

ADOPTED

Representative Willard of the 51st offers the following amendment:

1 *Amend the Senate substitute to HB 808 (HB808/SCSFA/1) by replacing lines 1 through 85*
 2 *with the following:*

3 To amend Chapter 1 of Title 15 of the Official Code of Georgia Annotated, relating to
 4 general provisions relative to courts, so as to create a new Judicial Qualifications
 5 Commission; to provide for the powers, composition, and appointment of such commission;
 6 to provide for a commission member's term and removal; to provide for procedures and
 7 confidentiality; to provide for related matters; to provide a contingent effective date and
 8 automatic repeal; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Chapter 1 of Title 15 of the Official Code of Georgia Annotated, relating to general
 12 provisions relative to courts, is amended by adding a new Code section to read as follows:

13 "15-1-19.

14 (a) Pursuant to Paragraph VI of Section VII of Article VI of the Constitution, there is
 15 hereby created the Judicial Qualifications Commission, which shall have the power to
 16 discipline, remove, and cause involuntary retirement of judges in accordance with such
 17 Paragraph.

18 (b) The Judicial Qualifications Commission shall consist of seven members who shall be
 19 subject to confirmation by the Senate.

20 (c) From January 1, 2017, until June 30, 2017, the members of the commission shall be
 21 as follows:

22 (1) Two judges of any court of record, appointed by the Supreme Court;

23 (2) One member of the State Bar of Georgia who shall have been an active status
 24 member of the State Bar of Georgia for at least ten years and shall be a registered voter
 25 of this state, appointed by the President of the Senate from a list of at least ten nominees
 26 from the board of governors of the State Bar of Georgia; provided, however, that if a
 27 nominee is not selected from such list, the board of governors shall submit another slate
 28 of ten nominees;

29 (3) One member of the State Bar of Georgia who shall have been an active status
 30 member of the State Bar of Georgia for at least ten years and shall be a registered voter
 31 of this state, appointed by the Speaker of the House of Representatives from a list of at

32 least ten nominees from the board of governors of the State Bar of Georgia; provided,
33 however, that if a nominee is not selected from such list, the board of governors shall
34 submit another slate of ten nominees;

35 (4) One citizen member, who shall be a registered voter of this state but shall not be a
36 member of the State Bar of Georgia, appointed by the Speaker of the House of
37 Representatives;

38 (5) One citizen member, who shall be a registered voter of this state but shall not be a
39 member of the State Bar of Georgia, appointed by the President of the Senate; and

40 (6) One member of the State Bar of Georgia, who shall have been an active status
41 member of the State Bar of Georgia for at least ten years and shall be a registered voter
42 of this state, appointed by the Governor to serve as chairperson of the commission.

43 (d) From July 1, 2017, through December 31, 2020, the members of the commission shall
44 be as follows:

45 (1) Two judges of any court of record, appointed by the Supreme Court;

46 (2) One member of the State Bar of Georgia who shall have been an active status
47 member of the State Bar of Georgia for at least ten years and shall be a registered voter
48 of this state, appointed by the President of the Senate from a list of at least ten nominees
49 from the board of governors of the State Bar of Georgia; provided, however, that if a
50 nominee is not selected from such list, the board of governors shall submit another slate
51 of ten nominees;

52 (3) One member of the State Bar of Georgia who shall have been an active status
53 member of the State Bar of Georgia for at least ten years and shall be a registered voter
54 of this state, appointed by the Speaker of the House of Representatives from a list of at
55 least ten nominees from the board of governors of the State Bar of Georgia; provided,
56 however, that if a nominee is not selected from such list, the board of governors shall
57 submit another slate of ten nominees;

58 (4) One citizen member, who shall be a registered voter of this state but shall not be a
59 member of the State Bar of Georgia, appointed by the Speaker of the House of
60 Representatives;

61 (5) One citizen member, who shall be a registered voter of this state but shall not be a
62 member of the State Bar of Georgia, appointed by the President of the Senate; and

63 (6) One member of the State Bar of Georgia, who shall have been an active status
64 member of the State Bar of Georgia for at least ten years and shall be a registered voter
65 of this state, appointed by the Governor to serve as chairperson of the commission.

66 (e) On and after January 1, 2021, the members of the commission shall serve for a term
67 of three years and until their successors are appointed and shall be as follows:

68 (1) Two judges of any court of record, appointed by the Supreme Court;

