

Senate Resolution 52

By: Senators Parent of the 42nd, Jordan of the 6th, Williams of the 39th, Harrell of the 40th, Henson of the 41st and others

A RESOLUTION

1 Proposing an amendment to the Constitution so as to provide that legislative and
 2 congressional reapportionment be done by an independent nonpartisan commission instead
 3 of the General Assembly; to provide for definitions; to provide for the establishment of such
 4 commission; to provide for the qualifications and appointment of members of such
 5 commission; to provide for the filling of vacancies on the commission; to provide for powers,
 6 duties, responsibilities, and resources for such commission; to provide for guidelines for
 7 reapportionment; to provide for related matters; to provide for submission of this amendment
 8 for ratification or rejection; and for other purposes.

9 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 SECTION 1.

11 Article II of the Constitution is amended by adding a new Section IV to read as follows:

12 SECTION IV.13 LEGISLATIVE AND CONGRESSIONAL REAPPORTIONMENT

14 Paragraph I. *Citizens' Redistricting Commission.* (a) In each year following a year in
 15 which a United States decennial census is conducted or when congressional or legislative
 16 redistricting is required by court order, the state's congressional districts and Senate and
 17 House of Representative districts shall be reapportioned in accordance with this
 18 Constitution and the United States Constitution. The state shall be reapportioned into a
 19 number of congressional districts equal to the number of congressional districts allocated
 20 to the state under the United States Constitution and federal law. The state shall also be
 21 reapportioned into not less than 30 nor more than 56 consecutively numbered senatorial
 22 districts and into not less than 120 nor more than 180 consecutively numbered
 23 representative districts. The term 'reapportionment,' as used in this section, means any
 24 redistricting process by which congressional and legislative district boundaries are

25 established and the term 'reapportionment plan,' as used in this section, means any plan that
26 implements any redistricting process.

27 (b) In establishing district boundaries, the following exclusive standards shall govern:

28 (1) Districts shall comply with the United States Constitution, the federal Voting
29 Rights Act of 1965, as amended, and other applicable laws of the United States;

30 (2) Districts shall not be drawn with the intent or result of denying or abridging the
31 right of any citizen of the United States to vote on account of race, color, or
32 language-minority status. A district does not satisfy this standard if, based on the totality
33 of circumstances, the political processes leading to nomination or election in the state or
34 political subdivision are not equally open to participation by members of a class of
35 citizens protected by this Paragraph, in that its members have less opportunity than other
36 members of the electorate to participate in the political process and to elect
37 representatives of their choice, whether as a single group or acting in concert with others.
38 Any voter who is a member of such a class and who resides in a political subdivision
39 where a violation of this subparagraph is alleged may file an action in the superior court
40 of the county in which the political subdivision is located;

41 (3) Districts shall be geographically contiguous;

42 (4) Plans, if for congressional redistricting, shall provide for zero deviation of total
43 population per district and, if for redistricting of the House of Representatives or the
44 Senate, shall provide for as close as practicable to zero deviation of total population
45 among the districts, consistent with the standards set forth in this Paragraph;

46 (5) District boundaries shall conform to existing county geographical boundaries to the
47 extent practicable and to the extent there is no conflict with the standards set forth in this
48 Paragraph;

49 (6) Districts shall not breach precinct boundaries, and any agency or body authorized
50 to create new precinct boundaries shall not breach district boundaries;

51 (7) Except as otherwise required by this Paragraph:

52 (A) No reapportionment plan or district shall be drawn with the intent to favor or
53 disfavor a political party, incumbent, or other person or group; and

54 (B) No reapportionment plan or district shall be drawn on the basis of maps existing
55 prior to the enactment of this provision; and

56 (8) No use shall be made of any of the following data: residential addresses of
57 incumbent legislators, perceived or actual political affiliations of registered voters, past
58 election results, voting history data, or any demographic information other than
59 population head counts.

