

SENATE RESOLUTION 135¹: ECONOMIC DEVELOPMENT & TOURISM: SPORTS
BETTING; RELATED MATTERS

Amending Article I, Section II of the Constitution of the State of Georgia

First Signature: Senator Jeff Mullis (53rd)

Co-Sponsors: Senator Bill Cowsert (46th) and Representative Ron Stephens (164th)

Summary: “A RESOLUTION proposing an amendment to the Constitution of the State of Georgia, so as to provide for sports betting in this state; to provide for related matters; to provide for the submission of this amendment for ratification or rejection; and for other purposes.”²

Status: This resolution was passed by the House/Adopted by Substitute on 04/04/2022.³

TEXT OF SENATE RESOLUTION 135⁴

SECTION 1.

Article I, Section II of the Constitution is amended by revising Paragraph VIII as follows: “Paragraph VIII. ~~Lotteries, and nonprofit bingo games.~~ Lotteries, bingo games, raffles, sports betting, and other forms of betting and gambling. (a) ~~Except as herein specifically provided in this Paragraph VIII, all All lotteries, and the sale sales of lottery tickets, and all forms of pari-mutuel betting bingo games, raffles, sports betting, and casino all other forms of betting and gambling are hereby prohibited; and this prohibition shall be enforced by penal laws shall be lawful if so permitted by the General Assembly as provided by law.~~

(b) The General Assembly may by law provide that the operation of a nonprofit bingo game shall not be a lottery and shall be legal in this state. The General Assembly may by law define a

¹ S.R. 135, 156th Gen. Assemb., 3rd Reg. Sess. (Ga. 2022), available at <https://www.legis.ga.gov/api/legislation/document/20212022/210798> (last visited Nov. 13, 2022).

² 2021-2022 Regular Session-SR 135, *Sports Betting; related matters; provide –CA*, GA. GEN. ASSEMB., available at <https://www.legis.ga.gov/legislation/59914> (last visited Nov. 13, 2022) [hereinafter S.R. 135 Status Sheet].

³ *Id.*

⁴ S.R. 135, *supra* note 1.

nonprofit bingo game and provide for the regulation of nonprofit bingo games.

(c) The General Assembly may by law provide for the operation and regulation of a lottery or lotteries by or on behalf of the state and for any matters relating to the purposes or provisions of this subparagraph. Proceeds derived from the lottery or lotteries operated by or on behalf of the state shall be used to pay the operating expenses of the lottery or lotteries, including all prizes, without any appropriation required by law, and for educational programs and purposes as hereinafter provided. Lottery proceeds shall not be subject to Article VII, Section III, Paragraph II; Article III, Section IX, Paragraph VI(a); or Article III, Section IX, Paragraph IV(c), except that the net proceeds after payment of such operating expenses shall be subject to Article VII, Section III, Paragraph II. Net proceeds after payment of such operating expenses shall be separately accounted for and shall be specifically identified by the Governor in ~~his~~ the annual budget presented to the General Assembly as a separate budget category entitled 'Lottery Proceeds' and the Governor shall make specific recommendations as to educational programs and educational purposes to which said net proceeds shall be appropriated. In the General Appropriations Act adopted by the General Assembly, the General Assembly shall appropriate all net proceeds of the lottery or lotteries by such separate budget category to educational programs and educational purposes. Such net proceeds shall be used to support improvements and enhancements for educational programs and purposes and such net proceeds shall be used to supplement, not supplant, non-lottery educational resources for educational programs and purposes. The educational programs and educational purposes for which proceeds may be so appropriated shall include only the following:

- (1) Tuition grants, scholarships, or loans to citizens of this state to enable such citizens to attend colleges and universities located within this state, regardless of whether such colleges or universities are operated by the board of regents, or to attend institutions operated under the authority of the ~~Department of Technical and Adult Education~~ Technical College System of Georgia or its successor;
- (2) Voluntary pre-kindergarten;
 - (3) One or more educational shortfall reserves in a total amount of not less than 10 percent of the net proceeds of the lottery for the preceding fiscal year;

