

House Resolution 11EX

By: Representatives Sanchez of the 42nd, McQueen of the 61st, Evans of the 57th, Hugley of the 141st, Frye of the 122nd, and others

A RESOLUTION

1 Proposing an amendment to the Constitution so as to provide for the creation and
2 establishment of an independent redistricting commission; to provide for the qualifications
3 and appointment of members of such commission; to provide for the filling of vacancies on
4 the commission; to provide for officers, powers, duties, responsibilities, and resources for
5 such commission; to provide for guidelines and methods for redistricting; to provide that
6 redistricting for the General Assembly, members of the United States House of
7 Representatives from this state, and any other elective body for which it is necessary to
8 apportion the entire State of Georgia into districts shall be done by such commission and not
9 the General Assembly; to provide for certain duties of the Supreme Court of Georgia with
10 regard to redistricting; to provide for severability; to provide for certain notices with regard
11 to amendments to certain provisions of the Constitution; to provide that the number of
12 members of each house of the Georgia General Assembly shall be fixed by general law under
13 certain conditions; to provide for related matters; to provide for submission of this
14 amendment for ratification or rejection; and for other purposes.

15 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 **SECTION 1.**

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

H. R. 11EX

18 "SECTION IV.

19 INDEPENDENT REDISTRICTING COMMISSION

20 Paragraph I. *Creation and duration of existence; purpose.* There is established an
21 Independent Redistricting Commission. The commission shall not have perpetual
22 existence, but shall only exist when redistricting is necessitated by either a federal
23 decennial census or by one or more court orders. The commission shall be constituted by
24 January 1 of each year immediately following the conduct of a federal decennial census,
25 or as soon as practicable following a relevant court order, and shall not cease to exist before
26 fulfilling its duties, which include initial Supreme Court review of any plans approved.

27 Paragraph II. *Membership; appointment and qualifications; officers; vacancies;*
28 *disqualification from other office.* (a) The commission shall be composed of 15
29 members, who shall be selected as provided in this Paragraph and shall meet the
30 qualifications herein provided at all times during their tenure. The General Assembly shall
31 not be authorized to establish additional qualifications for such commissioners.

32 (b) Each commissioner shall:

33 (1) Be a registered voter in the State of Georgia;

34 (2) Not have been any of the following in the last six years:

35 (A) A candidate for an elective federal, state, or county office or partisan municipal
36 office;

37 (B) An elected federal, state, county, or partisan municipal official, to include any
38 person appointed to such office;

39 (C) An officer or member of the governing body of a national, state, or local political
40 party or political body or a federal, state, or local political candidate's campaign
41 committee;

42 (D) A paid consultant or employee of a federal, state, or local political candidate's
43 campaign or of a political committee of any sort;

44 (E) A person required to register as a federal or state lobbyist or an employee of such
45 a person in that capacity; or

46 (F) A member of a government body having oversight power or regulatory authority
47 over the electoral process, including campaign finance;

48 (3) Not be a spouse, child, or stepchild of any individual disqualified under
49 subparagraph (b)(2) of this Paragraph or a parent, stepparent, or sibling of any individual
50 disqualified under subparagraph (b)(2)(A), (b)(2)(B), or (b)(2)(F) of this Paragraph;

51 (4) Not have voted in a partisan primary or primary runoff in the last three years
52 inconsistent with his or her declared party affiliation or lack of such affiliation; and

53 (5) Not otherwise be disqualified from holding office by this Constitution.

54 (c) No commissioner shall be eligible to seek or be appointed to any state-wide office,
55 state legislative office, or state judicial office for a five-year period from the date on which
56 such person began service as a commissioner, nor shall such commissioner be selected as
57 a member of a government body having oversight power or regulatory authority over the
58 electoral process, including campaign finance, during such period.

