

House Resolution 411

By: Representatives Bruce of the 61st, Glaize of the 67th, Clark of the 108th, and McClain of the 109th

A RESOLUTION

1 Proposing an amendment to the Constitution so as to provide that legislative and
 2 congressional reapportionment be done by an independent commission instead of the General
 3 Assembly; to provide for definitions; to provide for the establishment of such commission;
 4 to provide for the qualifications and appointment of members of such commission; to provide
 5 for the filling of vacancies on the commission; to provide for powers, duties, responsibilities,
 6 and resources for such commission; to provide for guidelines for reapportionment; to provide
 7 for related matters; to provide for submission of this amendment for ratification or rejection;
 8 and for other purposes.

9 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 SECTION 1.

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

12 SECTION IV.

13 LEGISLATIVE AND CONGRESSIONAL REAPPORTIONMENT

14 Paragraph I. *Georgia Redistricting Commission.* (a) In each year following a year in
 15 which a United States decennial census is conducted or when congressional or legislative

16 redistricting is required by court order, the state's congressional districts and Senate and
17 House of Representative districts shall be reapportioned in accordance with this
18 Constitution and the United States Constitution. The state shall be reapportioned into a
19 number of congressional districts equal to the number of congressional districts allocated
20 to the state under the United States Constitution and federal law. The state shall also be
21 reapportioned into not less than 30 nor more than 56 consecutively numbered senatorial
22 districts and into not less than 120 nor more than 180 consecutively numbered
23 representative districts. The term 'reapportionment,' as used in this section, means any
24 redistricting process by which congressional and legislative district boundaries are
25 established and the term 'reapportionment plan,' as used in this section, means any plan that
26 implements any redistricting process.

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

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

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

41 (3) Districts shall be geographically contiguous;

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

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

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

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

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

57 (c)(1) In each year following a year in which a United States decennial census is
58 conducted or when congressional or legislative redistricting is required by court order, a
59 Georgia Redistricting Commission shall be established as provided in this Paragraph. The
60 Georgia Redistricting Commission shall be the reapportionment body responsible for
61 congressional and legislative redistricting.

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

64 (3) The commission shall include five members who are identified with the political
65 party whose candidate for Governor in the last general election to fill the office of
66 Governor received the highest number of votes, five members who are identified with the
67 political party whose candidate for Governor in the last general election to fill the office
68 of Governor received the next highest number of votes, and four members who are not

69 identified with any political party. Identification with a political party shall mean that a
70 person voted in the general primary of such political party in each of the three
71 immediately preceding general primaries and publicly swears or affirms that he or she
72 supports the political party and personally identifies as a member of the political party.
73 Not being identified with a political party shall mean that the person did not vote
74 exclusively in the general primary of one political party in the three immediately
75 preceding general primaries and publicly swears or affirms that he or she does not
76 personally identify as a member of any political party.

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

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

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

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

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

91 (D) Served as an appointee of the Governor, Lieutenant Governor, or Speaker of the
92 House of Representatives;

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

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

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

100 (6) Not later than January 1, 2030, and in each year ending in the number zero
101 thereafter, the Chief Justice of the Supreme Court shall initiate an application process for
102 service on the commission which shall be open to all registered electors in Georgia in a
103 manner that promotes a diverse and qualified applicant pool reflecting the diverse
104 demographics and geography of the state. Such applications shall be received through
105 June 30 of such year and in each year ending in the number zero thereafter. Not later than
106 July 1 of such year and in each year ending in the number zero thereafter, the Chief
107 Justice shall establish a review panel consisting of three retired appellate or superior court
108 judges to screen applicants for the commission. Not later than August 1 of such year and
109 in each year ending in the number zero thereafter, the Chief Justice shall publicize the
110 names of the applicants and deliver copies of their applications to the review panel.

111 (7) The review panel shall review and verify the qualifications of the applicants and
112 shall select 20 of the most qualified applicants who are identified with the political party
113 whose candidate for Governor in the last general election to fill the office of Governor
114 received the highest number of votes, 20 of the most qualified applicants who are
115 identified with the political party whose candidate for Governor in the last general election
116 to fill the office of Governor received the next highest number of votes, and 20 of the
117 most qualified applicants who are not identified with any political party. These subpools
118 shall be created on the basis of relevant analytical skills, ability to be impartial, and
119 appreciation of the diverse demographics and geography of the state. The members of the
120 review panel shall not communicate with any member of the Georgia congressional

121 delegation, any member of the General Assembly, or any representative of any such
122 member prior to the selection of the three subpools of applicants.

123 (8) Not later than October 1, 2030, and in each year ending in the number zero
124 thereafter, the review panel shall submit the three subpools of applicants to the Secretary
125 of the Senate and the Clerk of the House of Representatives. Not later than November 15,
126 2030, and in each year ending in the number zero thereafter, the President Pro Tempore
127 of the Senate, the minority leader of the Senate, the Speaker of the House of
128 Representatives, and the minority leader of the House of Representatives may each strike
129 up to two of the applicants from each subpool for a total of up to eight strikes from each
130 subpool. After removing the names of those persons stricken from the subpools, the
131 Secretary of the Senate and the Clerk of the House of Representatives shall deliver the
132 pool of remaining names to the Chief Justice of the Supreme Court.