(4) Costs of providing to teachers at accredited public institutions who teach levels K-12, personnel at public postsecondary technical institutes under the authority of the ~~Department of Technical and Adult Education~~ Technical College System of Georgia or its successor, and professors and instructors within the University System of Georgia or its successor the necessary training in the use and application of computers and advanced electronic instructional technology to implement interactive learning environments in the classroom and to access the state-wide distance learning network; and

(5) Capital outlay projects for educational facilities;

provided, however, that no funds shall be appropriated for the items listed in ~~paragraphs~~

~~(4) and (5) of this subsection~~ subparagraphs (c)(4) and (c)(5) of this Paragraph until all persons eligible for and applying for assistance as provided in ~~paragraph (1) of this subsection~~ subparagraph (c)(1) of this Paragraph have received such assistance, all approved voluntary pre-kindergarten programs provided for in ~~paragraph (2) of this subsection~~ subparagraph (c)(2) of this Paragraph have been fully funded, and the education shortfall reserve or reserves provided for in ~~paragraph (3) of this subsection~~ subparagraph (c)(3) of this Paragraph have been fully funded.

(d) On and after January 1, 1995, the holding of raffles by nonprofit organizations shall be lawful and shall not be prohibited by any law enacted prior to January 1, 1994. Laws enacted on or after January 1, 1994, however, may restrict, regulate, or prohibit the operation of such raffles.

(e)(1) The General Assembly may by law authorize, regulate, and tax sports betting in this state.

(2) Except as provided for in subparagraphs (e)(3) through (e)(5) of this Paragraph, all proceeds derived by the state or any of its instrumentalities from sports betting, including, but not limited to, licensing fees, fines, assessments, and penalties, shall be used to pay for the operating expenses of any instrumentality of the state related to sports betting without any appropriation required by law. The General Assembly may provide by law for the allocation of such proceeds among instrumentalities of the state and other regulatory bodies of the state, if applicable.

(3) Up to 10 percent of any franchise fees or royalty fees or any combination thereof that the General Assembly may authorize by law for an instrumentality of this state to charge for granting the ability to engage in sports betting in this state shall be used to pay for

the operating expenses of such instrumentality of the state related to sports betting without any appropriation required by law. The remaining percentage of such franchise fees or royalty fees shall be accounted for, identified, and appropriated for those purposes provided for in subparagraph (e)(5) of this Paragraph for proceeds derived from the taxation of sports betting.

(4) Up to 20 percent of all licensing fees imposed as part of the regulation of sports betting shall be placed in a Georgia Marketing Seed Fund that the General Assembly is authorized to create by law from which funds shall be disbursed in the form of grants or other methods for the costs and expenses associated with hosting major sporting events within this state. The moneys paid into the Georgia Marketing Seed Fund shall not be subject to the provisions of Article III, Section VI, Paragraph VI or Article III, Section IX, Paragraph IV(c). The remaining percentage of all licensing fees shall be used to pay for the operating expenses of any instrumentality of the state related to sports betting as provided in subparagraph (e)(2) of this Paragraph.

(5) The proceeds derived from the taxation of sports betting shall not be subject to Article VII, Section III, Paragraph II; Article III, Section IX, Paragraph VI(a); or Article III, Section IX, Paragraph IV(c). Such proceeds shall be separately accounted for and specifically identified by the Governor in the annual budget presented to the General Assembly as a separate budget category entitled 'Sports Betting Proceeds' and shall be appropriated for the following purposes:

(A) Fifty percent to the educational programs and educational purposes provided for in subparagraphs (c)(1) and (c)(2) of this Paragraph; and

(B) Fifty percent for the provision of tuition grants, scholarships, loans, or other educational services to citizens of this state whose household income is below the median household income in this state as the General Assembly shall provide by law to enable such citizens to obtain a postsecondary education in this state.

(f)(1) As used in this subparagraph, the term 'other forms of betting and gambling' means any form of betting or gambling, including, but not limited to, pari-mutuel betting and casino gambling, not provided for in subparagraphs (b) through (e) of this Paragraph.