- 69 (2) One member of the State Bar of Georgia who shall have been an active status
70 member of the State Bar of Georgia for at least ten years and shall be a registered voter
71 of this state, appointed by the President of the Senate from a list of at least ten nominees
72 from the board of governors of the State Bar of Georgia; provided, however, that if a
73 nominee is not selected from such list, the board of governors shall submit another slate
74 of ten nominees;
- 75 (3) One member of the State Bar of Georgia who shall have been an active status
76 member of the State Bar of Georgia for at least ten years and shall be a registered voter
77 of this state, appointed by the Speaker of the House of Representatives from a list of at
78 least ten nominees from the board of governors of the State Bar of Georgia; provided,
79 however, that if a nominee is not selected from such list, the board of governors shall
80 submit another slate of ten nominees;
- 81 (4) One citizen member, who shall be a registered voter of this state but shall not be a
82 member of the State Bar of Georgia, appointed by the Speaker of the House of
83 Representatives;
- 84 (5) One citizen member, who shall be a registered voter of this state but shall not be a
85 member of the State Bar of Georgia, appointed by the President of the Senate; and
- 86 (6) One member of the State Bar of Georgia, who shall have been an active status
87 member of the State Bar of Georgia for at least ten years and shall be a registered voter
88 of this state, appointed by the Governor to serve as chairperson of the commission.
- 89 (f) Any list of nominees required by this Code section shall be submitted to the Senate no
90 later than the third Monday in January. Any member appointed to the commission shall
91 serve until the Senate confirms such nominee and if an individual's name is not submitted
92 by such deadline, he or she shall not be eligible for appointment.
- 93 (g) The Judicial Qualifications Commission may adopt procedures for its own governance
94 which are not otherwise provided by the Constitution or this Code section; provided,
95 however, that such procedures shall not allow an individual member to initiate an
96 investigation without presenting such proposal to the other members of the commission at
97 a commission meeting.
- 98 (h) Members of the commission shall be subject to removal from the commission by an
99 affirmative vote of six members of the commission, with the member who is subject to
100 removal being disqualified from any such vote.
- 101 (i) No person shall serve more than two consecutive terms as a member of the
102 commission; provided, however, that any person appointed pursuant to subsection (c) of
103 this Code section may serve for three consecutive terms as a member of the commission.
- 104 (j) Notwithstanding Chapter 14 of Title 50, unless otherwise waived by the judge involved,
105 all papers filed with and proceedings before the commission, including any investigation

106 that the commission may undertake, shall be confidential, and no person shall disclose
107 information obtained from commission proceedings or papers filed with or by the
108 commission, except as provided in this Code section. Such papers shall not be subject to
109 disclosure under Article 4 of Chapter 18 of Title 50.

110 (k) Information submitted to the commission or its staff, and testimony given in any
111 proceeding before the commission, shall be absolutely privileged, and no civil action
112 predicated upon such information or testimony shall be instituted against any complainant,
113 witness, or his or her counsel.

114 (l) If, after an investigation is completed, the commission concludes that a letter of caution
115 is appropriate, it shall issue a letter of caution to the judge in lieu of any further proceeding
116 in the matter. The issuance of a letter of caution shall be confidential in accordance with
117 subsection (j) of this Code section.

118 (m) If, after an investigation is completed, the commission concludes that disciplinary
119 proceedings should be instituted, the notice and statement of charges filed by the
120 commission, along with the answer and all other pleadings, shall remain confidential in
121 accordance with subsection (j) of this Code section. Disciplinary hearings ordered by the
122 commission shall be confidential, and recommendations of the commission to the Supreme
123 Court, along with the record filed in support of such recommendations, shall be
124 confidential in accordance with subsection (j) of this Code section. Testimony and other
125 evidence presented to the commission shall be privileged in any action for defamation. At
126 least four members of the commission shall concur in any recommendation to issue a
127 public reprimand against or to censure, suspend, retire, or remove any judge. A respondent
128 who is recommended for public reprimand, censure, suspension, retirement, or removal
129 shall be entitled to a copy of the proposed record to be filed with the Supreme Court, and
130 if the respondent has objections to it, to have the record settled by the commission's
131 chairperson. The respondent shall also be entitled to present a brief and to argue the
132 respondent's case, in person and through counsel, to the Supreme Court. A majority of the
133 members of the Supreme Court voting shall concur in any order of public reprimand,
134 censure, suspension, retirement, or removal. The Supreme Court may approve the
135 recommendation, remand for further proceedings, or reject the recommendation. A
136 member of the commission who is a judge shall be disqualified from acting in any case in
137 which he or she is a respondent.

138 (n) Upon issuance of a public reprimand, censure, suspension, retirement, or removal by
139 the Supreme Court, the notice and statement of charges filed by the commission along with
140 the answer and all other pleadings, including the recommendation of the commission to the
141 Supreme Court and the record filed in support of such recommendation, shall no longer be
142 confidential.

143 (o) The findings and records of the commission during an open meeting shall not be
144 exempt from disclosure under Article 4 of Chapter 18 of Title 50."

145 **SECTION 2.**

146 This Act shall become effective on January 1, 2017, only if an amendment to the
147 Constitution abolishing the existing Judicial Qualifications Commission and requiring the
148 General Assembly to create and provide by general law for the composition and manner of
149 appointment of a new Judicial Qualifications Commission, with such commission having the
150 power to discipline, remove, and cause involuntary retirement of judges, and providing for
151 exceptions to certain disclosures is ratified by the voters at the November, 2016, state-wide
152 general election. If such an amendment is not so ratified, then this Act shall not become
153 effective and shall stand repealed on January 1, 2017.

154 **SECTION 3.**

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