133 (9) Not later than November 20, 2030, and in each year ending in the number zero
134 thereafter, the Chief Justice shall randomly draw eight names from the applicants
135 remaining. Three of the randomly drawn names shall be drawn from the subpool of
136 applicants who identify with the political party whose candidate for Governor in the last
137 general election to fill the office of Governor received the highest number of votes, three
138 of the randomly drawn names shall be drawn from the subpool of applicants who identify
139 with the political party whose candidate for Governor in the last general election to fill the
140 office of Governor received the next highest number of votes, and two of the randomly
141 drawn names shall be drawn from the subpool of applicants who do not identify with any
142 political party. These persons shall serve on the commission.

143 (10) Not later than December 31, 2030, and in each year ending in the number zero
144 thereafter, the initial eight members of the commission selected as provided in
145 subparagraph (c)(9) of this Paragraph shall review the names remaining in the pool of
146 applicants following their selection and shall appoint an additional six persons from such
147 remaining applicants. Two names shall be selected from the subpool of applicants who

148 identify with the political party whose candidate for Governor in the last general election
149 to fill the office of Governor received the highest number of votes, two names shall be
150 selected from the subpool of applicants who identify with the political party whose
151 candidate for Governor in the last general election to fill the office of Governor received
152 the next highest number of votes, and two names shall be selected from the subpool of
153 applicants who do not identify with any political party. The six appointees must receive
154 the affirmative vote of at least five of the initial eight members of the commission, which
155 shall include at least two votes by members of the commission who identify with one of
156 the political parties and one vote by a member of the commission who does not identify
157 with any political party. Such additional sixth member of the commission shall be chosen
158 to represent the state's diversity to include, but not be limited to, racial, ethnic, geographic,
159 and gender diversity, provided that no formula or specific ratio shall be used for such
160 purpose. Such members of the commission shall also be chosen for their analytical skills
161 and ability to be impartial.

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

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

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

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

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

198 (2) Not later than April 15 of a reapportionment year, one or more initial proposed plans
199 that satisfy the standards set forth in subparagraph (d)(1) of this Paragraph shall be created
200 and published on the internet based redistricting portal. The plan or plans shall be

201 presented visually, in sufficient detail such that the public may visually inspect all district
202 boundaries down to the residence level, and the plan or plans shall also include all data
203 necessary for a third party to electronically recreate an accurate visual representation of
204 such proposed plan or plans. The plan or plans shall be presented in a manner that will
205 allow any member of the public to immediately inspect visually the proposed district in
206 which they live as well as all neighboring districts. Not later than April 15 of a
207 reapportionment year, a visual representation of the plan shall also be published for once
208 a week for two consecutive weeks in the legal organ for each county.

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

218 (4) There shall be at least one public hearing in the highest-population municipality of
219 each congressional district in this state, to be held no earlier than May 1 and no later than
220 May 31 of a reapportionment year. At least three members of the commission shall be
221 present at each public hearing, and one member of the commission shall preside and
222 conduct the hearing. Visual representations of the proposed plan or plans shall be
223 prominently presented at the hearing. The hearings shall be recorded and made available
224 live and archived for public viewing on the internet. During each public hearing, the
225 representatives shall present the initial proposed plan or plans, explain the procedure or
226 process used to create such plan or plans, have available any plans submitted by the public
227 and the commission's evaluation of such plan or plans, and hear public comments and

228 suggestions. Public notice of such meetings shall be published via the internet based
229 redistricting portal and for once a week for two consecutive weeks in the legal organ for
230 each county, not later than 14 days before the date of the hearing.

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

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

239 (7) All meetings, discussions, and deliberations concerning reapportionment shall be
240 conducted in public, and public notice of such meetings, discussions, and deliberations
241 shall be published on the internet based redistricting portal 14 days in advance. All
242 communications, including electronic communications, shall be made available to the
243 public for inspection and copying.

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

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

251 (10) A plaintiff interested in having the duties or prohibitions set forth in this Paragraph
252 enforced may seek a writ of mandamus to compel due performance of the duties set forth
253 in this Paragraph or writ of prohibition, whichever is proper. A writ of prohibition shall

254 be permitted to enforce the prohibitions set forth in this Paragraph. Lack of clarity or
255 specificity shall not constitute a defense in any such actions.

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

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

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

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

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

283

SECTION 2.

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

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

289

SECTION 3.

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

293 "() YES Shall the Constitution of Georgia be amended so as to provide for the creation
 294 () NO of an independent redistricting commission composed of Georgia voters to
 295 conduct legislative and congressional redistricting?"

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

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