

House Resolution 1023

By: Representatives Welch of the 110th, Efstrotation of the 104th, Fleming of the 121st, Trammell of the 132nd, Kelley of the 16th, and others

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 declaratory relief from certain acts of this state or certain local
 3 governments or officers or employees thereof that violate the laws or Constitution of this
 4 state or the Constitution of the United States; to provide for related matters; to provide for
 5 the 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 natural person who is a citizen of this state or a corporation domiciled in
 12 this state who suffers an injury in fact may petition the judiciary for declaratory relief
 13 from acts of the state or any agency, authority, branch, board, bureau, commission,
 14 department, office, or public corporation of this state or officer or employee thereof or
 15 any county, consolidated government, or municipality of this state or officer or employee
 16 thereof done outside the scope of lawful authority or in violation of the laws or
 17 Constitution of this state or the Constitution of the United States.

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

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

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

39 (5) This subparagraph shall not limit the power of the General Assembly to further
 40 waive the immunity provided in Article I, Section II, Paragraph IX and Article IX,
 41 Section II, Paragraph IX. This subparagraph shall not constitute a waiver of any
 42 immunity provided to this state or its departments, agencies, officers, or employees by
 43 the Constitution of the United States."

44 **SECTION 2.**

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

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

52 **SECTION 3.**

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

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

57 **SECTION 4.**

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

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

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

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