges of the Cherokee Judicial Circuit shall be authorized and empowered to
19 appoint an additional court reporter for such circuit, whose compensation shall be as now or
20 hereafter provided by law.

SECTION 10.

21
22 All writs, processes, orders, subpoenas, and any other official paper issuing out of the
23 superior courts of the Cherokee Judicial Circuit may bear teste in the name of any judge of
24 the Cherokee Judicial Circuit, and when issued by and in the name of any judge of said
25 circuit shall be fully valid and may be heard and determined before the same or any other
26 judge of said circuit. Any judge of said circuit may preside over any case therein and
27 perform any official act as judge thereof.

SECTION 11.

28
29 Upon request of any judge of the circuit, the governing authorities of the counties comprising
30 the Cherokee Judicial Circuit are authorized to furnish the judges of said circuit with suitable
31 courtrooms and facilities, office space, telephones, furniture, office equipment, supplies, and
32 such personnel as may be considered necessary by the court to the proper function of the

1 court. All of the expenditures authorized in this Act are declared to be an expense of the
2 court and payable out of the county treasury as such.

3 **SECTION 12.**

4 Nothing in this Act shall be deemed to limit or restrict the inherent powers, duties, and
5 responsibilities of superior court judges provided by the Constitution and statutes of the State
6 of Georgia.

7 **SECTION 13.**

8 (a) For purposes of making the initial appointment of the judge to fill the superior court
9 judgeship created by this Act, this Act shall become effective upon its approval by the
10 Governor or its becoming law without such approval.

11 (b) For all other purposes, this Act shall become effective January 1, 2005.

12 **SECTION 14.**

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