60 (c)(1) In each year following a year in which a United States decennial census is
61 conducted or when congressional or legislative redistricting is required by court order,

62 a Citizens' Redistricting Commission shall be established as provided in this Paragraph.
 63 The Citizens' Redistricting Commission shall be the reapportionment body responsible
 64 for congressional and legislative redistricting.

65 (2) The commission shall be composed of 14 members appointed as provided in this
 66 Paragraph.

67 (3) The commission shall include five members who are identified with the political
 68 party whose candidate for Governor in the last general election to fill the office of
 69 Governor received the highest number of votes, five members who are identified with the
 70 political party whose candidate for Governor in the last general election to fill the office
 71 of Governor received the next highest number of votes, and four members who are not
 72 identified with any political party. Identification with a political party shall mean that a
 73 person voted in the general primary of such political party in each of the three
 74 immediately preceding general primaries and publicly swears or affirms that he or she
 75 supports the political party and personally identifies as a member of the political party.
 76 Not being identified with a political party shall mean that the person did not vote
 77 exclusively in the general primary of one political party in the three immediately
 78 preceding general primaries and publicly swears or affirms that he or she does not
 79 personally identify as a member of any political party.

80 (4) Each commission member shall be a registered voter who, at the time of his or her
 81 selection to serve on the commission, has been continuously registered to vote in Georgia
 82 for the immediately preceding five-year period or longer and has voted in each of the
 83 three immediately preceding state-wide general elections.

84 (5) No person shall be eligible to serve on the commission who has, within the
 85 immediately preceding ten-year period prior to his or her selection to serve on the
 86 commission, or whose immediate family member has, within the immediately preceding
 87 ten-year period prior to such person's selection to serve on the commission:

88 (A) Been appointed or elected to or been a candidate for federal, state, or local office;

89 (B) Served as an officer, employee, or paid consultant of a political party or body or
 90 of the campaign or campaign committee of a candidate for elective federal, state, or
 91 local office;

92 (C) Served as an elected or appointed officer of a political party or body on a state or
 93 county executive committee;

94 (D) Served as an appointee of the Governor;

95 (E) Served as a registered federal, state, or local lobbyist;

96 (F) Served as a paid congressional or legislative staff member; or

97 (G) Contributed \$2,000.00 or more to any federal, state, or local candidate for elective
 98 public office in any year; such amount shall be adjusted every ten years by the

99 Secretary of State by calculating the cumulative percentage increase in the consumer
100 price index for Georgia or its successor index over the preceding ten-year period.
101 Immediate family members include spouses, parents, siblings, and children.

102 (6) Not later than January 1, 2020, and in each year ending in the number zero thereafter,
103 the Chief Justice of the Supreme Court shall initiate an application process for service on
104 the commission which shall be open to all registered electors in Georgia in a manner that
105 promotes a diverse and qualified applicant pool reflecting the diverse demographics and
106 geography of the state. Such applications shall be received through June 30 of such year
107 and in each year ending in the number zero thereafter. Not later than July 1 of such year
108 and in each year ending in the number zero thereafter, the Chief Justice shall establish a
109 review panel consisting of three retired appellate or superior court judges to screen
110 applicants for the commission. Not later than August 1 of such year and in each year
111 ending in the number zero thereafter, the Chief Justice shall publicize the names of the
112 applicants and deliver copies of their applications to the review panel.

113 (7) The review panel shall review and verify the qualifications of the applicants and shall
114 select 20 of the most qualified applicants who are identified with the political party whose
115 candidate for Governor in the last general election to fill the office of Governor received
116 the highest number of votes, 20 of the most qualified applicants who are identified with
117 the political party whose candidate for Governor in the last general election to fill the
118 office of Governor received the next highest number of votes, and 20 of the most
119 qualified applicants who are not identified with any political party. These subpools shall
120 be created on the basis of relevant analytical skills, ability to be impartial, and
121 appreciation of the diverse demographics and geography of the state. The members of
122 the review panel shall not communicate with any member of the Georgia congressional
123 delegation, any member of the General Assembly, or any representative of any such
124 member prior to the selection of the three subpools of applicants.

