

House Bill 1275

By: Representatives Rich of the 97th, Leverett of the 33rd, and Oliver of the 82nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 32 of Title 36 of the Official Code of Georgia Annotated,
2 relating to municipal courts generally, so as to revise provisions related to appointment and
3 removal of municipal court judges; to provide for vacancies in office; to provide for related
4 matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Article 1 of Chapter 32 of Title 36 of the Official Code of Georgia Annotated, relating to
8 municipal courts generally, is amended in Code Section 36-32-2, relating to appointment of
9 judges, by revising subsection (a) as follows:

10 "(a)(1) Notwithstanding any other provision of this chapter or any general or local Act,
11 the governing authority of each municipal corporation within this state having a
12 municipal court, as provided by the Act incorporating the municipal corporation or any
13 amendments thereto, is authorized to appoint a judge of such court. Any individual
14 appointed as a judge under this Code section shall possess such qualifications as set forth
15 in Code Section 36-32-1.1 and shall receive such compensation as shall be fixed by the
16 governing authority of the municipal corporation. Any individual appointed as a judge

17 under this Code section shall serve for a minimum term of one year and until a successor
18 is appointed or if the judge is removed from office as provided in Code Section
19 36-32-2.1. Such term shall be memorialized in a written agreement between such
20 individual and the governing authority of the municipal corporation or in an ordinance
21 or a charter. ~~With respect to an individual serving as a municipal court judge in a~~
22 ~~consolidated government, the local Act shall determine the term of such judge.~~

23 (2) Except as otherwise provided for in Code Section 36-32-2.1, in the event of a
24 vacancy occurring during the term of a judge appointed under this Code section, the
25 governing authority of the municipal corporation is authorized to appoint an individual
26 to serve for the remainder of the unexpired term created by such vacancy, provided such
27 individual is qualified by law to serve as a municipal court judge."

28 **SECTION 2.**

29 Said article is further amended in Code Section 36-32-2.1, relating to removal of judges, by
30 revising subsections (c), (e), (g), and (h) as follows:

31 "(c)(1) Removal proceedings pursuant to subsection (b) of this Code section may be
32 initiated only by written petition setting forth the grounds for removal of a judge signed
33 by one or more members of the governing authority of the municipal corporation.

34 (2) A petition for removal shall state:

35 (A) The cause or causes for his or her termination in sufficient detail to enable him or
36 her fairly to show any error that may exist therein;

37 (B) The names of the known witnesses and a concise summary of the evidence to be
38 used against him or her, and the names of any new witnesses shall be provided as soon
39 as practicable; and

40 (C) That the judge, upon request, shall be furnished with compulsory process or
41 subpoena legally requiring the attendance of witnesses and the production of documents
42 and other evidence as provided by law.

43 (3) Upon submission of the petition to remove the judge to such governing authority, the
44 governing authority may consider the petition and determine if the petition relates to and
45 adversely affects the administration of the office of the judge and the rights and interests
46 of the public. If it is determined at a public meeting by a majority vote of the governing
47 authority of the municipal corporation that there is an adverse impact, the judge may be
48 suspended immediately and without further action for up to 60 days pending the final
49 determination pursuant to subsection (e) of this Code section. A judge suspended
50 pursuant to this subsection shall continue to receive the compensation from his or her
51 office until the final determination on the petition or expiration of the suspension."

52 "(e)(1)(A) Removal proceedings shall consist of an open and public hearing held by the
53 governing authority of the municipal corporation, provided that the judge against whom
54 such charges have been brought shall be furnished notice of the time and place where
55 the hearing will be held and a copy of the charges at least ~~ten~~ 20 days prior to the
56 hearing.

57 (B) The notice required by subparagraph (A) of this paragraph shall be served by
58 certified mail or statutory overnight delivery and shall be deemed to be perfected by
59 certified mail when the notice is deposited in the United States mail addressed to the
60 last known address of the addressee with sufficient postage affixed to the envelope.

