

House Resolution 993 (AS PASSED HOUSE AND SENATE)

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

## A RESOLUTION

1 Proposing an amendment to the Constitution so as to create a state-wide business court with  
 2 state-wide jurisdiction for use under certain circumstances; to provide for venue, jurisdiction,  
 3 and powers; to provide for selection, terms, and qualifications of state-wide business court  
 4 judges; to provide for the submission of this amendment for ratification or rejection; to  
 5 provide for related matters; and for other 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, IV, and VII as  
 9 follows:

### 10 "SECTION I.

### 11 JUDICIAL POWER

12 Paragraph I. *Judicial power of the state.* The judicial power of the state shall be vested  
 13 exclusively in the following classes of courts: magistrate courts, probate courts, juvenile  
 14 courts, state courts, superior courts, state-wide business court, Court of Appeals, and  
 15 Supreme Court. Nothing in this paragraph shall preclude a superior court from creating a  
 16 business court division for its circuit in a manner provided by law. Magistrate courts,  
 17 probate courts, juvenile courts, and state courts shall be courts of limited jurisdiction. In  
 18 addition, the General Assembly may establish or authorize the establishment of municipal  
 19 courts and may authorize administrative agencies to exercise quasi-judicial powers.  
 20 Municipal courts shall have jurisdiction over ordinance violations and such other  
 21 jurisdiction as provided by law. Except as provided in this Paragraph and in Section X,  
 22 municipal courts, county recorder's courts, and civil courts in existence on June 30, 1983,  
 23 and administrative agencies shall not be subject to the provisions of this article. The  
 24 General Assembly shall have the authority to confer 'by law' jurisdiction upon municipal  
 25 courts to try state offenses.

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

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

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

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

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

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

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

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

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

## 74 SECTION II.

### 75 VENUE

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

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

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

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

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

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

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

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

112 Paragraph IX. ***Venue of state-wide business court.*** All cases before the state-wide  
113 ***business court may conduct pretrial proceedings in any county as provided by law. Any***  
114 ***trial of a case that is before the state-wide business court shall take place in the county as***  
115 ***is otherwise prescribed by this section.***

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**SECTION III.**

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**CLASSES OF COURTS OF LIMITED JURISDICTION**

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Paragraph I. *Jurisdiction of classes of courts of limited jurisdiction.* The magistrate, juvenile, and state courts shall have uniform jurisdiction as provided by law. Probate courts shall have such jurisdiction as now or hereafter provided by law, without regard to uniformity.

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Paragraph II. *Jurisdiction of state-wide business court.* The state-wide business court shall have state-wide jurisdiction as provided by law.

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**SECTION IV.**

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**SUPERIOR COURTS**

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Paragraph I. *Jurisdiction of superior courts.* The superior courts shall have jurisdiction in all cases, except as otherwise provided in this Constitution. They shall have exclusive jurisdiction over trials in felony cases, except in the case of juvenile offenders as provided by law; in cases respecting title to land; and in divorce cases; and. They shall have concurrent jurisdiction with the state-wide business court in equity cases. A superior court by agreement of the parties may order removal of a case to the state-wide business court as provided by law. The superior courts shall have such appellate jurisdiction, either alone or by circuit or district, as may be provided by law."

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**"SECTION VII.**

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**SELECTION, TERM, COMPENSATION,**

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**AND DISCIPLINE OF JUDGES**

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

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(b) All state-wide business court judges shall serve a term of five years; provided, however, that the initial term of such judges shall be as provided by law. Such judges shall be appointed by the Governor, subject to approval by a majority vote of the Senate

147 Judiciary Committee and a majority vote of the House Committee on Judiciary. Such  
 148 judges may be reappointed for any number of consecutive terms as long as he or she meets  
 149 the qualifications of appointment at the time of each appointment and is approved as  
 150 required by this subparagraph. The state-wide business court shall consist of the number  
 151 of judges as provided for by law. For purposes of qualifications, state-wide business court  
 152 judges shall be deemed to serve the geographical area of this state.

153 Paragraph II. *Qualifications.* (a) Appellate, ~~and superior, and state-wide business court~~  
 154 judges shall have been admitted to practice law for seven years.