125 (8) Not later than October 1, 2020, and in each year ending in the number zero thereafter,
126 the review panel shall submit the three subpools of applicants to the Secretary of the
127 Senate and the Clerk of the House of Representatives. Not later than November 15, 2020,
128 and in each year ending in the number zero thereafter, the President Pro Tempore of the
129 Senate, the minority leader of the Senate, the Speaker of the House of Representatives,
130 and the minority leader of the House of Representatives may each strike up to two of the
131 applicants from each subpool for a total of up to eight strikes from each subpool. After
132 removing the names of those persons stricken from the subpools, the Secretary of the
133 Senate and the Clerk of the House of Representatives shall deliver the pool of remaining
134 names to the Chief Justice of the Supreme Court.

135 (9) Not later than November 20, 2020, and in each year ending in the number zero
136 thereafter, the Chief Justice shall randomly draw eight names from the applicants
137 remaining. Three of the randomly drawn names shall be drawn from the subpool of
138 applicants who identify with the political party whose candidate for Governor in the last
139 general election to fill the office of Governor received the highest number of votes, three
140 of the randomly drawn names shall be drawn from the subpool of applicants who identify
141 with the political party whose candidate for Governor in the last general election to fill
142 the office of Governor received the next highest number of votes, and two of the
143 randomly drawn names shall be drawn from the subpool of applicants who do not identify
144 with any political party. These persons shall serve on the commission.

145 (10) Not later than December 31, 2020, and in each year ending in the number zero
146 thereafter, the initial eight members of the commission selected as provided in
147 subparagraph (c)(9) of this Paragraph shall review the names remaining in the pool of
148 applicants following their selection and shall appoint an additional six persons from such
149 remaining applicants. Two names shall be selected from the subpool of applicants who
150 identify with the political party whose candidate for Governor in the last general election
151 to fill the office of Governor received the highest number of votes, two names shall be
152 selected from the subpool of applicants who identify with the political party whose
153 candidate for Governor in the last general election to fill the office of Governor received
154 the next highest number of votes, and two names shall be selected from the subpool of
155 applicants who do not identify with any political party. The six appointees must receive
156 the affirmative vote of at least five of the initial eight members of the commission, which
157 shall include at least two votes by members of the commission who identify with one of
158 the political parties and one vote by a member of the commission who does not identify
159 with any political party. Such additional six member of the commission shall be chosen
160 to represent the state's diversity to include, but not be limited to, racial, ethnic,
161 geographic, and gender diversity, provided that no formula or specific ratio shall be used
162 for such purpose. Such members of the commission shall also be chosen for their
163 analytical skills and ability to be impartial.

164 (11) In the event of substantial neglect of duty, gross misconduct in office, or inability
165 to discharge the duties of the office, a member of the commission may be removed by the
166 review panel established by the Chief Justice pursuant to subparagraph (c)(6) of this
167 Paragraph after having been served with written notice and provided with an opportunity
168 for responding.

169 (12) Vacancies on the commission shall be filled within 30 days following the
170 occurrence of such vacancy by the remaining members of the commission by selecting
171 a person from the same subpool of applicants from which the vacating member was

172 selected as such subpool existed on November 20 of the year in which that pool was
173 established. In the event that none of the remaining applicants are available for service,
174 the Chief Justice of the Supreme Court shall create a new subpool following the general
175 methodology of subparagraph (c) of this Paragraph.

176 (13) The members of the commission shall select from among their number a
177 chairperson to preside over meetings of the commission and a vice chairperson to act in
178 the absence of the chairperson. The chairperson and vice chairperson shall not be from
179 the same subpool. The commission may also select a secretary to keep the records of the
180 commission and minutes of its meetings. Such person need not be a member of the
181 commission.

