House Resolution 993 (AS PASSED HOUSE AND SENATE)
By: Representatives Efstration of the 104th, Rogers of the 10th, Rhodes of the 120th, Coomer of the 14th, Willard of the 51st, and others

A RESOLUTION

Proposing an amendment to the Constitution so as to create a state-wide business court with state-wide jurisdiction for use under certain circumstances; to provide for venue, jurisdiction, and powers; to provide for selection, terms, and qualifications of state-wide business court judges; to provide for the submission of this amendment for ratification or rejection; to provide for related matters; and for other purposes.

BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

"SECTION I.
JUDICIAL POWER

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

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

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

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

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

Paragraph VII. **Judicial circuits, courts, and judgeships, law changed.** The General Assembly may abolish, create, consolidate, or modify judicial circuits and courts and judgeships; but no circuit shall consist of less than one county.
Paragraph VIII. **Transfer of cases.** Any court shall transfer to the appropriate court in the state any civil case in which it determines that jurisdiction or venue lies elsewhere.

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

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

**SECTION II.**

**VENUE**

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

Paragraph II. **Land titles.** Cases respecting titles to land shall be tried in the county where the land lies, except where a single tract is divided by a county line, in which case the superior court of either county shall have jurisdiction.
Paragraph III. **Equity cases.** Equity cases shall be tried in the county where a defendant resides against whom substantial relief is prayed.

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

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

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

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

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

Paragraph IX. **Venue of state-wide business court.** All cases before the state-wide business court may conduct pretrial proceedings in any county as provided by law. Any trial of a case that is before the state-wide business court shall take place in the county as is otherwise prescribed by this section.
SECTION III.
CLASSES OF COURTS OF LIMITED JURISDICTION

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.

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

SECTION IV.
SUPERIOR COURTS

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.

SECTION VII.
SELECTION, TERM, COMPENSATION, AND DISCIPLINE OF JUDGES

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

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

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

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

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

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

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

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

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

Paragraph V. Compensation and allowances of judges. All judges shall receive compensation and allowances as provided by law; county supplements are hereby continued and may be granted or changed by the General Assembly. County governing authorities which had the authority on June 30, 1983, to make county supplements shall continue to have such authority under this Constitution. An incumbent's salary, allowance, or supplement shall not be decreased during the incumbent's term of office.
Paragraph VI. **Judicial Qualifications Commission; power; composition.** (a) The General Assembly shall by general law create and provide for the composition, manner of appointment, and governance of a Judicial Qualifications Commission, with such commission having the power to discipline, remove, and cause involuntary retirement of judges as provided by this Article. Appointments to the Judicial Qualifications Commission shall be subject to confirmation by the Senate as provided for by general law. (b) The procedures of the Judicial Qualifications Commission shall comport with due process. Such procedures and advisory opinions issued by the Judicial Qualifications Commission shall be subject to review by the Supreme Court. (c) The Judicial Qualifications Commission which existed on June 30, 2017, is hereby abolished.

Paragraph VII. **Discipline, removal, and involuntary retirement of judges.** (a) Any judge may be removed, suspended, or otherwise disciplined for willful misconduct in office, or for willful and persistent failure to perform the duties of office, or for habitual intemperance, or for conviction of a crime involving moral turpitude, or for conduct prejudicial to the administration of justice which brings the judicial office into disrepute. Any judge may be retired for disability which constitutes a serious and likely permanent interference with the performance of the duties of office. The Supreme Court shall adopt rules of implementation. (b)(1) Upon indictment for a felony by a grand jury of this state or by a grand jury of the United States of any judge, the Attorney General or district attorney shall transmit a certified copy of the indictment to the Judicial Qualifications Commission. The commission shall, subject to subparagraph (b)(2) of this Paragraph, review the indictment, and, if it determines that the indictment relates to and adversely affects the administration of the office of the indicted judge and that the rights and interests of the public are adversely affected thereby, the commission shall suspend the judge immediately and without further action pending the final disposition of the case or until the expiration of the judge's term of office, whichever occurs first. During the term of office to which such judge was elected and in which the indictment occurred, if a nolle prosequi is entered, if the public official is acquitted, or if after conviction the conviction is later overturned as a result of any direct appeal or application for a writ of certiorari, the judge shall be immediately reinstated to the office from which he was suspended. While a judge is suspended under this subparagraph and until initial conviction by the trial court, the judge shall continue to receive the compensation from his office. After initial conviction by the trial court, the judge shall not be entitled to receive the compensation from his office. If the judge is reinstated to office, he shall be entitled to

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

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

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

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

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

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

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

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

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

SECTION 2.

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

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

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