(2) The General Assembly may by law authorize, regulate, and tax other forms of betting and gambling in this state; provided, however, that if the General Assembly authorizes pari-mutuel betting or casino gambling, it shall by law restrict such activities to

counties in this state of which the majority of the electors have voted in a referendum to allow such activities.

(3) Except as provided for in subparagraphs (f)(4) and (f)(5) of this Paragraph, all proceeds derived by the state or any of its instrumentalities from other forms of betting and gambling, including, but not limited to, licensing fees, fines, assessments, and penalties of other forms of betting and gambling, including, but not limited to, pari-mutuel betting and casino gambling, shall be used to pay for the operating expenses of such regulation without any appropriation required by law. The General Assembly may provide by law for the allocation of such proceeds among instrumentalities of the state and other regulatory bodies of the state, if applicable.

(4) The General Assembly may appropriate up to 20 percent of the licensing fees imposed as part of the regulation of pari-mutuel betting and casino gambling into a Georgia Arts and Entertainment Venue Fund that the General Assembly is authorized to create by law from which funds shall be disbursed in the form of grants or other methods for supporting operational losses to arts and entertainment venues from pari-mutuel betting and casino gambling. The remaining percentage of such licensing fees shall be used to pay for the operating expenses of the regulation of other forms of betting and gambling as provided in subparagraph (e)(3) of this Paragraph.

(5) The proceeds derived from the taxation of other forms of betting and gambling shall not be subject to Article VII, Section III, Paragraph II; Article III, Section IX, Paragraph VI(a); or Article III, Section IX, Paragraph IV(c). Such proceeds shall be separately accounted for and specifically identified by the Governor in the annual budget presented to the General Assembly as a separate budget category entitled 'Betting and Gambling Proceeds' and shall be appropriated by the General Assembly for the following purposes:

(A) Fifty percent for health care services, including, but not limited to, programs to support health care workers and hospitals, to increase the accessibility and availability of mental health treatment and substance abuse treatment, and other health related programs;

(B) Twenty percent for economic development services and programs in this state in less developed areas or less developed census tract areas. For purposes of this subparagraph, the term:

(i) 'Less developed areas' means those counties ranked as the first through the seventy-first least developed counties in this state

using a combination of the equally weighted factors of the highest unemployment rate, the lowest per capita income, and the highest percentage of residents whose income is below the poverty level; and

(ii) 'Less developed census tract areas' means areas in this state that are composed of ten or more contiguous census tracts, each of which ranks equal to or lower than the benchmark county on the economic indicators of the highest unemployment rate, the lowest per capita income, and the highest percentage of residents whose income is below the poverty level;

(C) Fifteen percent to the educational programs and educational purposes provided for in subparagraph (c)(2) of this Paragraph; and

(D) Fifteen percent for the provision of tuition grants, scholarships, loans, or other educational services to citizens of this state whose household income is below the median household income in this state as the General Assembly shall provide by law to enable such citizens to obtain a postsecondary education in this state."

SECTION 2.

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

- “() YES Shall the Constitution of Georgia be amended so as to authorize the General Assembly to provide by law for sports betting and other forms of betting and gambling in this state for educational needs, health care services, and other purposes?”
- () NO

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

SPONSOR'S RATIONALE

Senator Bill Cowsert, Chairman of the Senate Committee on

Regulated Industries and Utilities, introduced the amendment on the committee floor by explaining that the legalization of sports betting within Georgia would fall under the regulation of the Georgia Lottery Board.⁵ As such, Senator Cowsert explains that the funds garnered from sports betting within the state would go towards funding for educational expenses, particularly for the Hope and other needs-based scholarships such as preschool, just as the current Georgia lottery funds are used.⁶ In fact, Senator Cowsert claims that governmental actors and users of such generated profits “are bound by such uses” of the funds currently.⁷ Additionally, the language of the amendment is seeking to include broader uses of the generated sports betting funds, including funding for broadband networking and rural healthcare services.⁸ Senator Cowsert claims such practices and technology are already underfunded areas of legislation and will provide broader support for the amendment. Senator Cowsert also supports the position that an amendment is necessary to the state constitution as it “would be a stretch” for “lottery games” as found in the Georgia Constitution to include sports betting practices.⁹ Further, if the legalization of sports betting were to be enacted through statute, the citizens of Georgia would have no say in enactment or rejection.¹⁰ By amending the Georgia Constitution, the people of Georgia will have a direct impact on its enactment as the Constitution can be amended only through the voting process.¹¹