182 (14) Members of the commission shall be reimbursed for expenses incurred in the
183 performance of their duties on the commission in the same manner as members of the
184 General Assembly. The General Assembly is authorized to provide for the payment of
185 reasonable compensation to the members of the commission. The General Assembly
186 shall provide adequate funding to the commission, including the employment of a
187 competent staff, in order for the commission to carry out its duties. The General
188 Assembly shall provide adequate funding for the representation of the commission in any
189 litigation, and the Department of Law shall have the responsibility for such
190 representation. The commission shall have legal standing to seek judicial relief from the
191 Supreme Court should the General Assembly fail to satisfy the requirements of this
192 Paragraph. The Supreme Court shall have original jurisdiction to hear such actions and
193 may appoint a special master to take testimony and evidence and determine factual issues
194 necessary to resolve such actions.

195 (d)(1) Before January 1 of a reapportionment year, a publicly accessible internet based
196 redistricting portal shall be established to assist the public in drawing maps and providing
197 input on the reapportionment process and allow members of the public to upload their
198 own maps. Such portal shall allow any member of the public to submit written comments
199 on any proposed plans.

200 (2) Not later than April 15 of a reapportionment year, one or more initial proposed plans
201 that satisfy the standards set forth in subparagraph (d)(1) of this Paragraph shall be
202 created and published on the internet based redistricting portal. The plan or plans shall
203 be presented visually, in sufficient detail such that the public may visually inspect all
204 district boundaries down to the residence level, and the plan or plans shall also include
205 all data necessary for a third party to electronically recreate an accurate visual
206 representation of such proposed plan or plans. The plan or plans shall be presented in a
207 manner that will allow any member of the public to immediately inspect visually the
208 proposed district in which they live as well as all neighboring districts. Not later than

209 April 15 of a reapportionment year, a visual representation of the plan shall also be
210 published for once a week for two consecutive weeks in the legal organ for each county.
211 (3) Any initial proposed plan or plans published on the internet based redistricting portal
212 shall also include a detailed explanation of the procedure or process used to create such
213 plan or plans, including, but not limited to, all inputs, variables, factors, or other bases
214 used to create such plan or plans, draft maps, formulae or algorithms, and any hardware
215 or software relied upon to create such plan or plans. This provision shall be construed
216 to defeat any legal claim or defense that is brought or raised by any party to prevent the
217 disclosure of such procedure or process, including, but not limited to, a claim or defense
218 that such disclosure would constitute an unlawful disclosure of a trade secret or other
219 confidential or proprietary information.
220 (4) There shall be at least one public hearing in the highest-population municipality of
221 each congressional district in this state, to be held no earlier than May 1 and no later than
222 May 31 of a reapportionment year. At least two members of the commission shall be
223 present at each public hearing, and one member of the commission shall preside and
224 conduct the hearing. Visual representations of the proposed plan or plans shall be
225 prominently presented at the hearing. The hearings shall be recorded and made available
226 live and archived for public viewing on the internet. During each public hearing, the
227 representatives shall present the initial proposed plan or plans, explain the procedure or
228 process used to create such plan or plans, have available any plans submitted by the
229 public and the commission's evaluation of such plan or plans, and hear public comments
230 and suggestions. Public notice of such meetings shall be published via the internet based
231 redistricting portal and for once a week for two consecutive weeks in the legal organ for
232 each county, not later than 14 days before the date of the hearing.
233 (5) Not later than July 1 of a reapportionment year, all public comments submitted in
234 writing or during a public hearing shall be processed and considered for purposes of
235 revising any initial proposed plan or plans, and the basis for accepting or rejecting any
236 such comments shall be published on the internet based redistricting portal;
237 (6) Not later than August 1 of a reapportionment year, the final reapportionment plan
238 shall be publicly presented on the internet based redistricting portal and such plan shall
239 be certified to the Secretary of State. Such plan shall comply with all presentation
240 requirements set forth in subparagraph (d)(2) of this Paragraph.
241 (7) All meetings, discussions, and deliberations concerning reapportionment shall be
242 conducted in public, and public notice of such meetings, discussions, and deliberations
243 shall be published on the internet based redistricting portal 14 days in advance. All
244 communications, including electronic communications, shall be made available to the
245 public for inspection and copying.

