

House Resolution 1023 (AS PASSED HOUSE AND SENATE)

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

## A RESOLUTION

1 Proposing an amendment to the Constitution so as to waive sovereign immunity and allow  
2 petitions to the superior court for relief from certain acts of this state or certain local  
3 governments or officers or employees thereof that violate the laws of this state, the  
4 Constitution of Georgia, or the Constitution of the United States; to provide for related  
5 matters; to provide for the submission of this amendment for ratification or rejection; and for  
6 other purposes.

7 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

### 8 SECTION 1.

9 Article I, Section II of the Constitution is amended by revising Paragraph V as follows:

10 "Paragraph V. *What acts void.* (a) Legislative acts in violation of this Constitution or  
11 the Constitution of the United States are void, and the judiciary shall so declare them.

12 (b)(1) Sovereign immunity is hereby waived for actions in the superior court seeking  
13 declaratory relief from acts of the state or any agency, authority, branch, board, bureau,  
14 commission, department, office, or public corporation of this state or officer or employee  
15 thereof or any county, consolidated government, or municipality of this state or officer  
16 or employee thereof outside the scope of lawful authority or in violation of the laws or  
17 the Constitution of this state or the Constitution of the United States. Sovereign  
18 immunity is further waived so that a court awarding declaratory relief pursuant to this  
19 Paragraph may, only after awarding declaratory relief, enjoin such acts to enforce its  
20 judgment. Such waiver of sovereign immunity under this Paragraph shall apply to past,  
21 current, and prospective acts which occur on or after January 1, 2021.

22 (2) Actions filed pursuant to this Paragraph against this state or any agency, authority,  
23 branch, board, bureau, commission, department, office, or public corporation of this state  
24 or officer or employee thereof shall be brought exclusively against the state and in the  
25 name of the State of Georgia. Actions filed pursuant to this Paragraph against any  
26 county, consolidated government, or municipality of the state or officer or employee  
27 thereof shall be brought exclusively against such county, consolidated government, or

28 municipality and in the name of such county, consolidated government, or municipality.  
 29 Actions filed pursuant to this Paragraph naming as a defendant any individual, officer,  
 30 or entity other than as expressly authorized under this Paragraph shall be dismissed.

31 (3) Unless otherwise provided herein, this Paragraph shall not affect the power or duty  
 32 of a court to dismiss any action or deny relief based on any other appropriate legal or  
 33 equitable ground or other limitation on judicial review, including, but not limited to,  
 34 administrative exhaustion requirements, ante litem notice requirements, sanctions for  
 35 frivolous petitions, standing, statutes of limitation and repose, and venue. The General  
 36 Assembly by an Act may limit the power or duty of a court under this Paragraph to  
 37 dismiss any action or deny relief.

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

41 (5) This Paragraph shall not limit the power of the General Assembly to further waive  
 42 the immunity provided in Article I, Section II, Paragraph IX and Article IX, Section II,  
 43 Paragraph IX. This Paragraph shall not constitute a waiver of any immunity provided to  
 44 this state or any agency, authority, branch, board, bureau, commission, department,  
 45 office, or public corporation of this state or officer or employee thereof or any county,  
 46 consolidated government, or municipality of this state or officer or employee thereof by  
 47 the Constitution of the United States."

48 **SECTION 2.**

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

52 "( ) YES Shall the Constitution of Georgia be amended to waive sovereign immunity  
 53 ( ) NO and allow the people of Georgia to petition the superior court for relief from  
 54 governmental acts done outside the scope of lawful authority or which violate  
 55 the laws of this state, the Constitution of Georgia, or the Constitution of the  
 56 United States?"

57 All persons desiring to vote in favor of ratifying the proposed amendment shall vote "Yes."  
 58 All persons desiring to vote against ratifying the proposed amendment shall vote "No." If  
 59 such amendment shall be ratified as provided in said Paragraph of the Constitution, it shall  
 60 become a part of the Constitution of this state.