Additionally, there is precedent in successful sports betting practices that can be implemented to ensure proper regulation of sports betting within Georgia.¹² For example, Senator Cowsert cites Tennessee’s legal sports betting regulation that requires an account limit of \$2,500 per month to squash fears of individual bankruptcy if sports betting were to be legal.¹³ Again “plagiarizing” Tennessee’s system as Senator Cowsert phrases, a bettor can “self-restrict” themselves by notifying their betting provider that

⁵ Senate Committee on Regulated Industries and Utilities – 2/25/21, *Georgia State Senate*, VIMEO (Apr. 19, 2022), <https://vimeo.com/showcase/8821984/video/704660836>.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ Thomas Nocera, *Last-Minute Amendment Puts Sports Betting Up for a Vote in Georgia*, THE BOND BUYER (Mar. 20, 2023), <https://www.bondbuyer.com/news/last-minute-amendment-puts-sports-betting-up-for-a-vote-in-georgia>.

¹¹ *Id.*

¹² Capitol Beat News Service, *Sports Betting Constitutional Amendment Clears State Senate*, THE AUGUSTA PRESS (Mar. 8, 2021), <https://theaugustapress.com/sports-betting-constitutional-amendment-clears-state-senate>.

¹³ *Id.*

they wish to be limited in how much they can bet, wager, or deposit into their account.¹⁴

Representative Ron Stephens, Chairman of the House Committee on Economic Development & Tourism, reiterates many of Senator Cowser's supporting arguments in his introduction of the amendment on the committee floor.¹⁵ He reiterates that the funding will go towards needs-based scholarships and can be regulated by the Georgia Lottery Board.¹⁶ Further, Representative Stephens mentions Tennessee's legalization of sports betting resulting in a tax rate of 20 percent.¹⁷ Representative Stephens believes "we ought to be as good as Tennessee" and further explains that Georgia will also be taking a tax rate of 20 percent allowing citizens to invest in education, business, personal expenses, or any other activities.¹⁸

At the heart of both House and Senate committees is the strive for profit. As Representative Stephens mentions, Georgia citizens are currently spending over 4 billion dollars a year on sports betting that skirts around Georgia regulation by using off-shore accounting.¹⁹ Such legalization would allow the state to capitalize and benefit on putting such profits to use in the community through scholarships and legislative funding.²⁰ Legalization of sports betting would put Georgia above many other states financially and through tourism desirability and on an equal playing field with close states such as Virginia and Tennessee that allow legal sports betting.²¹ Such legalization would provide funding for the state while also making it a more desirable destination for tourism activities, just as it does for Tennessee.²²

OPPOSITION'S RATIONALE

The primary argument against the legalization of sports betting

¹⁴Senate Committee on Regulated Industries and Utilities – 2/25/21, *Georgia State Senate*, VIMEO (Apr. 19, 2022), https://vimeo.com/showcase/8821984/video/704660836_

¹⁵ *Id.*

¹⁶ Economic Development & Tourism 02.22.21, *Georgia House of Representatives*, YOUTUBE (May 17, 2021), https://www.youtube.com/watch?v=8Mr_W2cleE8&list=PLIgKJe7_xdLV_T8UkoYPYEmdWjOBYZDEq&index=66.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Ross Williams, *Prospects Fade for Legalized Sports Betting as Georgia Lawmakers Scuttle Planned Constitutional Amendment*, GEORGIA RECORDER (Mar. 6, 2023), <https://georgiarecorder.com/brief/prospects-fade-for-legalized-sports-betting-as-georgia-lawmakers-scuttle-planned-constitutional-amendment>.

