

House Resolution 993

By: Representatives Efration of the 104th, Rogers of the 10th, Rhodes of the 120th, Coomer of the 14th, Willard of the 51st, and others

A RESOLUTION

1 Proposing an amendment to the Constitution so as to create a business court with state-wide
 2 jurisdiction; to provide for venue and uniformity of jurisdiction and powers; to provide for
 3 selection, terms, and qualifications of business court judges; to provide for the submission
 4 of this amendment for ratification or rejection; to provide for related matters; and for other
 5 purposes.

6 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article VI of the Constitution is amended by revising Sections I, II, III, and VII as follows:

9 **"SECTION I.**10 **JUDICIAL POWER**

11 Paragraph I. *Judicial power of the state.* The judicial power of the state shall be vested
 12 exclusively in the following classes of courts: magistrate courts, probate courts, juvenile
 13 courts, state courts, superior courts, business court, Court of Appeals, and Supreme Court.
 14 Magistrate courts, probate courts, juvenile courts, and state courts shall be courts of limited
 15 jurisdiction. In addition, the General Assembly may establish or authorize the
 16 establishment of municipal courts and may authorize administrative agencies to exercise
 17 quasi-judicial powers. Municipal courts shall have jurisdiction over ordinance violations
 18 and such other jurisdiction as provided by law. Except as provided in this Paragraph and
 19 in Section X, municipal courts, county recorder's courts, and civil courts in existence on
 20 June 30, 1983, and administrative agencies shall not be subject to the provisions of this
 21 article. The General Assembly shall have the authority to confer 'by law' jurisdiction upon
 22 municipal courts to try state offenses.

23 Paragraph II. *Unified judicial system.* All courts of the state shall comprise a unified
 24 judicial system.

25 Paragraph III. ***Judges; exercise of power outside own court; scope of term 'judge.'***
26 Provided the judge is otherwise qualified, a judge may exercise judicial power in any court
27 upon the request and with the consent of the judges of that court and of the judge's own
28 court under rules prescribed by law. The term 'judge,' as used in this article, shall include
29 Justices, judges, senior judges, magistrates, and every other such judicial office of whatever
30 name existing or created.

31 Paragraph IV. ***Exercise of judicial power.*** Each court may exercise such powers as
32 necessary in aid of its jurisdiction or to protect or effectuate its judgments; but only the
33 superior and appellate courts shall have the power to issue process in the nature of
34 mandamus, prohibition, specific performance, quo warranto, and injunction. Each superior
35 court, state court, and other courts of record may grant new trials on legal grounds.

36 Paragraph V. ***Uniformity of jurisdiction, powers, etc.*** Except as otherwise provided in
37 this Constitution, the courts of each class shall have uniform jurisdiction, powers, rules of
38 practice and procedure, and selection, qualifications, terms, and discipline of judges. The
39 provisions of this Paragraph shall be effected by law within 24 months of the effective date
40 of this Constitution or, as related to the state-wide business court, within 24 months of the
41 effective date of the amendment creating such class of court.

42 Paragraph VI. ***Judicial circuits; courts in each county; court sessions.*** The state shall
43 be divided into judicial circuits, each of which shall consist of not less than one county.
44 Each county shall have at least one superior court, magistrate court, a probate court, and,
45 where needed, a state court and a juvenile court. The General Assembly may provide by
46 law that the judge of the probate court may also serve as the judge of the magistrate court.
47 In the absence of a state court or a juvenile court, the superior court shall exercise that
48 jurisdiction. Superior courts shall hold court at least twice each year in each county.

49 Paragraph VII. ***Judicial circuits, courts, and judgeships, law changed.*** The General
50 Assembly may abolish, create, consolidate, or modify judicial circuits and courts and
51 judgeships; but no circuit shall consist of less than one county.

52 Paragraph VIII. ***Transfer of cases.*** Any court shall transfer to the appropriate court in
53 the state any civil case in which it determines that jurisdiction or venue lies elsewhere.