59 (d) Not later than January 1 of each year in which a federal decennial census is
60 conducted, the Secretary of State shall cause applications for the office of commissioner
61 to be made available to the general public. The applications shall be prepared and
62 circulated in a manner that promotes a diverse and qualified applicant pool reflecting the
63 diverse demographics and geography of this state, including linguistic diversity. In
64 addition, by the same date, the Secretary of State shall cause applications to be mailed
65 to 10,000 registered voters selected at random. The application form shall require
66 applicants completing such form to:

67 (1) Submit a complete application;

68 (2) Attest under oath that such applicants meet the qualifications contained in
69 subparagraph (b) of this Paragraph and further state that they either affiliate with one of

70 the two political parties with the largest representation in the General Assembly, and if
71 so, which party, or that they affiliate with neither;

72 (3) Provide information sufficient to match each applicant to a registered voter in this
73 state, or otherwise to determine that the applicant is not registered to vote in this state;

74 (4) Disclose all contractual or other financial interests with this state;

75 (5) Affirm their willingness to seek consensus and work impartially in pursuit of the
76 defined criteria, as well as their present willingness to return to service if necessary; and

77 (6) Disclose all political contributions by each applicant of \$250.00 or more made to
78 candidates or committees active in federal, state, or local political campaigns, including
79 ballot measure campaigns, within the last ten years; provided, however, that the Secretary
80 of State shall cause this amount to be adjusted for inflation in the calendar year prior to
81 each federal decennial census.

82 (e)(1) The Secretary of State shall accept applications for the office of commissioner
83 until June 1 of such year and shall group applicants into three pools based on declared
84 party affiliation or nonaffiliation.

85 (2) By July 1 of such year, the Secretary of State shall disqualify all applications that
86 are incomplete or that, based on the information contained in the applications and related
87 records maintained by the Secretary of State, do not meet the prescribed qualifications
88 of this Paragraph, and shall promptly notify disqualified applicants of the reason or
89 reasons for such disqualification. The Secretary of State shall then promptly use a
90 random mechanism to select 80 applicants from each pool, using accepted statistical
91 weighting methods to ensure that the pools as closely as possible mirror the geographic
92 and demographic makeup of the state.

93 (3) By July 10 of such year, the Secretary of State shall forward the list of all 240
94 selected applicants to the leaders of the two political parties with the largest
95 representation in each house of the General Assembly.

96 (4) By August 1 of such year, each of the four party leaders in the General Assembly
97 may strike up to six applicants, such that a total of 24 applicants may be stricken.

98 (5) By September 1 of such year, the Secretary of State shall randomly select the
99 names of three commissioners from those remaining in each pool, such that nine
100 commissioners in total are so selected. The method of selection shall be demonstrably
101 random.

102 (f) The Secretary of State shall call and convene a meeting of the initial nine
103 commissioners, which shall be held by September 30 of such year. At such meeting, the
104 initial nine commissioners shall select six additional commissioners by choosing two from
105 those remaining in each pool. Each selection shall be approved by at least six of their
106 number, including at least two from each partisan pool and at least one from the
107 unaffiliated pool.

108 (g) The Secretary of State shall convene meetings of the commission until the election
109 of a chairperson, but shall not be entitled to a vote. The first meeting shall be convened no
110 later than October 15 of such year. The commission shall elect a chairperson from its
111 membership and shall elect a secretary. It may also elect a vice chairperson from its
112 membership, who shall not be from the same pool as the chairperson. In the event that a
113 chairperson or secretary is not elected at the first two meetings of the commission due to
114 the vote threshold for exercise of powers in Paragraph III of this Section, the commission
115 may, at its third or a subsequent meeting of such year, elect such official with the
116 affirmative vote of eight commissioners, including at least one selected from each pool.
117 If the chairperson is elected by such method, the commission shall also so elect a vice
118 chairperson from its membership, who shall not be from the same pool as the chairperson.

119 (h) A commissioner shall vacate office upon the occurrence of any of the following
120 conditions, but not any others:

121 (1) His or her death;

122 (2) His or her written resignation, when received by the Secretary of State;

- 123 (3) His or her disqualification from holding office under this Constitution;
124 (4) He or she ceasing to meet the qualifications set forth in this Section; or
125 (5) After written notice and an opportunity for the commissioner to respond, a vote
126 of 11 commissioners, including at least one from each pool, finding substantial neglect
127 of duty, gross misconduct in office, or inability to discharge the duties of office.

128 In the event of a vacancy in a seat originally filled by random selection, the Secretary of
129 State shall fill the vacancy by randomly selecting a name from the remaining qualifying
130 applicants in the same pool from which the commissioner who vacated office was selected,
131 using a demonstrably random method. In the event of a vacancy in a seat originally filled
132 by a vote of the nine initial commissioners, the remaining commissioners shall fill the
133 vacancy by a vote of two-thirds of their remaining number, with the support of at least
134 three who were selected from each pool.

