

House Resolution 369

By: Representatives Wilson of the 80th, Hugley of the 136th, Holly of the 111th, Trammell of the 132nd, Holcomb of the 81st, 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 a short title; to provide for related matters; to provide for
 8 submission of this amendment for ratification or rejection; and for other purposes.

9 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 SECTION 1.

11 This resolution shall be known and may be cited as the "Democracy Act."

12 SECTION 2.

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

14 SECTION IV.15 LEGISLATIVE AND CONGRESSIONAL REAPPORTIONMENT

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

25 representative districts. The term 'reapportionment,' as used in this section, means any
26 redistricting process by which congressional and legislative district boundaries are
27 established and the term 'reapportionment plan,' as used in this section, means any plan that
28 implements any redistricting process.

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

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

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

43 (3) Districts shall be geographically contiguous;

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

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

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

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

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

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

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

62 (c)(1) In each year following a year in which a United States decennial census is
63 conducted or when congressional or legislative redistricting is required by court order,
64 a Citizens' Redistricting Commission shall be established as provided in this Paragraph.
65 The Citizens' Redistricting Commission shall be the reapportionment body responsible
66 for congressional and legislative redistricting.

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

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

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

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

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

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

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

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

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

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

99 (G) Contributed \$2,000.00 or more to any federal, state, or local candidate for
100 elective public office in any year; such amount shall be adjusted every ten years by the
101 Secretary of State by calculating the cumulative percentage increase in the consumer
102 price index for Georgia or its successor index over the preceding ten-year period.
103 Immediate family members include spouses, parents, siblings, and children.

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

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

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

135 Secretary of the Senate and the Clerk of the House of Representatives shall deliver the
136 pool of remaining names to the Chief Justice of the Supreme Court.

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

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

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

171 (12) Vacancies on the commission shall be filled within 30 days following the
172 occurrence of such vacancy by the remaining members of the commission by selecting
173 a person from the same subpool of applicants from which the vacating member was
174 selected as such subpool existed on November 20 of the year in which that pool was
175 established. In the event that none of the remaining applicants are available for service,
176 the Chief Justice of the Supreme Court shall create a new subpool following the general
177 methodology of subparagraph (c) of this Paragraph.

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

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

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

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

208 representation of such proposed plan or plans. The plan or plans shall be presented in a
209 manner that will allow any member of the public to immediately inspect visually the
210 proposed district in which they live as well as all neighboring districts. Not later than
211 April 15 of a reapportionment year, a visual representation of the plan shall also be
212 published for once a week for two consecutive weeks in the legal organ for each county.

213 (3) Any initial proposed plan or plans published on the internet based redistricting
214 portal shall also include a detailed explanation of the procedure or process used to create
215 such plan or plans, including, but not limited to, all inputs, variables, factors, or other
216 bases used to create such plan or plans, draft maps, formulae or algorithms, and any
217 hardware or software relied upon to create such plan or plans. This provision shall be
218 construed to defeat any legal claim or defense that is brought or raised by any party to
219 prevent the disclosure of such procedure or process, including, but not limited to, a claim
220 or defense that such disclosure would constitute an unlawful disclosure of a trade secret
221 or other confidential or proprietary information.

222 (4) There shall be at least one public hearing in the highest-population municipality of
223 each congressional district in this state, to be held no earlier than May 1 and no later than
224 May 31 of a reapportionment year. At least two members of the commission shall be
225 present at each public hearing, and one member of the commission shall preside and
226 conduct the hearing. Visual representations of the proposed plan or plans shall be
227 prominently presented at the hearing. The hearings shall be recorded and made available
228 live and archived for public viewing on the internet. During each public hearing, the
229 representatives shall present the initial proposed plan or plans, explain the procedure or
230 process used to create such plan or plans, have available any plans submitted by the
231 public and the commission's evaluation of such plan or plans, and hear public comments
232 and suggestions. Public notice of such meetings shall be published via the internet based
233 redistricting portal and for once a week for two consecutive weeks in the legal organ for
234 each county, not later than 14 days before the date of the hearing.

235 (5) Not later than July 1 of a reapportionment year, all public comments submitted in
236 writing or during a public hearing shall be processed and considered for purposes of
237 revising any initial proposed plan or plans, and the basis for accepting or rejecting any
238 such comments shall be published on the internet based redistricting portal;

239 (6) Not later than August 1 of a reapportionment year, the final reapportionment plan
240 shall be publicly presented on the internet based redistricting portal and such plan shall
241 be certified to the Secretary of State. Such plan shall comply with all presentation
242 requirements set forth in subparagraph (d)(2) of this Paragraph.

243 (7) All meetings, discussions, and deliberations concerning reapportionment shall be
244 conducted in public, and public notice of such meetings, discussions, and deliberations

245 shall be published on the internet based redistricting portal 14 days in advance. All
246 communications, including electronic communications, shall be made available to the
247 public for inspection and copying.

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

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

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

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

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

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

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

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

287 **SECTION 3.**

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

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

293 **SECTION 4.**

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

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

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

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