²¹ *Id.*

²² Brian Pempus, *Tennessee Anticipates 3.5 Million Tourists Each Year Will Be Sports Gamblers*, SPORTSHANDLE (May 20, 2019), <https://sportshandle.com/tennessee-sports-betting-tourism>.

within Georgia is a moral one.²³ Sports gambling is seen as a harmful habit that attracts unsavory customers by many citizens and government officials who say it is immoral, addictive, and leads to crime.²⁴ Representative Wes Cantrell, calls the legalization a “slippery slope.”²⁵ “It allows problem gamblers to gamble in private, which is the worst-case scenario for them because they can do it in the privacy of their own home and gamble away their rent money and their child’s college fund,” he said.²⁶ A lobbyist with the Georgia Mission Board said “Yes, it creates revenue, but it also creates other needs” he says. Continuing, the Board member states that “Gambling is an addictive product just like heroin, opioids, alcohol and cocaine. Sports betting is the most accessible form of gambling that there is, which creates more problems – quicker problems – and sometimes more devastating problems from a mental-health and bankruptcy issue.”²⁷

Another issue is that this will not be an easy enactment and legalization as there are infrastructures that need to be established, further regulatory systems that need to be put into place, and additional concerns on the legalization of sports betting.²⁸ For example, a successful system took 18 months in Tennessee to come to fruition after online sports betting became legal.²⁹ It would likely take Georgia just as long to ensure a smooth and safe practice for legalized sports betting.³⁰

IMPLICATIONS IN GEORGIA

The implications for the legalization of sports betting- in person, and online,

²³ Jeff Amy, *All Bets Are Off: Georgia Lawmakers Nix Legal Sports Betting*, THE ASSOCIATED PRESS (Mar. 7, 2023), <https://apnews.com/article/gambling-gaming-sports-betting-georgia-51ba7da58835cf3ae47bf3dc67eb9324>.

²⁴ *Id.*

²⁵ Maya T. Prabhu, *Gambling’s Success in Georgia Would Likely Depend on Form It Took*, THE ATLANTA J. CONST. (Sept. 15, 2019), <https://www.ajc.com/news/state--regional-govt-politics/gambling-success-georgia-would-likely-depend-form-took/TKTIUb8v1enkowXlgejsXN>.

²⁶ Maya T. Prabhu, *An Ongoing Saga of Legalizing Sports Betting in the Georgia Legislature*, THE ATLANTA J. CONST. (Jun. 23, 2022), <https://www.ajc.com/politics/an-ongoing-saga-of-legalizing-sports-betting-in-the-georgia-legislature/2GKAKCDXP5C57LKLTYKXKY7QQE>.

²⁷ Tyler Andrews, *Stacey Abrams Says It’s Time for Legal Gambling & Sports Betting*, PLAY GEORGIA (Aug. 10, 2022), <https://www.playgeorgia.com/news/stacey-abrams-supports-georgia-casino-gambling-sports-betting>.

²⁸ Clinton Sprinkle, *Guest Column: Tennessee’s Bet on Sports Gambling is Paying Off*, NASHVILLE BUSINESS JOURNAL (Mar. 17, 2021), <https://www.bizjournals.com/nashville/news/2021/03/17/tennessees-bet-on-sports-gambling.html>.

²⁹ *Id.*

³⁰ *Id.*

coincides with the Sponsor's argument heavily.³¹ There is an established market within the state to the tune of spending over \$4 billion, and Georgia can benefit from the practice.³² A properly founded and regulated system would generate massive revenue for the state that can be used for education, scholarships, health services, and broadband internet.³³ The legalization will require regulation and new infrastructure such as the commission to regulate sports betting.³⁴ Overall, this Bill will benefit the state through increasing tax revenue.³⁵ In turn, citizens will benefit from programs, grants, and further funding created from such revenue.³⁶ This Bill would effectively allow Georgia to benefit from a practice that many of its citizens are engaged in already.³⁷