135 (i) Following a court order requiring a map that was drawn by the commission to be
136 redrawn, the chairperson shall reconvene the commission as soon as is feasible; provided,
137 however, that, if the chairperson fails to call a meeting within ten days, the Secretary of
138 State shall convene the commission. The commission shall have the same membership as
139 when it was previously constituted to draw such map, and vacancies shall be handled as
140 described in this Paragraph, provided that, in the event that more than half of the
141 commission's membership is vacant, all randomly selected seats shall be filled before
142 filling any vacancies in the other seats.

143 (j) Notwithstanding any other provision of law, no employer shall discharge, threaten to
144 discharge, intimidate, coerce, or retaliate against any employee because of the employee's
145 membership on the commission or attendance or scheduled attendance at any meeting of
146 the commission.

147 Paragraph III. **Powers and duties; exercise of powers.** (a) Except as otherwise provided
148 in this Section, the commission is vested with the sole power to draw district maps for the

149 Georgia Senate, the Georgia House of Representatives, the United States House of
150 Representatives, and any other elective body for which it is necessary to apportion the
151 entire State of Georgia into districts. When constituted as the result of a court order or
152 orders, the commission shall redraw only those maps directly affected by such court order
153 or orders and shall attempt to make changes only as required to comply with such order or
154 orders while satisfying the criteria established in this Section.

155 (b) The commission shall also have the power to do all things necessary in order to
156 exercise the above power or to perform its duties, including, without limitation, the power
157 to make its own rules of procedure, the power to hire staff and to contract, the power to sue
158 and be sued, the power to retain independent legal counsel, and the power to spend money
159 from the trust fund established pursuant to Paragraph VI of this Section. Except as
160 otherwise provided, the commission shall only exercise its powers by the affirmative vote
161 of at least nine of its members, including at least two members from each of the three
162 pools; provided, however, that the commission may retain counsel by a vote of eight
163 members, including at least one from each pool, if it was unable at its preceding meeting
164 to retain counsel using the regular threshold.

165 (c) The commission is vested with the following duties:

166 (1) To draw fair and impartial maps according to the criteria established in this Section,
167 and no other criteria;

168 (2) To ensure robust public participation and education regarding redistricting;

169 (3) To hold at least ten public hearings during a decennial redistricting cycle, or at least
170 six during a court ordered redistricting cycle, at locations distributed throughout this state,
171 before releasing its own maps, and to utilize technology to provide for remote public
172 participation in such hearings and allow members of the public to submit redistricting
173 plans;

174 (4) To hold six public hearings after releasing its own maps, also allowing for remote
175 participation, and to maximize the attendance of its own membership at both sets of
176 public hearings;

177 (5) To conduct all business and communications in public, except consultation with
178 counsel, and to make all records to which attorney-client privilege is not applicable
179 available for public inspection, except as otherwise specified in this Section; and

180 (6) To provide the public, including via website, with meeting agendas, notices, and
181 minutes and with pertinent information, including demographic, geographic, and electoral
182 data, regarding proposed plans and plan components, as well as full legal descriptions by
183 census block, shapefiles, and maps for all proposed plans, such that any sufficiently
184 skilled third party can exactly replicate the plans using solely the provided data.

185 (d) No commissioner shall solicit or engage in private communication with any person
186 or persons relating to redistricting, and all communications regarding redistricting received
187 by any individual commissioner shall be records of the commission. Consultation with the
188 commission's own staff or legal counsel shall not be deemed private communication.

189 Paragraph IV. **Redistricting criteria.** (a) The commission shall use the following criteria
190 in drawing districts and evaluating plans:

191 (1) Compliance with the United States Constitution, the federal Voting Rights Act
192 of 1965, as amended, and all applicable federal laws;

193 (2) Geographic contiguity, provided that an island may be treated as contiguous to the
194 nearest landmass in its county that is not an island;

195 (3) Substantial equality of total population, provided that in no event shall the most
196 populous and the least populous district in any plan differ in population per member by
197 more than 10 percent of the average population per member, nor shall any plan violate
198 applicable federal judicial standards regarding equality of population;

199 (4) Provision of equal opportunity for racial and linguistic minorities to participate in
200 the political process and elect the candidates of their choice, either alone or in coalition
201 with others;

