

The Senate Committee on Judiciary offered the following substitute to HR 1023:

A RESOLUTION

1 Proposing an amendment to the Constitution so as to provide that the people of this state may
 2 petition the judiciary for relief from certain acts of this state or certain local governments or
 3 officers or employees thereof that violate the laws or the Constitution of this state or the
 4 Constitution of the United States; to provide for related matters; to provide for the
 5 submission of this amendment for ratification or rejection; and for other purposes.

6 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 SECTION 1.

8 Article I, Section II of the Constitution is amended by revising Paragraph V as follows:

9 "Paragraph V. *What acts void.* (a) Legislative acts in violation of this Constitution or
 10 the Constitution of the United States are void, and the judiciary shall so declare them.

11 (b)(1) Any person who suffers an injury in fact may petition the superior court for
 12 declaratory relief from acts of the state or any agency, authority, branch, board, bureau,
 13 commission, department, office, or public corporation of this state or officer or employee
 14 thereof or any county, consolidated government, or municipality of this state or officer
 15 or employee thereof done outside the scope of lawful authority or in violation of the laws
 16 or Constitution of this state or the Constitution of the United States.

17 (2) Actions filed pursuant to this Paragraph against this state or any agency, authority,
 18 branch, board, bureau, commission, department, office, or public corporation of this state
 19 or officer or employee thereof shall be brought exclusively against the state and in the
 20 name of the State of Georgia. Actions filed pursuant to this Paragraph against any
 21 county, consolidated government, or municipality of the state or officer or employee
 22 thereof shall be brought exclusively against such county, consolidated government, or
 23 municipality and in the name of such county, consolidated government, or municipality.
 24 Actions filed pursuant to this Paragraph naming any individual, officer, or entity other
 25 than as expressly authorized under this Paragraph shall be dismissed.

26 (3) Unless otherwise provided by an Act of the General Assembly, a court awarding
 27 declaratory relief pursuant to this Paragraph may, only thereafter, enjoin such acts to

28 enforce its judgment. The General Assembly by an Act may impose upon petitions filed
 29 pursuant to this Paragraph administrative exhaustion requirements, ante litem notice
 30 requirements, sanctions for frivolous petitions, statutes of limitation and repose, and
 31 venue specifications, provided that such limitations shall not unreasonably restrict the
 32 relief provided by this Paragraph. The General Assembly by Act may preclude the filing
 33 of petitions pursuant to this Paragraph for individuals incarcerated or detained by this
 34 state or by any county, municipality, or consolidated government of this state.

35 (4) No damages, attorney's fees, or costs of litigation shall be awarded in an action filed
 36 pursuant to this Paragraph, unless specifically authorized by Act of the General
 37 Assembly.

38 (5) This Paragraph shall not limit the power of the General Assembly to further waive
 39 the immunity provided in Article I, Section II, Paragraph IX and Article IX, Section II,
 40 Paragraph IX. This Paragraph shall not constitute a waiver of any immunity provided to
 41 this state or any agency, authority, branch, board, bureau, commission, department,
 42 office, or public corporation of this state or officer or employee thereof or any county,
 43 consolidated government, or municipality of this state or officer or employee thereof by
 44 the Constitution of the United States."

45 **SECTION 2.**

46 Article I, Section II, Paragraph IX of the Constitution is amended by revising
 47 subparagraph (e) as follows:

48 "(e) Except as specifically provided in this Paragraph and in Article I, Section II,
 49 Paragraph V, sovereign immunity extends to the state and all of its departments and
 50 agencies. The sovereign immunity of the state and its departments and agencies can only
 51 be waived by an Act of the General Assembly which specifically provides that sovereign
 52 immunity is thereby waived and the extent of such waiver."

53 **SECTION 3.**

54 Article IX, Section II of the Constitution is amended by revising Paragraph IX as follows:

55 "Paragraph IX. ***Immunity of counties, municipalities, and school districts.*** The General
 56 Assembly may waive the immunity of counties, municipalities, and school districts by law,
 57 in addition to such waiver provided for in Article I, Section II, Paragraph V."

58

SECTION 4.

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

62 "() YES Shall the Constitution of Georgia be amended to allow the people of Georgia
63 () NO to petition the courts of this state for relief from governmental acts done
64 outside the scope of lawful authority or which violate the laws or the
65 Constitution of Georgia or the Constitution of the United States?"

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

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