246 (8) All communications with any party not hired or contracted to perform, or not
247 responsible for performing, the duties set forth in this Paragraph are strictly prohibited.
248 Such prohibition shall not apply to any public communications explicitly authorized by
249 this Paragraph.

250 (9) Nothing in this provision shall be construed as limiting any obligations set forth in
251 statute relating to disclosure of public records and open meetings which shall apply to this
252 Paragraph or any other such applicable laws.

253 (10) A plaintiff interested in having the duties or prohibitions set forth in this Paragraph
254 enforced may seek a writ of mandamus to compel due performance of the duties set forth
255 in this Paragraph or writ of prohibition, whichever is proper. A writ of prohibition shall
256 be permitted to enforce the prohibitions set forth in this Paragraph. Lack of clarity or
257 specificity shall not constitute a defense in any such actions.

258 (e)(1) Within 15 days after the final reapportionment plan is certified to the Secretary of
259 State, any citizen of this state may petition the Supreme Court of Georgia for a
260 declaratory judgment determining the validity of the reapportionment under the standards
261 set forth in paragraph (b) of this Paragraph. The Supreme Court shall have original
262 jurisdiction of such actions and may appoint a special master to take testimony and
263 evidence and determine factual issues necessary to resolve such actions. The Supreme
264 Court, in accordance with its rules, shall permit adversary interests to present their views
265 and, within 60 days from the filing of the petition, shall enter its judgment. Should no
266 petition be filed, the reapportionment plan shall take effect.

267 (2) A judgment of the Supreme Court determining the reapportionment to be valid shall
268 be binding upon all the citizens of the state. Should the Supreme Court determine that
269 the reapportionment is invalid, the reapportionment body shall reconvene within five days
270 thereafter and, within 15 consecutive days, revise the reapportionment plan to conform
271 to the judgment of the Supreme Court, and certify such second reapportionment to the
272 Secretary of State.

273 (3) Within 15 days after such second reapportionment is certified, any citizen of this state
274 may petition the Supreme Court for a declaratory judgment determining the validity of
275 the second reapportionment under the standards set forth in paragraph (b) of this
276 Paragraph. Consideration of the validity of the second reapportionment shall be had as
277 provided for in subparagraph (e)(1) of this paragraph. Should no petition be filed, the
278 second reapportionment plan shall take effect.

279 (4) Should no second reapportionment be certified within the time limit, or should the
280 Supreme Court determine that such second reapportionment is invalid, the court shall, not
281 later than 60 days after receiving the petition, file with the Secretary of State an order
282 making such reapportionment.

283 (5) The commission shall have standing in legal actions regarding the redistricting plan."

284 **SECTION 2.**

285 Article III, Section II of the Constitution is amended by revising Paragraph II as follows:

286 "Paragraph II. *Apportionment of General Assembly.* ~~The General Assembly shall~~
 287 ~~apportion the Senate and House districts. Such districts shall be composed of contiguous~~
 288 ~~territory.~~ The apportionment of the Senate and of the House of Representatives shall be
 289 changed by the General Assembly as necessary after each United States decennial census."

290 **SECTION 3.**

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

294 "() YES Shall the Constitution of Georgia be amended so as to provide for the creation
 295 () NO of a nonpartisan independent citizens' redistricting commission composed of
 296 Georgia voters to conduct legislative and congressional redistricting?"

297 All persons desiring to vote in favor of ratifying the proposed amendment shall vote "Yes."

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