61 (C) The judge shall be entitled to be represented by counsel at his or her expense and,
62 upon request, shall be entitled to have subpoenas or other compulsory process issued
63 for the attendance of witnesses and the production of documents and other evidence.
64 Such subpoenas and compulsory process shall be issued in the name of the governing
65 authority of the municipal corporation and shall be signed by the chief elected official
66 or chief executive officer of the municipal corporation. In all other respects, such
67 subpoenas and other compulsory process shall be subject to Article 2 of Chapter 13 of
68 Title 24.

69 (D) The hearing shall be recorded at the expense of the municipal corporation. Such
70 recording should contain at least the audio and may contain video. The audio recording
71 of the hearing shall be transcribed at the judge's expense if he or she requests certiorari
72 review by the superior court.

73 (E) The following oath or affirmation shall be administered to all witnesses by the
74 presiding officer provided for in paragraph (2) of this subsection:

75 'You do solemnly swear or affirm that the testimony you give shall be the truth, the
76 whole truth, and nothing but the truth. So help you God.'

77 (F) All questions relating to the admissibility of evidence or other legal matters shall
78 be decided by the presiding officer provided for in paragraph (2) of this subsection.
79 The governing authority of the municipal corporation shall have the burden of proving
80 by a preponderance of the evidence that removal is warranted pursuant to subsection
81 (b) of this Code section, and such governing authority shall have the right to open and
82 to conclude arguments. Except as otherwise provided in this Code section, hearings
83 shall be governed by the same rules as govern the introduction of evidence in nonjury
84 civil trials in the superior court.

85 (G) At the conclusion of the hearing, the governing authority of the municipal
86 corporation shall determine whether or not to remove the judge from office. ~~The~~
87 ~~governing authority of the municipal corporation may adopt rules governing the~~
88 ~~procedures at such hearings, provided that such hearings comport with due process.~~
89 The governing authority of the municipal corporation shall state the basis for its
90 decision to remove or not remove the judge from office. Said decision and its basis
91 shall be rendered at the hearing and shall be in writing. The right of certiorari from the
92 decision to remove a judge from office shall exist, and such certiorari shall be obtained
93 under the sanction of a judge of the superior court of the circuit in which the governing
94 authority of the municipal corporation, or any portion of it, is situated.

95 (2) The chief judge of the superior court of the circuit in which the governing authority
96 of the municipal corporation, or any portion of it, is situated shall appoint a senior
97 superior court judge or a senior state court judge to act as the presiding officer at a
98 hearing conducted pursuant to this subsection. If the municipal corporation lies in two
99 superior court circuits, the most senior chief judge of the circuits shall appoint such
100 presiding officer. The governing authority of the municipal corporation shall be
101 responsible for compensating the presiding officer for his or her services at a rate not to
102 exceed \$500.00 per diem, plus reasonable and necessary expenses."

103 ~~“(g) Any vacancy in a judgeship created by the removal of a judge pursuant to this Code~~
104 ~~section may be temporarily filled by the governing authority of the municipal corporation~~
105 ~~for a period not longer than 90 days by any individual qualified by law to serve as a~~
106 ~~municipal court judge. In the event that a vacancy in a judgeship is created by the removal~~
107 ~~of a judge pursuant to this Code section, the governing authority of the municipal~~
108 ~~corporation may fill such vacancy by appointing any individual qualified by law to serve~~
109 ~~as a municipal court judge for a period of not less than 30 days nor more than 60 days. If~~
110 ~~after the conclusion of the removal proceedings, including the appeal period, there is a~~
111 ~~vacancy for such judgeship, the governing authority of the municipal corporation may~~
112 ~~appoint a judge in the same manner as set forth in Code Section 36-32-2.~~

113 (h) The provisions of this Code section shall expressly supersede any conflicting local law
114 of this state; ~~provided, however, that this Code section shall not apply to a local Act~~
115 ~~creating a municipal court for a consolidated government."~~

116 **SECTION 3.**

117 All laws and parts of laws in conflict with this Act are repealed.