

House Bill 1073 (COMMITTEE SUBSTITUTE)

By: Representatives O`Neal of the 146th, Talton of the 145th, Ray of the 136th, and Floyd of the 147th

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 court, so as to provide for a third judge of the superior courts
3 of the Blue Ridge Judicial Circuit, a tenth judge of the superior courts of the Cobb Judicial
4 Circuit, a sixth judge of the superior courts of the Coweta Judicial Circuit, a third judge of
5 the superior courts of the Houston Judicial Circuit, and a third judge of the superior courts
6 of the Paulding Judicial Circuit; to provide for the appointment of such additional judges by
7 the Governor; to provide for the election of successors to the judges initially appointed; to
8 prescribe the powers of such judges; to prescribe the compensation, salary, and expense
9 allowance of such judges to be paid by the State of Georgia and the counties comprising said
10 circuits; to authorize the judges of such circuits to divide and allocate the work and duties
11 thereof; to provide for the manner of impaneling jurors; to provide for an additional court
12 reporter for such circuits; to authorize the governing authority of the counties that comprise
13 such circuits to provide facilities, office space, supplies, equipment, and personnel for such
14 judges; to declare inherent authority; to provide effective dates; to repeal conflicting laws;
15 and for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 **Part I**
18 **SECTION 1-1.**

19 Code Section 15-6-2 of the Official Code of Georgia Annotated, relating to the number of
20 judges of superior courts, is amended by striking paragraphs (6), (11), (14), (21), and (31.1)
21 and inserting their place new paragraphs to read as follows:

22 "(6) Blue Ridge Circuit 2 3"
23 "(11) Cobb Circuit 9 10"
24 "(14) Coweta Circuit 5 6"

1	"(21) Houston Circuit	$\underline{\underline{2}}$	$\underline{\underline{3}}$
2	"(31.1) Paulding Circuit	$\underline{\underline{2}}$	$\underline{\underline{3}}$

Part II

SECTION 2-1.

One additional judge of the superior courts is added to the Blue Ridge Judicial Circuit, thereby increasing to three the number of judges of said circuit.

SECTION 2-2.

Said additional judge shall be appointed by the Governor for a term beginning July 1, 2006, and continuing through December 31, 2008, and until his or her successor is elected and qualified; such judge shall take office on the date of his or her appointment by the Governor. His or her successor shall be elected in the manner provided by law for the election of judges of the superior courts of this state at the nonpartisan judicial election in 2008, for a term of four years beginning on January 1, 2009, and until his or her successor is elected and qualified. Future successors shall be elected at the nonpartisan judicial election each four years after such election for terms of four years and until their successors are elected and qualified. They shall take office on the first day of January following the date of the election.

SECTION 2-3.

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

SECTION 2-4.

The qualifications of such additional judge and his or her successors and his or her compensation, salary, and expense allowance from the State of Georgia and from the county comprising the Blue Ridge Judicial Circuit shall be the same as are now provided by law for all other superior court judges. The provisions, if any, enacted for the supplementation by the county of said circuit of the salary of the judges of the superior courts of the Blue Ridge Judicial Circuit shall also be applicable to the additional judge provided for by this Act.

SECTION 2-5.

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

SECTION 2-6.

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

SECTION 2-7.

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

SECTION 2-8.

The three judges of the Blue Ridge Judicial Circuit shall be authorized and empowered to appoint an additional court reporter for such circuit, whose compensation shall be as now or hereafter provided by law.

SECTION 2-9.

All writs, processes, orders, subpoenas, and any other official paper issuing out of the superior courts of the Blue Ridge Judicial Circuit may bear teste in the name of any judge of the Blue Ridge Judicial Circuit, and when issued by and in the name of any judge of said circuit shall be fully valid and may be heard and determined before the same or any other

1 judge of said circuit. Any judge of said circuit may preside over any case therein and
2 perform any official act as judge thereof.

3 **SECTION 2-10.**

4 Upon request of any judge of the circuit, the governing authority of the county comprising
5 the Blue Ridge Judicial Circuit is authorized to furnish the judges of said circuit with suitable
6 courtrooms and facilities, office space, telephones, furniture, office equipment, supplies, and
7 such personnel as may be considered necessary by the court to the proper function of the
8 court. All of the expenditures authorized in this Act are declared to be an expense of the
9 court and payable out of the county treasury as such.

10 **Part III**

11 **SECTION 3-1.**

12 One additional judge of the superior courts is added to the Cobb Judicial Circuit, thereby
13 increasing to ten the number of judges of said circuit.