54 Paragraph IX. ***Rules of evidence; law prescribed.*** All rules of evidence shall be as
55 prescribed by law.

56 Paragraph X. *Authorization for pilot projects.* The General Assembly may by general
 57 law approved by a two-thirds' majority of the members of each house enact legislation
 58 providing for, as pilot programs of limited duration, courts which are not uniform within
 59 their classes in jurisdiction, powers, rules of practice and procedure, and selection,
 60 qualifications, terms, and discipline of judges for such pilot courts and other matters
 61 relative thereto. Such legislation shall name the political subdivision, judicial circuit, and
 62 existing courts affected and may, in addition to any other power, grant to such court created
 63 as a pilot program the power to issue process in the nature of mandamus, prohibition,
 64 specific performance, quo warranto, and injunction. The General Assembly shall provide
 65 by general law for a procedure for submitting proposed legislation relating to such pilot
 66 programs to the Judicial Council of Georgia or its successor. Legislation enacted pursuant
 67 to this Paragraph shall not deny equal protection of the laws to any person in violation of
 68 Article I, Section I, Paragraph II of this Constitution.

69 SECTION II.

70 VENUE

71 Paragraph I. *Divorce cases.* Divorce cases shall be tried in the county where the
 72 defendant resides, if a resident of this state; if the defendant is not a resident of this state,
 73 then in the county in which the plaintiff resides; provided, however, a divorce case may be
 74 tried in the county of residence of the plaintiff if the defendant has moved from that same
 75 county within six months from the date of the filing of the divorce action and said county
 76 was the site of the marital domicile at the time of the separation of the parties, and
 77 provided, further, that any person who has been a resident of any United States army post
 78 or military reservation within the State of Georgia for one year next preceding the filing
 79 of the petition may bring an action for divorce in any county adjacent to said United States
 80 army post or military reservation.

81 Paragraph II. *Land titles.* Cases respecting titles to land shall be tried in the county
 82 where the land lies, except where a single tract is divided by a county line, in which case
 83 the superior court of either county shall have jurisdiction.

84 Paragraph III. *Equity cases.* Equity cases shall be tried in the county where a defendant
 85 resides against whom substantial relief is prayed.

86 Paragraph IV. *Suits against joint obligors, copartners, or joint trespassers.* Suits
87 against joint obligors, joint tort-feasors, joint promisors, copartners, or joint trespassers
88 residing in different counties may be tried in either county.

89 Paragraph V. *Suits against maker, endorser, etc.* Suits against the maker and endorser
90 of promissory notes, or drawer, acceptor, and endorser of foreign or inland bills of
91 exchange, or like instruments, residing in different counties, shall be tried in the county
92 where the maker or acceptor resides.

93 Paragraph VI. *All other cases.* All other civil cases, except juvenile court cases as may
94 otherwise be provided by the Juvenile Court Code of Georgia, shall be tried in the county
95 where the defendant resides; venue as to corporations, foreign and domestic, shall be as
96 provided by law; and all criminal cases shall be tried in the county where the crime was
97 committed, except cases in the superior courts where the judge is satisfied that an impartial
98 jury cannot be obtained in such county.

99 Paragraph VII. *Venue in third-party practice.* The General Assembly may provide by
100 law that venue is proper in a county other than the county of residence of a person or entity
101 impleaded into a pending civil case by a defending party who contends that such person
102 or entity is or may be liable to said defending party for all or part of the claim against said
103 defending party.

104 Paragraph VIII. *Power to change venue.* The power to change the venue in civil and
105 criminal cases shall be vested in the superior courts to be exercised in such manner as has
106 been, or shall be, provided by law.

107 Paragraph IX. *Venue of state-wide business court.* All cases properly before the
108 business court may have pretrial proceedings in any county as provided by law. Any trial
109 of a case that is properly before the business court shall be in the county as is otherwise
110 prescribed by this section.

111 SECTION III.

112 CLASSES OF COURTS OF LIMITED JURISDICTION

113 Paragraph I. *Jurisdiction of classes of courts of limited jurisdiction.* The magistrate,
114 juvenile, and state courts shall have uniform jurisdiction as provided by law. Probate

115 courts shall have such jurisdiction as now or hereafter provided by law, without regard to
116 uniformity.

117 Paragraph II. *Jurisdiction of state-wide business court.* The business court shall have
118 state-wide jurisdiction as provided by law. The decisions of the business court insofar as
119 not in conflict with those of the Court of Appeals or Supreme Court shall bind all courts,
120 except the Court of Appeals and Supreme Court as precedents."