202 (5) Preservation of whole communities of interest to the extent possible, with a
203 community of interest being any group of reasonably geographically proximate
204 Georgians sharing one or more substantial interests that might reasonably be the subject
205 of action by the body for which maps are to be drawn, or otherwise sharing a common
206 socioeconomic or demographic identity; provided, however, that shared political party
207 affiliation shall not constitute a community of interest;

208 (6) Respect for boundaries of political subdivisions and voting precincts when
209 practical, with particular attention to ensuring that such boundaries are not subdivided
210 into areas small enough to threaten ballot secrecy, provided that in no event shall any
211 populated census block be split; and

212 (7) Partisan fairness, to the extent it does not conflict with other criteria, such that all
213 maps drawn can be expected to, on average, produce political representation reasonably
214 proportionate to the popular vote in the state.

215 (b) The commission shall not propose or approve any maps that, as a whole, favor any
216 political party, political candidate, or incumbent, nor shall it make use of residential
217 address information of any incumbent federal or state legislator or known or declared
218 candidate for federal or state legislative office.

219 Paragraph V. *Adoption of maps; dissolution; failure to adopt maps; review of adopted*
220 *maps; emergency provisions.* (a) No later than October 1 of the year in which a federal
221 decennial census is conducted, the commission shall adopt redistricting plans for all
222 districts which it is required and empowered to draw. Each commissioner shall be entitled
223 to propose one plan per type of district and shall provide an accompanying explanation of

224 how such plan was created. The commission shall provide public notice of each plan that
225 is to be considered and shall provide at least 45 days for public comment on such plans.

226 (b) In the event that the commission is unable to adopt a redistricting plan through the
227 regular exercise of its powers, the commission shall adopt a plan through the following
228 procedure:

229 (1) Each commissioner may submit one proposed plan for each type of district to the
230 full commission for consideration. If such plan has not yet received public comment, it
231 shall first be submitted for at least 20 days of public comment;

232 (2) Each commissioner shall rank the plans submitted according to preference. Each
233 plan shall be assigned a point value inverse to its ranking among the number of choices,
234 giving the lowest ranked plan one point and the highest ranked plan a point value equal
235 to the number of plans submitted; and

236 (3) The commission shall adopt the plan receiving the highest total points and that is
237 also ranked among the top half of plans by at least three commissioners not affiliated with
238 the party of the commissioner submitting the plan, or in the case of a plan submitted by
239 nonaffiliated commissioners, is ranked among the top half of plans by at least three
240 commissioners affiliated with a party. If plans are tied for the highest point total, the
241 Secretary of State shall randomly select the final plan from those plans. If no plan meets
242 the requirements of this subparagraph (b), a panel comprising the Secretary of State, the
243 state auditor, and the most recently retired Justice of the Supreme Court shall select a plan
244 from the five highest ranked plans using a verifiably random mechanism, which the
245 commission shall then be entitled to adopt by the affirmative vote of eight
246 commissioners.

247 (c) The Supreme Court shall review all adopted plans for compliance with the criteria
248 set out in this Section using an abuse of discretion standard, except that a plan randomly
249 selected from the five highest ranked plans shall be reviewed de novo. Within 30 days of
250 each plan's adoption, the Supreme Court shall issue a judgment either affirming the plan's

251 compliance or remanding the plan to the commission with instructions as to the specific
252 deficiencies that must be remedied. Affirmed plans shall be filed with the Secretary of
253 State within seven days. If a plan is remanded, the commission shall, within 12 days, hold
254 a public hearing and adopt a new plan remedying the deficiencies, which shall be
255 resubmitted for immediate Supreme Court review using an abuse of discretion standard.

256 (d) The Supreme Court shall have original, exclusive jurisdiction in any suit against the
257 Secretary of State concerning his or her duties in relation to the commission and in any suit
258 challenging maps adopted by the commission. The Supreme Court shall have original,
259 exclusive jurisdiction to review the ballot language of any proposed constitutional
260 amendment modifying this Section. In no event shall any body, except the commission
261 acting pursuant to this Section, promulgate and adopt a redistricting plan or plans for this
262 state. In the event that the commission is repeatedly unable to adopt a plan that passes
263 Supreme Court review by December 15, the Supreme Court shall fashion an appropriate
264 order directing the commissioners to reach consensus on a plan by January 1.