14 **SECTION 3-2.**

15 Said additional judge shall be appointed by the Governor for a term beginning January 1,
16 2007, and continuing through December 31, 2008, and until his or her successor is elected
17 and qualified; such judge shall take office on the date of his or her appointment by the
18 Governor. His or her successor shall be elected in the manner provided by law for the
19 election of judges of the superior courts of this state at the nonpartisan judicial election in
20 2008, for a term of four years beginning on January 1, 2009, and until his or her successor
21 is elected and qualified. Future successors shall be elected at the nonpartisan judicial
22 election each four years after such election for terms of four years and until their successors
23 are elected and qualified. They shall take office on the first day of January following the date
24 of the election.

25 **SECTION 3-3.**

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

SECTION 3-4.

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

SECTION 3-5.

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

SECTION 3-6.

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

SECTION 3-7.

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

SECTION 3-8.

The ten judges of the Cobb Judicial Circuit shall be authorized and empowered to appoint an additional court reporter for such circuit, whose compensation shall be as now or hereafter provided by law.

SECTION 3-9.

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

SECTION 3-10.

Upon request of any judge of the circuit, the governing authorities of the counties comprising the Cobb Judicial Circuit are authorized to furnish the judges of said circuit with suitable courtrooms and facilities, office space, telephones, furniture, office equipment, supplies, and such personnel as may be considered necessary by the court to the proper function of the court. All of the expenditures authorized in this Act are declared to be an expense of the court and payable out of the county treasury as such.

Part IV**SECTION 4-1.**

One additional judge of the superior courts is added to the Coweta Judicial Circuit, thereby increasing to six the number of judges of said circuit.

SECTION 4-2.

Said additional judge shall be appointed by the Governor for a term beginning January 1, 2007, and continuing through December 31, 2008, and until his or her successor is elected and qualified; such judge shall take office on the date of his or her appointment by the Governor. His or her successor shall be elected in the manner provided by law for the election of judges of the superior courts of this state at the nonpartisan judicial election in 2008, for a term of four years beginning on January 1, 2009, and until his or her successor is elected and qualified. Future successors shall be elected at the nonpartisan judicial election each four years after such election for terms of four years and until their successors

1 are elected and qualified. They shall take office on the first day of January following the date
2 of the election.

3 **SECTION 4-3.**

4 The additional judge of the superior courts of the Coweta Judicial Circuit of Georgia shall
5 have and may exercise all powers, duties, dignity, jurisdiction, privileges, and immunities
6 of the present judges of the superior courts of this state. Any of the judges of the Coweta
7 Judicial Circuit may preside over any cause, whether in their own or in other circuits, and
8 perform any official act as judge thereof, including sitting on appellate courts as provided by
9 law.

10 **SECTION 4-4.**

11 The qualifications of such additional judge and his or her successors and his or her
12 compensation, salary, and expense allowance from the State of Georgia and from the
13 counties comprising the Coweta Judicial Circuit shall be the same as are now provided by
14 law for all other superior court judges. The provisions, if any, enacted for the
15 supplementation by the counties of said circuit of the salary of the judges of the superior
16 courts of the Coweta Judicial Circuit shall also be applicable to the additional judge provided
17 for by this Act.

18 **SECTION 4-5.**

19 All writs and processes in the superior courts of the Coweta Judicial Circuit shall be
20 returnable to the terms of said superior courts as they are now fixed and provided by law, or
21 as they may hereafter be fixed or determined by law, and all terms of said courts shall be held
22 in the same manner as though there were but one judge, it being the intent and purpose of this
23 Act to provide six judges equal in jurisdiction and authority to attend and perform the
24 functions, powers, and duties of the judges of said superior courts and to direct and conduct
25 all hearings and trials in said courts.

26 **SECTION 4-6.**

27 Upon and after qualification of the additional judge of the superior court of the Coweta
28 Judicial Circuit, the six judges of such circuit may adopt, promulgate, amend, and enforce
29 such rules of practice and procedure in consonance with the Constitution and laws of the
30 State of Georgia as they deem suitable and proper for the effective transaction of the business
31 of the court; and, in transacting the business of the court and in performing their duties and
32 responsibilities, they shall share, divide, and allocate the work and duties to be performed by
33 each. In the event of a disagreement among the judges in respect hereof, the majority shall

1 rule, or failing a majority, the decision of the senior judge in point of service, who shall be
2 known as the chief judge, shall be controlling. The six judges of the superior courts of the
3 Coweta Judicial Circuit shall have and are clothed with full power, authority, and discretion
4 to determine from time to time and term to term the manner of calling the dockets, fixing the
5 calendars, and order of business in such courts. They may assign to one of such judges the
6 hearing of trials by jury for a term and the hearing of all other matters not requiring a trial
7 by jury to the other judges, and they may rotate such order of business at the next term. They
8 may conduct trials by jury at the same time in the same county or otherwise within such
9 circuit, or they may hear chambers business and motion business at the same time at any
10 place within such circuit. They may provide in all respects for holding the superior courts
11 of such circuit so as to facilitate the hearing and determination of all the business of such
12 courts at any time pending and ready for trial or hearing. In all such matters relating to the
13 fixing, arranging for, and disposing of the business of such courts and making appointments
14 as authorized by law where the judges thereof cannot agree or shall differ, the opinion or
15 order of the chief judge as provided for in this Act shall control.

