

Georgia insight

Sue Ella Deadwyler
www.georgiainsight.org
"She hath done what she could."
Mark 14:8a
"...and having done all ... stand."
Ephesians 6:13c

4 Ballot Questions November 8th

On March 1, 1983 the current *Constitution of the State of Georgia* was certified and delivered to the Secretary of State, as required by Article XI, Section 1, Paragraph V, of the proposed new constitution, which took effect July 1, 1983. Members of a special commission,¹ responsible for performing certification and delivery of the new constitution as required by that Paragraph, did so and presented their work to the Secretary of State, State Capitol, Fulton County, Georgia. From 1983 through 2012, a total of 96 amendments to the up-dated constitution were proposed, 77 were ratified by voters, and 19 were rejected. All ratified amendments were incorporated into the currently available *Constitution of the State of Georgia* that was updated in 2013.

The Amendment Process. Proposed constitutional amendments are introduced as House or Senate resolutions that require two-thirds votes for passage. However, a constitutional change will not be made until a majority of voters pass the proposed amendment in a referendum.

In many cases, companion bills are passed to provide regulations to implement changes for the ratified amendments. For defeated proposed amendments, regulatory bills become irrelevant.

The Current Situation. The 2016 session of the General Assembly passed four² resolutions proposing amendments to the Georgia constitution. Questions for their ratification will be on the November 8th General Election Ballot. Although the legislative language of the four proposed amendments will appear on the November 8th ballot, voters at the polls won't have enough time to analyze such extensive information while standing in line.

Also, it is difficult to know the results of constitutional changes without understanding the intent of each resolution. Therefore, those four pieces of legislation are outlined herein for your convenience. The questions will appear on the ballot in the same order as presented here.

Question No. 1

Shall the Constitution of Georgia be amended to allow the state to intervene in chronically failing public schools in order to improve student performance?

S.R. 287 Create State-Wide Opportunity School District (OSD), introduced by Senator Butch Miller (R), the governor's Senate floor leader, passed by the constitutionally required two-thirds majority in both House and Senate, making it eligible for voters to decide.

If voters pass it on November 8th, **the state will over-ride local control over schools** and the **governor will appoint a "shadow" school superintendent** with authority to identify, take over or close or reconstitute or re-staff, as well as manage and control 20 "failing" public schools per year, anywhere in the state (up to 100). Schools could be rotated in or out of the OSD, with no input from the elected state school superintendent or the locally elected board of education.

¹ Commission Members: Governor Joe Frank Harris, Lt. Governor Zell Miller, House Speaker Thomas Murphy, Attorney General Michael Bowers, and Legislative Counsel Frank H. Edwards.

² As numbered on the ballot: **1. S.R. 287** Opportunity School District, **2. S.R. 7** Safe Harbor for Sexually Exploited Children Fund, **3. H.B. 1113** Abolish Judicial Qualifications Commission, **4. S.R. 558** Fireworks Excise Tax for Trauma Care

The Issue: Will an Appointed or Elected Superintendent Manage Schools? (cont'd)

The governor said his plan would give local schools and districts real control and flexibility, but the Opportunity School District (a) strips power from the elected State school superintendent and (b) from local school boards, (c) over-rides local control, and (d) weakens voter power.

The ballot question is worded to elicit a YES, but few voters know what will happen if Question No. 1 passes – (a) appointees will control schools now under the authority of our duly elected school superintendent, (b) local control will be weaker, and (c) voter power diminishes.

S.B. 133, also introduced by Senator Butch Miller, is the regulatory bill that would implement the OSD. If voters defeat Question No. 1 on the ballot, S.B. 133 will be null and void.

ACTION: Vote NO on Question No. 1 on the General Election Ballot November 8, 2016.

Question No. 2

Shall the Constitution of Georgia be amended to allow additional penalties for criminal cases in which a person is adjudged guilty of keeping a place of prostitution, pimping, pandering, pandering by compulsion, solicitation of sodomy, masturbation for hire, trafficking of persons for sexual servitude, or sexual exploitation of children and to allow assessments on adult entertainment establishments to fund the Safe Harbor for Sexually Exploited Children Fund to pay for care and rehabilitative and social services for individuals in this state who have been or may be sexually exploited?