121 **"SECTION VII.**
122 **SELECTION, TERM, COMPENSATION,**
123 **AND DISCIPLINE OF JUDGES**

124 Paragraph I. ***Election Selection; term of office.*** (a) All superior court and state court
125 judges shall be elected on a nonpartisan basis for a term of four years. All Justices of the
126 Supreme Court and the Judges of the Court of Appeals shall be elected on a nonpartisan
127 basis for a term of six years. The terms of all judges thus elected shall begin the next
128 January 1 after their election. All other judges shall continue to be selected in the manner
129 and for the term they were selected on June 30, 1983, until otherwise provided by local
130 law.

131 (b) All business court judges shall be appointed by the Governor for a term of five years.
132 Upon expiration of such term, a business court judge may be reappointed for any number
133 of consecutive terms as long as he or she meets the qualifications of appointment at the
134 time of each appointment. The business court shall consist of the number of judges as
135 provided for by law. For purposes of qualifications, business court judges shall be deemed
136 to serve the geographical area of this state.

137 Paragraph II. ***Qualifications.*** (a) Appellate and superior court judges shall have been
138 admitted to practice law for seven years.

139 (b) State court judges shall have been admitted to practice law for seven years, provided
140 that this requirement shall be five years in the case of state court judges elected or
141 appointed in the year 2000 or earlier. Juvenile court judges shall have been admitted to
142 practice law for five years.

143 (b.1) Business court judges shall have been admitted to practice law for seven years and
144 shall have significant experience in business or other complex litigation.

145 (c) Probate and magistrate judges shall have such qualifications as provided by law.

146 (d) All judges shall reside in the geographical area in which they are selected to serve.

147 (e) The General Assembly may provide by law for additional qualifications, including,
148 but not limited to, minimum residency requirements.

149 Paragraph III. ***Vacancies***. Vacancies shall be filled by appointment of the Governor
150 except as otherwise provided by law in the magistrate, probate, and juvenile courts.

151 Paragraph IV. ***Period of service of appointees***. An appointee to an elective office shall
152 serve until a successor is duly selected and qualified and until January 1 of the year
153 following the next general election which is more than six months after such person's
154 appointment.

155 Paragraph V. ***Compensation and allowances of judges***. All judges shall receive
156 compensation and allowances as provided by law; county supplements are hereby
157 continued and may be granted or changed by the General Assembly. County governing
158 authorities which had the authority on June 30, 1983, to make county supplements shall
159 continue to have such authority under this Constitution. An incumbent's salary, allowance,
160 or supplement shall not be decreased during the incumbent's term of office.

161 Paragraph VI. ***Judicial Qualifications Commission; power; composition***. (a) The
162 General Assembly shall by general law create and provide for the composition, manner of
163 appointment, and governance of a Judicial Qualifications Commission, with such
164 commission having the power to discipline, remove, and cause involuntary retirement of
165 judges as provided by this Article. Appointments to the Judicial Qualifications
166 Commission shall be subject to confirmation by the Senate as provided for by general law.

167 (b) The procedures of the Judicial Qualifications Commission shall comport with due
168 process. Such procedures and advisory opinions issued by the Judicial Qualifications
169 Commission shall be subject to review by the Supreme Court.

170 (c) The Judicial Qualifications Commission which existed on June 30, 2017, is hereby
171 abolished.

172 Paragraph VII. ***Discipline, removal, and involuntary retirement of judges***. (a) Any
173 judge may be removed, suspended, or otherwise disciplined for willful misconduct in
174 office, or for willful and persistent failure to perform the duties of office, or for habitual
175 intemperance, or for conviction of a crime involving moral turpitude, or for conduct
176 prejudicial to the administration of justice which brings the judicial office into disrepute.
177 Any judge may be retired for disability which constitutes a serious and likely permanent

178 interference with the performance of the duties of office. The Supreme Court shall adopt
179 rules of implementation.