16 **SECTION 4-7.**

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

22 **SECTION 4-8.**

23 The six judges of the Coweta Judicial Circuit shall be authorized and empowered to appoint
24 an additional court reporter for such circuit, whose compensation shall be as now or hereafter
25 provided by law.

26 **SECTION 4-9.**

27 All writs, processes, orders, subpoenas, and any other official paper issuing out of the
28 superior courts of the Coweta Judicial Circuit may bear teste in the name of any judge of the
29 Coweta Judicial Circuit and, when issued by and in the name of any judge of said circuit,
30 shall be fully valid and may be heard and determined before the same or any other judge of
31 said circuit. Any judge of said circuit may preside over any case therein and perform any
32 official act as judge thereof.

SECTION 4-10.

Upon request of any judge of the circuit, the governing authorities of the counties comprising the Coweta Judicial Circuit are authorized to furnish the judges of such circuit with suitable courtrooms and facilities, office space, telephones, furniture, office equipment, supplies, and such personnel as may be considered necessary by the court to the proper function of the court. All of the expenditures authorized in this Act are declared to be an expense of the court and payable out of the county treasury as such.

Part V**SECTION 5-1.**

One additional judge of the superior courts is added to the Houston Judicial Circuit, thereby increasing to three the number of judges of said circuit.

SECTION 5-2.

Said additional judge shall be appointed by the Governor for a term beginning January 1, 2007, and continuing through December 31, 2008, and until his or her successor is elected and qualified; such judge shall take office on the date of his or her appointment by the Governor. His or her successor shall be elected in the manner provided by law for the election of judges of the superior courts of this state at the nonpartisan judicial election in 2008, for a term of four years beginning on January 1, 2009, and until his or her successor is elected and qualified. Future successors shall be elected at the nonpartisan judicial election each four years after such election for terms of four years and until their successors are elected and qualified. They shall take office on the first day of January following the date of the election.

SECTION 5-3.

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

SECTION 5-4.

The qualifications of such additional judge and his or her successors and his or her compensation, salary, and expense allowance from the State of Georgia and from the county

1 comprising the Houston Judicial Circuit shall be the same as are now provided by law for all
2 other superior court judges. The provisions, if any, enacted for the supplementation by the
3 county of said circuit of the salary of the judges of the superior courts of the Houston Judicial
4 Circuit shall also be applicable to the additional judge provided for by this Act.

5 **SECTION 5-5.**

6 All writs and processes in the superior courts of the Houston Judicial Circuit shall be
7 returnable to the terms of said superior courts as they are now fixed and provided by law, or
8 as they may hereafter be fixed or determined by law, and all terms of said courts shall be held
9 in the same manner as though there were but one judge, it being the intent and purpose of this
10 Act to provide three judges equal in jurisdiction and authority to attend and perform the
11 functions, powers, and duties of the judges of said superior courts and to direct and conduct
12 all hearings and trials in said courts.

13 **SECTION 5-6.**

14 Upon and after qualification of the additional judge of the superior court of the Houston
15 Judicial Circuit, the three judges of said court may adopt, promulgate, amend, and enforce
16 such rules of practice and procedure in consonance with the Constitution and laws of the
17 State of Georgia as they deem suitable and proper for the effective transaction of the business
18 of the court; and, in transacting the business of the court and in performing their duties and
19 responsibilities, they shall share, divide, and allocate the work and duties to be performed by
20 each. In the event of a disagreement among the judges in respect hereof, the majority shall
21 rule, or failing a majority, the decision of the senior judge in point of service, who shall be
22 known as the chief judge, shall be controlling.

23 **SECTION 5-7.**

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

29 **SECTION 5-8.**

30 The three judges of the Houston Judicial Circuit shall be authorized and empowered to
31 appoint an additional court reporter for such circuit, whose compensation shall be as now or
32 hereafter provided by law.

SECTION 5-9.

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

SECTION 5-10.

Upon request of any judge of the circuit, the governing authority of the county comprising the Houston Judicial Circuit are authorized to furnish the judges of said circuit with suitable courtrooms and facilities, office space, telephones, furniture, office equipment, supplies, and such personnel as may be considered necessary by the court to the proper function of the court. All of the expenditures authorized in this Act are declared to be an expense of the court and payable out of the county treasury as such.

Part VI**SECTION 6-1.**

One additional judge of the superior courts is added to the Paulding Judicial Circuit, thereby increasing to three the number of judges of said circuit.