S.R. 7, Safe Harbor for Sexually Exploited Children Fund, introduced January 14, 2015 by Senator Renee Unterman (R), would add extra penalties for these offenses: keeping a place of prostitution, pimping, pandering, pandering by compulsion, solicitation of sodomy, masturbation for hire, trafficking of persons for sexual servitude, or sexual exploitation of children. The Safe Harbor for Sexually Exploited Children Fund would get the extra fines.

There's a moral issue involved. This change deems participants under age 18¹ as “victims,” even if they are initiators of or voluntary participants in any sexual offense listed above.

This is a major problem because law enforcement officers cannot hold juveniles in custody for any period of time if they are involved in a crime listed above. Therefore, officers have no time to determine who is a victim and who is a young volunteer plying the sex trade.

Since no provision is made to distinguish between *voluntary* sex offenders and *forced* sex offenders, all participants under age 18 are deemed to be victims, thereby eligible for financial benefits and multiple services. The currently-used, though misapplied, term for under-age sex is “servitude,” whether the act is sex-by-choice or sex-by-force.

S.B. 8, introduced January 14, 2015 by Senator Renee Unterman (R), is the regulatory bill to implement S.R. 7, if Question No. 2 is ratified. The eight-member Safe Harbor for Sexually Exploited Children Fund Commission would have a Safe Harbor for Sexually Exploited Children Fund to administer. Both expand state government and reward illicit sex among minors. S.B. 8 would become null and void if Question No. 2 is rejected.

ACTION – Vote NO on Question No. 2 on the General Election Ballot November 8, 2016.

¹ Current law: “Code Section 16-5-46. Sexual servitude means: (A) Any sexually explicit conduct or performance involving sexually explicit conduct for which anything of value is directly or indirectly given, promised to, or received by any person, which conduct is induced or obtained by coercion or deception **or which conduct is induced or obtained from a person under the age of 18 years.**” [Under-age sex is called “servitude,” whether it's sex-by-choice or sex-by-force.]

Question No. 3

Shall the Constitution of Georgia be amended so as to abolish the existing Judicial Qualifications Commission; require the General Assembly to create and provide by general law for the composition, manner of appointment, and governance of a new Judicial Qualifications Commission, with such commission having the power to discipline, remove, and cause involuntary retirement of judges; require the Judicial Qualifications Commission to have procedures that provide for due process of law and review by the Supreme Court of its advisory opinions; and allow the Judicial Qualification Commission to be open to the public in some manner?

“What we’ve seen here is legislators that have come forward and just said, point blank, to folks, ‘We don’t like the way you’ve treated judges that we like. And for that reason, we’re going to abolish you.’”

– Lester Tate, Judicial Qualifications Commission Chairman, Recently Retired

H.R. 1113 Judicial Qualifications Commission (JQC), introduced by Representative Wendell Willard, passed March 22nd, and the governor signed it May 3rd. It would abolish the current non-political JQC that was created in 1972 and re-creates it as a legislatively dependent agency subject to pressure from the Governor, the Lieutenant Governor in his capacity as President of the Senate, the Speaker of the House and, especially, other members of the General Assembly.

Such pressure could be heavy, considering the official power of those appointing the new JQC commissioners. The State Supreme Court would appoint two; the Lieutenant Governor as President of the Senate would appoint two; the Speaker of the House would appoint two; and the Governor would appoint one who, always, would be chairman over the other six members.

For the next five years, terms will be in flux, until the final change occurs January 1, 2021, after which JQC commissioners will serve three-year terms or *until their successor is appointed*.

Need more light on the subject? According to Senate staff, the Senate Ethics Committee Chairman introduced an amendment to close disciplinary hearings to the public. That report is confirmed by H.B. 808 that passed to regulate the new commission. H.B. 808 states:

“Information submitted to the commission or its staff, and testimony given in any proceeding before the commission, shall be absolutely privileged....”

Lines 112-123 of H.B. 808 use “confidential” four times and “privileged” once again. Lines 136-140 reveal when confidentiality will be lifted – AFTER the subject under investigation is issued a public reprimand, censure, suspension, retirement or is removed.

