

SENATE SUBSTITUTE TO HB808:

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 1 of Title 15 of the Official Code of Georgia Annotated, relating to
 2 general provisions relative to courts, so as to create a new Judicial Qualifications
 3 Commission; to provide for the powers, composition, and appointment of such commission;
 4 to provide for a commission member's term and removal; to provide for procedures and
 5 confidentiality; to provide for related matters; to provide a contingent effective date and
 6 automatic repeal; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

8
 9 Chapter 1 of Title 15 of the Official Code of Georgia Annotated, relating to general
 10 provisions relative to courts, is amended by adding a new Code section to read as follows:

11 "15-1-19.

12 (a) Pursuant to Paragraph VI of Section VII of Article VI of the Constitution, there is
 13 hereby created the Judicial Qualifications Commission, which shall have the power to
 14 discipline, remove, and cause involuntary retirement of judges in accordance with such
 15 Paragraph.

16 (b) The Judicial Qualifications Commission shall consist of seven members, each of whom
 17 shall serve for a term of three years, subject to confirmation by the Senate, as follows:

- 18 (1) Two judges of any court of record, appointed by the Supreme Court;
- 19 (2) Two members of the State Bar of Georgia, each of whom shall have been an active
 20 status member of the State Bar of Georgia for at least ten years and shall be a registered
 21 voter of this state, appointed by the board of governors of the State Bar of Georgia;
- 22 (3) One citizen member, who shall be a registered voter of this state but shall not be a
 23 member of the State Bar of Georgia, appointed by the Speaker of the House of
 24 Representatives;
- 25 (4) One citizen member, who shall be a registered voter of this state but shall not be a
 26 member of the State Bar of Georgia, appointed by the President of the Senate; and

27 (5) One member of the State Bar of Georgia, who shall have been an active status
28 member of the State Bar of Georgia for at least ten years and shall be a registered voter
29 of this state, appointed by the Governor to serve as chairperson of the commission.

30 (c) The Judicial Qualifications Commission may adopt procedures for its own governance
31 which are not otherwise provided by the Constitution or this Code section.

32 (d) Members of the commission shall be subject to removal from the commission by an
33 affirmative vote of six members of the commission, with the member who is subject to
34 removal being disqualified from any such vote.

35 (e) No person shall serve more than two consecutive terms as a member of the
36 commission.

37 (f) Notwithstanding Chapter 14 of Title 50, unless otherwise waived by the judge
38 involved, all papers filed with and proceedings before the commission, including any
39 investigation that the commission may undertake, shall be confidential, and no person shall
40 disclose information obtained from commission proceedings or papers filed with or by the
41 commission, except as provided in this Code section. Such papers shall not be subject to
42 disclosure under Article 4 of Chapter 18 of Title 50.

43 (g) Information submitted to the commission or its staff, and testimony given in any
44 proceeding before the commission, shall be absolutely privileged, and no civil action
45 predicated upon such information or testimony shall be instituted against any complainant,
46 witness, or his or her counsel.

47 (h) If, after an investigation is completed, the commission concludes that a letter of caution
48 is appropriate, it shall issue a letter of caution to the judge in lieu of any further proceeding
49 in the matter. The issuance of a letter of caution shall be confidential in accordance with
50 subsection (f) of this Code section.

51 (i) If, after an investigation is completed, the commission concludes that disciplinary
52 proceedings should be instituted, the notice and statement of charges filed by the
53 commission, along with the answer and all other pleadings, shall remain confidential in
54 accordance with subsection (f) of this Code section. Disciplinary hearings ordered by the
55 commission shall be confidential, and recommendations of the commission to the Supreme
56 Court, along with the record filed in support of such recommendations, shall be
57 confidential in accordance with subsection (f) of this Code section. Testimony and other
58 evidence presented to the commission shall be privileged in any action for defamation. At
59 least four members of the commission shall concur in any recommendation to issue a
60 public reprimand against or to censure, suspend, retire, or remove any judge. A respondent
61 who is recommended for public reprimand, censure, suspension, retirement, or removal
62 shall be entitled to a copy of the proposed record to be filed with the Supreme Court, and
63 if the respondent has objections to it, to have the record settled by the commission's

64 chairperson. The respondent shall also be entitled to present a brief and to argue the
65 respondent's case, in person and through counsel, to the Supreme Court. A majority of the
66 members of the Supreme Court voting shall concur in any order of public reprimand,
67 censure, suspension, retirement, or removal. The Supreme Court may approve the
68 recommendation, remand for further proceedings, or reject the recommendation. A
69 member of the commission who is a judge shall be disqualified from acting in any case in
70 which he or she is a respondent.

71 (j) Upon issuance of a public reprimand, censure, suspension, retirement, or removal by
72 the Supreme Court, the notice and statement of charges filed by the commission along with
73 the answer and all other pleadings, including the recommendation of the commission to the
74 Supreme Court and the record filed in support of such recommendation, shall no longer be
75 confidential."

76

SECTION 2.

77 This Act shall become effective on July 1, 2017, only if an amendment to the Constitution
78 abolishing the existing Judicial Qualifications Commission and requiring the General
79 Assembly to create and provide by general law for the composition and manner of
80 appointment of a new Judicial Qualifications Commission, with such commission having the
81 power to discipline, remove, and cause involuntary retirement of judges, is ratified by the
82 voters at the November, 2016, state-wide general election. If such an amendment is not so
83 ratified, then this Act shall not become effective and shall stand repealed on January 1, 2017.

84

SECTION 3.

85 All laws and parts of laws in conflict with this Act are repealed.