180 (b)(1) Upon indictment for a felony by a grand jury of this state or by a grand jury of
181 the United States of any judge, the Attorney General or district attorney shall transmit a
182 certified copy of the indictment to the Judicial Qualifications Commission. The
183 commission shall, subject to subparagraph (b)(2) of this Paragraph, review the
184 indictment, and, if it determines that the indictment relates to and adversely affects the
185 administration of the office of the indicted judge and that the rights and interests of the
186 public are adversely affected thereby, the commission shall suspend the judge
187 immediately and without further action pending the final disposition of the case or until
188 the expiration of the judge's term of office, whichever occurs first. During the term of
189 office to which such judge was elected and in which the indictment occurred, if a nolle
190 prosequi is entered, if the public official is acquitted, or if after conviction the conviction
191 is later overturned as a result of any direct appeal or application for a writ of certiorari,
192 the judge shall be immediately reinstated to the office from which he was suspended.
193 While a judge is suspended under this subparagraph and until initial conviction by the
194 trial court, the judge shall continue to receive the compensation from his office. After
195 initial conviction by the trial court, the judge shall not be entitled to receive the
196 compensation from his office. If the judge is reinstated to office, he shall be entitled to
197 receive any compensation withheld under the provisions of this subparagraph. For the
198 duration of any suspension under this subparagraph, the Governor shall appoint a
199 replacement judge. Upon a final conviction with no appeal or review pending, the office
200 shall be declared vacant and a successor to that office shall be chosen as provided in this
201 Constitution or the laws enacted in pursuance thereof.

202 (2) The commission shall not review the indictment for a period of 14 days from the
203 day the indictment is received. This period of time may be extended by the commission.
204 During this period of time, the indicted judge may, in writing, authorize the commission
205 to suspend him from office. Any such voluntary suspension shall be subject to the same
206 conditions for review, reinstatement, or declaration of vacancy as are provided in this
207 subparagraph for a nonvoluntary suspension.

208 (3) After any suspension is imposed under this subparagraph, the suspended judge may
209 petition the commission for a review. If the commission determines that the judge should
210 no longer be suspended, he shall immediately be reinstated to office.

211 (4)(A) The findings and records of the commission and the fact that the public
212 official has or has not been suspended shall not be admissible in evidence in any court
213 for any purpose.

214 (B) The findings and records of the commission shall not be open to the public except
215 as provided by the General Assembly by general law.

216 (5) The provisions of this subparagraph shall not apply to any indictment handed down
217 prior to January 1, 1985.

218 (6) If a judge who is suspended from office under the provisions of this subparagraph
219 is not first tried at the next regular or special term following the indictment, the
220 suspension shall be terminated and the judge shall be reinstated to office. The judge shall
221 not be reinstated under this provision if he is not so tried based on a continuance granted
222 upon a motion made only by the defendant.

223 (c) Upon initial conviction of any judge for any felony in a trial court of this state or the
224 United States, regardless of whether the judge has been suspended previously under
225 subparagraph (b) of this Paragraph, such judge shall be immediately and without further
226 action suspended from office. While a judge is suspended from office under this
227 subparagraph, he shall not be entitled to receive the compensation from his office. If the
228 conviction is later overturned as a result of any direct appeal or application for a writ of
229 certiorari, the judge shall be immediately reinstated to the office from which he was
230 suspended and shall be entitled to receive any compensation withheld under the provisions
231 of this subparagraph. For the duration of any suspension under this subparagraph, the
232 Governor shall appoint a replacement judge. Upon a final conviction with no appeal or
233 review pending, the office shall be declared vacant and a successor to that office shall be
234 chosen as provided in this Constitution or the laws enacted in pursuance thereof. The
235 provisions of this subparagraph shall not apply to any conviction rendered prior to
236 January 1, 1987.

237 Paragraph VIII. *Due process; review by Supreme Court.* No action shall be taken
238 against a judge except after hearing and in accordance with due process of law. No
239 removal or involuntary retirement shall occur except upon order of the Supreme Court after
240 review."

241 **SECTION 2.**

242 The above proposed amendment to the Constitution shall be published and submitted as
243 provided in Article X, Section I, Paragraph II of the Constitution. The ballot submitting the
244 above proposed amendment shall have written or printed thereon the following:

245 "() YES Shall the Constitution of Georgia be amended so as to create a state-wide
246 business court to lower costs, improve the efficiency of all courts, and
247 () NO promote predictability of judicial outcomes in certain complex business
248 disputes for the benefit of all citizens of this state?"

249 All persons desiring to vote in favor of ratifying the proposed amendment shall vote "Yes."
250 All persons desiring to vote against ratifying the proposed amendment shall vote "No." If
251 such amendment shall be ratified as provided in said Paragraph of the Constitution, it shall
252 become a part of the Constitution of this state.