However true, these implications will not come into fruition until 2023 at the earliest as Senate Resolution 135 was eventually stripped of its contents and replaced with timber harvesting legislation.³⁸ A major factor in the failure of legalizing sports betting is cited as the lack of any bipartisan support.³⁹ Perhaps the biggest implication of this process was the gauge on public opinion on the issue. While there are great figures of money being spent on such sports betting overseas, a statewide poll provides that less than half of likely voters opposed the legalization of sports betting.⁴⁰ More supported the legalization than those that opposed legalization and a vast minority stated that they simply weren't sure how they felt about the subject.⁴¹ When coupled with another question on the same survey, over half of likely voters supported such a practice with one-third of voters in opposition and the same amount of respondents answering that they were unsure of how they felt.⁴²

³¹ *Georgia Sports Betting Revenue*, PLAYGEORGIA (2023), <https://www.playgeorgia.com/sports-betting/revenue>.

³² *Id.*

³³ S.R. 135, *supra* note 1.

³⁴ Ross Williams, *Prospects Fade for Legalized Sports Betting as Georgia Lawmakers Scuttle Planned Constitutional Amendment*, GEORGIA RECORDER (Mar. 6, 2023), <https://georgiarecorder.com/brief/prospects-fade-for-legalized-sports-betting-as-georgia-lawmakers-scuttle-planned-constitutional-amendment>.

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ S.R. 135 Status Sheet, *supra* note 2.

³⁹ Nick Wojcik, *Georgia Sports Betting: Bill Dies in House, Supporters Now Look to 2022 (November Updates)*, LINEUPS (Sept. 15, 2022), <https://www.lineups.com/betting/georgia-sports-betting>.

⁴⁰ Ray Glier, *Poll Finds Most Georgia Voters Favor Casinos but Online Sports Betting Support Comes Up Short*, GPB NEWS (Oct. 24, 2022), <https://www.gpb.org/news/2022/10/24/poll-finds-most-georgia-voters-favor-casinos-online-sports-betting-support-comes>.

⁴¹ *Id.*

Slightly less than half of these likely voters supported legalized sports betting while over half of these same voters supported casino gambling. Voters are much more hesitant to allow such practices into the private home as they are if there were an established institution dedicated to the practice—such as a permanent casino.⁴³ Thus, voters are more aligned with the moral arguments against sports betting as opposed to the logistical arguments.⁴⁴

While the subject of legalized sports betting caught momentum in 2022, and by most accounts, should have been finalized by enacting legislation by 2022 or 2023, it will have to wait for 2024.⁴⁵ This amendment process certainly got the ball rolling on the discussions and important aspects of such legalization.⁴⁶ While this amendment may not get the credit for the eventual legalization of sports betting within the state of Georgia, it certainly is important to the establishing of a fair, safe, and agreed upon system of sports betting.⁴⁷

LEGISLATIVE GENEALOGY

Senate Ratification 135 was introduced in the Senate hopper on February 19th, 2021.⁴⁸ It had its first reading in the Senate on March 8th, 2021 and its second reading in the senate on March 9th, 2021.⁴⁹ The House Third Readers took place on April 4th, 2022. It was passed by the House/adopted by substitute, SB 142, the same day.⁵⁰

Prepared by: *Jacob Belcastro*

⁴² *Id.*

⁴³ Ray Glier, *Poll Finds Most Georgia Voters Favor Casinos but Online Sports Betting Support Comes Up Short*, GPB NEWS (Oct. 24, 2022), <https://www.gpb.org/news/2022/10/24/poll-finds-most-georgia-voters-favor-casinos-online-sports-betting-support-comes>.

⁴⁴ Maya T. Prabhu, *Gambling's Success in Georgia Would Likely Depend on Form It Took*, THE ATLANTA J. CONST. (Sept. 15, 2019), <https://www.ajc.com/news/state--regional-govt-politics/gambling-success-georgia-would-likely-depend-form-took/TKTIUb8v1enkowXlgejsXN>.

⁴⁵ Justin Byers, *Georgia's Latest Sports Betting Bill Falls Short*, Covers (Mar. 7, 2023), <https://www.covers.com/industry/georgia-fails-to-support-sports-betting-march-7-2023>.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ S.R. 135 Status Sheet, *supra* note 2.

⁴⁹ *Id.*

⁵⁰ *Id.*