265 (e) During a decennial redistricting cycle, in the event that the commission believes it is
266 infeasible to adopt plans by October 1 for reasons outside of its control, the commission
267 may, by the affirmative vote of at least 12 commissioners, including at least three from
268 each pool, extend such deadline, provided that in no event shall it be extended beyond the
269 second Monday in January of the second year that is subsequent to the federal decennial
270 census.

271 (f) A plan affirmed by the Supreme Court shall go into immediate effect to the extent
272 necessary to hold subsequent elections under that plan but shall not be applied to any
273 residency requirements for legislators during the term in which the plan is adopted, nor
274 shall any special election to fill a vacancy be held under such plan before a general election
275 for the same position has been held under such plan.

276 Paragraph VI. *Funding; compensation; indemnification.* (a) There is created the
277 Independent Redistricting Commission Trust Fund. In each fiscal year in which a federal
278 decennial census is conducted, the General Assembly shall make appropriations to the trust
279 fund sufficient to fund the commission's operations for at least a single redistricting cycle.
280 The General Assembly shall make further appropriations to the trust fund as necessary to
281 ensure continuity of the commission's operations. During any year in which the
282 commission is required to operate, the General Assembly shall appropriate to the trust fund
283 at least one-fourth of the general purpose budget for the Secretary of State. The trust fund
284 shall be reserved for the sole use of the commission, provided that, when the commission
285 is not currently constituted and circumstances require its constitution, the state treasurer
286 may authorize disbursements from the trust fund to pay costs associated with constituting
287 the commission. Within six months of the commission's dissolution for a redistricting
288 cycle, the state auditor shall review the moneys remaining in the trust fund and shall return
289 all moneys not necessary for contingencies, such as legal defense and reconvening the
290 commission, to the general fund of the state treasury. The funds in the trust fund shall not
291 lapse.

292 (b) Each commissioner shall receive a salary equal to at least one-fifth of the Governor's
293 salary, which shall be paid from the trust fund. The State of Georgia shall indemnify
294 commissioners for costs incurred.

295 Paragraph VII. *Severability; amendment of section.* (a) This Section is self-executing.
296 If a final court decision holds any part or parts of this Section to be in conflict with the
297 United States Constitution or federal law, this Section shall be implemented to the
298 maximum extent that the United States Constitution and federal law permit. Any provision
299 or portion held invalid is severable from the remaining portions of this Section.

300 (b) Whenever any amendment to this Section is proposed by the General Assembly, or
301 whenever a new Constitution is proposed for this state, which would substantially modify

302 the provisions of this Section, the ballot on which the question of such amendment is
 303 submitted to the people shall contain the statement: "If adopted, this amendment would
 304 modify the Independent Redistricting Commission previously ratified by the voters of
 305 Georgia."

306 (c) The Independent Redistricting Commission shall not be subject to the provisions of
 307 Section VII of Article IV."

308 **SECTION 2.**

309 Article III, Section II of the Constitution is amended by revising Paragraphs I and II as
 310 follows:

311 "Paragraph I. *Senate and House of Representatives.* (a) The Senate shall consist of not
 312 more than 56 Senators, each of whom shall be elected from single-member districts.

313 (b) The House of Representatives shall consist of not fewer than 180 Representatives
 314 apportioned among representative districts of the state.

315 (c) The General Assembly shall provide by general law for the number of members of
 316 each house and may amend such law only during the year in which a federal decennial
 317 census is conducted, before April 1 of such year.

318 Paragraph II. *Apportionment of General Assembly.* ~~The General Assembly shall~~
 319 ~~apportion the Senate and House districts. Such districts shall be composed of contiguous~~
 320 ~~territory. The apportionment of the Senate and of the House of Representatives shall be~~
 321 ~~changed by the General Assembly as necessary after each United States decennial census~~
 322 Reserved."

323 **SECTION 3.**

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

327 " YES Shall the Constitution of Georgia be amended so as to provide for the creation
328 NO of an independent citizens' redistricting commission composed of Georgia
329 voters to conduct legislative and congressional redistricting?"

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

331 All persons desiring to vote against ratifying the proposed amendment shall vote "No." If

332 such amendment shall be ratified as provided in said Paragraph of the Constitution, it shall

333 become a part of the Constitution of this state.