Chairman resigned. On April 5th Attorney Lester Tate from Cartersville resigned as current chairman of JQC, with this statement: “The bottom line is judicial ethics and politics simply do not mix. And we have been subject to an onslaught of political interference and meddling. A large cloud of political pollution has gathered over the Judicial Qualifications Commission.” He resigned following passage of H.B. 1113 on March 22nd and H.B. 808 on March 25th.

Mr. Tate continued, “In the past eight years the commission has removed more than sixty judges from the bench. I think that you can’t overstate the value of having an independent commission that will look into these citizen complaints. ... A system that only disciplines judges who are politically unpopular, and does absolutely nothing to judges who are popular, isn’t a very fair system.”

ACTION – Vote NO on Question No. 3 on the General Election Ballot November 8, 2016.

Question No. 4

Shall the Constitution of Georgia be amended so as to provide that the proceeds of excise taxes on the sale of fireworks or consumer fireworks be dedicated to the funding of trauma care, firefighter equipping and training, and local public safety purposes?

S.R. 558 Excise Tax on Sale of Fireworks for Funding Trauma Care introduced by Senator Mullis March 20, 2015 was carried into the 2016 session. It passed March 15, 2016 and voters will decide on November 8th where the five-percent sales tax on fireworks will be used.

S.R. 558's companion bills – H.B. 727 and S.B. 369 – passed in 2016 to indicate the fireworks available to consumers, and designate on which days, times, and locations they may be used.

Fireworks classified as DOT 1.4G (consumer fireworks) may be legally bought in Georgia retail stores by individuals age 18 and older, but the law does not state an exact age for igniting them.

Fireworks are banned within 100 yards of a hospital, nursing home, prison, nuclear power plant, gas station or refinery, state parks and historic sites. Elsewhere, they may be legally ignited on New Year's Day until 1 a.m.; July 4th until midnight; and until 9 p.m. on other days. Private communities – HMOs, condominiums, apartment complexes – may or may not allow fireworks.

Fireworks may not be exploded on government property except by local authority and the Safety Fire Commissioner must license all public displays of fireworks.

ACTION – Vote YES on Question No. 4 on the General Election Ballot November 8, 2016.

| Elections ¹ | Date | Voter Registration Deadline |
|--|------------------|-----------------------------|
| General Election _____ | November 8, 2016 | ____October 11, 2016 |
| General Election Runoff Date for Local and State Offices _____ | December 6, 2016 | ____October 11, 2016 |
| General Election Runoff Date for Federal Offices _____ | January 10, 2017 | ____October 11, 2016 |

2016 Key Dates^{2,3}

| | |
|----------------------------|---|
| Sept. 20 | Earliest day for a registrar to mail an absentee ballot for the General Election/November Special Election |
| Oct. 11 | Last day a person may register to mail absentee ballot for the General Election/November Special Election |
| Oct. 17 | Advanced (In-Person) Voting begins for the General Election/November Special Election. |
| Oct. 29 | Mandatory Saturday Voting for the General Election/November Special Election |
| As soon as possible | Absentee ballots to be mailed out as soon as possible before General Election Runoff/November Special Election Runoff for Local and State Offices Advanced (In-Person) Voting begins for the General Election Runoff/November Special Election Runoff for Local and State Officials. |
| Nov. 22 | Earliest day for a registrar to mail an absentee ballot for the General Election Runoff of Federal Offices |
| Dec. 19 | Advanced (In-Person) Voting begins for the General Election Runoff for Federal Offices. |

¹ Source of information: Office of the Georgia Secretary of State, Elections Division

² Official Code of Georgia 21-2-133 (a) (b), 21-2-224 (a), 21-2-384 (a), 21-2-385 (d) (1)

³ O.C.G.A. 21-2-14. *When the last day for the exercise of any privilege or the discharge of any duty prescribed or required by this chapter shall fall on a Saturday, Sunday, or legal holiday, the next succeeding business day shall be the last day for the exercise of such privilege or the discharge of such duty.*

Georgia Insight is a conservative publication financed entirely by its recipients.