SECTION 6-2.

Said additional judge shall be appointed by the Governor for a term beginning January 1, 2007, and continuing through December 31, 2008, and until his or her successor is elected and qualified; such judge shall take office on the date of his or her appointment by the Governor. His or her successor shall be elected in the manner provided by law for the election of judges of the superior courts of this state at the nonpartisan judicial election in 2008, for a term of four years beginning on January 1, 2009, and until his or her successor is elected and qualified. Future successors shall be elected at the nonpartisan judicial election each four years after such election for terms of four years and until their successors are elected and qualified. They shall take office on the first day of January following the date of the election.

SECTION 6-3.

The additional judge of the superior courts of the Paulding Judicial Circuit of Georgia shall have and may exercise all powers, duties, dignity, jurisdiction, privileges, and immunities

1 of the present judges of the superior courts of this state. Any of the judges of the Paulding
2 Judicial Circuit may preside over any cause, whether in their own or in other circuits, and
3 perform any official act as judge thereof, including sitting on appellate courts as provided by
4 law.

5 **SECTION 6-4.**

6 The qualifications of such additional judge and his or her successors and his or her
7 compensation, salary, and expense allowance from the State of Georgia and from the county
8 comprising the Paulding Judicial Circuit shall be the same as are now provided by law for
9 all other superior court judges. The provisions, if any, enacted for the supplementation by
10 the county of said circuit of the salary of the judges of the superior courts of the Paulding
11 Judicial Circuit shall also be applicable to the additional judge provided for by this Act.

12 **SECTION 6-5.**

13 All writs and processes in the superior courts of the Paulding Judicial Circuit shall be
14 returnable to the terms of said superior courts as they are now fixed and provided by law, or
15 as they may hereafter be fixed or determined by law, and all terms of said courts shall be held
16 in the same manner as though there were but one judge, it being the intent and purpose of this
17 Act to provide three judges equal in jurisdiction and authority to attend and perform the
18 functions, powers, and duties of the judges of said superior courts and to direct and conduct
19 all hearings and trials in said courts.

20 **SECTION 6-6.**

21 Upon and after qualification of the additional judge of the superior court of the Paulding
22 Judicial Circuit, the three judges of said court may adopt, promulgate, amend, and enforce
23 such rules of practice and procedure in consonance with the Constitution and laws of the
24 State of Georgia as they deem suitable and proper for the effective transaction of the business
25 of the court; and, in transacting the business of the court and in performing their duties and
26 responsibilities, they shall share, divide, and allocate the work and duties to be performed by
27 each. In the event of a disagreement among the judges in respect hereof, the majority shall
28 rule, or failing a majority, the decision of the senior judge in point of service, who shall be
29 known as the chief judge, shall be controlling.

30 **SECTION 6-7.**

31 The drawing and impaneling of all jurors, whether grand, petit, or special, may be by any of
32 the judges of the superior court of said circuit; and they, or any one of them, shall have full
33 power and authority to draw and impanel jurors for service in said courts so as to have jurors

1 for the trial of cases before any of said judges separately or before each of them at the same
2 time.

3 **SECTION 6-8.**

4 The three judges of the Paulding Judicial Circuit shall be authorized and empowered to
5 appoint an additional court reporter for such circuit, whose compensation shall be as now or
6 hereafter provided by law.

7 **SECTION 6-9.**

8 All writs, processes, orders, subpoenas, and any other official paper issuing out of the
9 superior courts of the Paulding Judicial Circuit may bear teste in the name of any judge of
10 the Paulding Judicial Circuit, and when issued by and in the name of any judge of said circuit
11 shall be fully valid and may be heard and determined before the same or any other judge of
12 said circuit. Any judge of said circuit may preside over any case therein and perform any
13 official act as judge thereof.

14 **SECTION 6-10.**

15 Upon request of any judge of the circuit, the governing authority of the county comprising
16 the Paulding Judicial Circuit is authorized to furnish the judges of said circuit with suitable
17 courtrooms and facilities, office space, telephones, furniture, office equipment, supplies, and
18 such personnel as may be considered necessary by the court to the proper function of the
19 court. All of the expenditures authorized in this Act are declared to be an expense of the
20 court and payable out of the county treasury as such.

21 **Part VII**

22 **SECTION 7-1.**

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

26 **SECTION 7-2.**

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

30 (b) For all other purposes, Part II of this Act shall become effective July 1, 2006.

- 1 (c) For all other purposes, Parts III, IV, V, and VI of this Act shall become effective January
2 1, 2007.
- 3 (d) For all other purposes, Parts I and VII of this Act shall become effective upon this Act's
4 approval by the Governor or upon its becoming law without such approval.

- 5 **SECTION 7-3.**
- 6 All laws and parts of laws in conflict with this Act are repealed.