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

159 (b.1) State-wide business court judges shall have such qualifications as provided by law.

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

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

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

164 Paragraph III. *Vacancies.* Vacancies shall be filled by appointment of the Governor  
 165 except as otherwise provided by law in the magistrate, probate, and juvenile courts.  
 166 Vacancies in the state-wide business court shall be filled by appointment of the Governor,  
 167 subject to approval as specified in subparagraph (b) of Paragraph (I) of this section.

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

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

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

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

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

189 Paragraph VII. *Discipline, removal, and involuntary retirement of judges.* (a) Any  
190 judge may be removed, suspended, or otherwise disciplined for willful misconduct in  
191 office, or for willful and persistent failure to perform the duties of office, or for habitual  
192 intemperance, or for conviction of a crime involving moral turpitude, or for conduct  
193 prejudicial to the administration of justice which brings the judicial office into disrepute.  
194 Any judge may be retired for disability which constitutes a serious and likely permanent  
195 interference with the performance of the duties of office. The Supreme Court shall adopt  
196 rules of implementation.

197 (b)(1) Upon indictment for a felony by a grand jury of this state or by a grand jury of  
198 the United States of any judge, the Attorney General or district attorney shall transmit a  
199 certified copy of the indictment to the Judicial Qualifications Commission. The  
200 commission shall, subject to subparagraph (b)(2) of this Paragraph, review the  
201 indictment, and, if it determines that the indictment relates to and adversely affects the  
202 administration of the office of the indicted judge and that the rights and interests of the  
203 public are adversely affected thereby, the commission shall suspend the judge  
204 immediately and without further action pending the final disposition of the case or until  
205 the expiration of the judge's term of office, whichever occurs first. During the term of  
206 office to which such judge was elected and in which the indictment occurred, if a nolle  
207 prosequi is entered, if the public official is acquitted, or if after conviction the conviction  
208 is later overturned as a result of any direct appeal or application for a writ of certiorari,  
209 the judge shall be immediately reinstated to the office from which he was suspended.  
210 While a judge is suspended under this subparagraph and until initial conviction by the  
211 trial court, the judge shall continue to receive the compensation from his office. After  
212 initial conviction by the trial court, the judge shall not be entitled to receive the  
213 compensation from his office. If the judge is reinstated to office, he shall be entitled to

214 receive any compensation withheld under the provisions of this subparagraph. For the  
215 duration of any suspension under this subparagraph, the Governor shall appoint a  
216 replacement judge. Upon a final conviction with no appeal or review pending, the office  
217 shall be declared vacant and a successor to that office shall be chosen as provided in this  
218 Constitution or the laws enacted in pursuance thereof.

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

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

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

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

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

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

240 (c) Upon initial conviction of any judge for any felony in a trial court of this state or the  
241 United States, regardless of whether the judge has been suspended previously under  
242 subparagraph (b) of this Paragraph, such judge shall be immediately and without further  
243 action suspended from office. While a judge is suspended from office under this  
244 subparagraph, he shall not be entitled to receive the compensation from his office. If the  
245 conviction is later overturned as a result of any direct appeal or application for a writ of  
246 certiorari, the judge shall be immediately reinstated to the office from which he was  
247 suspended and shall be entitled to receive any compensation withheld under the provisions  
248 of this subparagraph. For the duration of any suspension under this subparagraph, the  
249 Governor shall appoint a replacement judge. Upon a final conviction with no appeal or  
250 review pending, the office shall be declared vacant and a successor to that office shall be



251 chosen as provided in this Constitution or the laws enacted in pursuance thereof. The  
 252 provisions of this subparagraph shall not apply to any conviction rendered prior to  
 253 January 1, 1987.

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

258 **SECTION 2.**

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

262 "( ) YES Shall the Constitution of Georgia be amended so as to create a state-wide  
 263 business court, authorize superior court business court divisions, and allow  
 264 ( ) NO for the appointment process for state-wide business court judges in order to  
 265 lower costs, improve the efficiency of all courts, and promote predictability  
 266 of judicial outcomes in certain complex business disputes for the benefit of  
 267 all citizens of this state?"

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