

The House Committee on Governmental Affairs offers the following substitute to HR 47:

A RESOLUTION

1 Creating the Joint Legislative Study Committee on Judicial Election Reform; and for other
2 purposes.

3 WHEREAS, the rule of law is fundamental to our concept of legitimate government; and

4 WHEREAS, the linchpin of the rule of law in our society is a judiciary that above all both
5 appears to be and is truly independent and impartial; and

6 WHEREAS, judicial election campaigns in our state are currently financed exclusively by
7 private sources either directly to the candidates, through the political parties, or independent
8 committees; and

9 WHEREAS, expenditures on judicial campaigns, driven by growing politicization and
10 increased donations by special interests, have for over a decade been escalating dramatically,
11 thereby increasing the dependence of judicial candidates on private contributions to gain or
12 maintain judicial office; and

13 WHEREAS, campaign contributions have historically originated from sources frequently
14 perceived to have an economic or political interest in the outcome of cases which are to be
15 decided by the courts; and

16 WHEREAS, the vested interests of campaign contributors with cases before the court and
17 the growing dependence of judicial candidates on private donations to meet escalating
18 campaign costs threatens the independence and impartiality of the judiciary by increasing the
19 potential for improper influence on decision making and by fostering a widespread public
20 perception of improper influence on decision making; and

21 WHEREAS, many judges, lawyers, litigants, and partisans seek to eliminate any inference
22 that campaign contributions are made with an expectation of favoritism; and

1 WHEREAS, the American Bar Association Commission on Public Financing of Judicial
2 Campaigns in 2001 unanimously recommended that states that elect judges in contested
3 elections finance judicial elections with public funds; and

4 WHEREAS, North Carolina recently adopted measures to provide for voluntary public
5 funding of statewide judicial races; and

6 WHEREAS, West Virginia recently adopted measures restricting the activities of
7 independent committees in political campaigns; and

8 WHEREAS, the level of political parties, independent committees, lawyers, and litigants'
9 involvement in judicial races is the source of sharp policy disagreement as to their positive
10 or negative effect on an independent and fair judiciary.

11 NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF
12 GEORGIA that there is created the Joint Legislative Study Committee on Judicial Election
13 Reform to be composed of six members. The Speaker of the House of Representatives shall
14 appoint three members of the House of Representatives as members of the committee. The
15 Lieutenant Governor shall appoint three members of the Senate as members of the
16 committee. The Governor shall designate a member of the committee as chairperson. The
17 chairperson shall call all meetings of the committee. The charge to the Joint Legislative
18 Study Committee on Judicial Election Reform shall be to undertake a thorough study,
19 assessment, and evaluation of the conduct of judicial campaigns in Georgia to determine if
20 the independence and impartiality of the courts are threatened by the conduct of these recent
21 campaigns. The study committee is further specifically charged to examine the role of
22 political parties in judicial elections, the role of special interest groups and tax-exempt
23 organizations such as political organizations as defined in Section 527(e) of the Internal
24 Revenue Code of 1986 in judicial elections, and how conflicts of interest due to campaign
25 contributions are handled by the courts. The study committee is further charged with making
26 recommendations as to any reforms needed in the election of judges in Georgia.

27 BE IT FURTHER RESOLVED that advising, attached, and subordinated to the Joint Legislative
28 Study Committee on Judicial Election Reform shall be an Advisory Board to the Joint
29 Legislative Study Commission that shall be composed of 17 members as follows: the
30 president or the president's designee of the State Bar of Georgia; the Chief Justice of the
31 Georgia Supreme Court or the Chief Justice's designee; the Chief Judge of the Court of
32 Appeals or the Chief Judge's designee; the presidents or the presidents' designees of the

1 Council of Superior Court Judges and Council of State Court Judges; the presidents or the
2 presidents' designees of the Georgia Trial Lawyers Association, the Georgia Defense
3 Lawyers Association, the Georgia Alliance of African American Attorneys, the Georgia
4 Association of Criminal Defense Lawyers, and the chairperson of the Prosecuting Attorneys'
5 Council of Georgia; the president of the Georgia Chamber of Commerce or the president's
6 designee; the president or the president's designee of the Medical Association of Georgia;
7 the president or the president's designee of the Independent Insurance Agents of Georgia,
8 Inc.; the Secretary of State or the Secretary of State's designee; and three appointees of the
9 Governor who are not to be active members of the State Bar of Georgia. The Advisory
10 Board of the Joint Legislative Study Committee on Judicial Election Reform shall provide
11 to the committee expert and lay advice from members of the academy, bench, bar, and public
12 who bear expertise critical to the work of the committee or who will be directly affected by
13 any alteration of the existing mode of campaign finance.

14 BE IT FURTHER RESOLVED that the committee shall undertake a comprehensive study
15 of the conditions, needs, issues, and problems mentioned above or related thereto and
16 recommend any action or legislation which the committee deems necessary or appropriate.
17 The committee may conduct such meetings at such places and at such times as it may deem
18 necessary or convenient to enable it to exercise fully and effectively its powers, perform its
19 duties, and accomplish the objectives and purposes of this resolution. The Joint Legislative
20 Study Committee on Judicial Election Reform shall make a publicly available report of its
21 findings and recommendations, with suggestions for proposed legislation, if any, and the
22 report shall be made on or before the convening of the 2009 session of the General
23 Assembly, at which time the committee shall stand abolished.