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# CONSTITUTION OF THE STATE OF GEORGIA A Resolution: Amend the Constitution so as to Provide that the Tradition of Fishing and Hunting and the Taking of Fish and Wildlife Shall be Preserved for the People and Shall be Managed by Law and Regulation for the Public Good; Provide for Submission of this Amendment for Ratification or Rejection; and for Other Purposes

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## CONSTITUTION OF THE STATE OF GEORGIA

***A Resolution: Amend the Constitution so as to Provide that the Tradition of Fishing and Hunting and the Taking of Fish and Wildlife Shall be Preserved for the People and Shall be Managed by Law and Regulation for the Public Good; Provide for Submission of this Amendment for Ratification or Rejection; and for Other Purposes***

<b>CODE SECTION:</b>	GA. CONST. art. I (amended)
<b>RESOLUTION NUMBER:</b>	SR 67
<b>ACT NUMBER:</b>	314
<b>SUMMARY:</b>	The resolution sanctioned a state-wide referendum to amend the Georgia Constitution. The referendum will appear on the general election ballot in November 2006. Although Georgia Code section 27-1-3 recognizes the right to hunt and fish and the importance of the tradition of hunting and fishing to the State of Georgia, proponents contend that the resolution is a necessary step given the potential future threat. The proposed amendment preserves the tradition of hunting and fishing for the people of Georgia and provides management by law and regulation for the public good.
<b>EFFECTIVE DATE:</b>	The resolution becomes effective following ratification by a majority of the electors of the State of Georgia pursuant to Article X, Section I, Paragraph II of the Georgia Constitution.

## *History*

### *Georgia's Current Hunting and Fishing Statutes*

Title 27 of Georgia's Code is entitled the "Game and Fish Code."<sup>1</sup> The Code acknowledges the cultural value and heritage inherent in hunting and fishing and the important economic function these practices provide to the State of Georgia.<sup>2</sup> Specifically, the current statute states:

In recognition of this cultural heritage and the tradition of stewardship it embodies, and of the important role that hunting and fishing and the taking of wildlife play in the state's economy and in the preservation and management of the state's natural communities, the General Assembly declares that Georgia citizens have the right to take fish and wildlife, subject to the laws and regulations adopted by the board for the public good and general welfare, which laws and regulations should be vigorously enforced.<sup>3</sup>

The Code further delegates regulation of hunting and fishing to the Department of Natural Resources and criminalizes the violation of established regulations.<sup>4</sup> SR 67 does not replace the current hunting and fishing statutes, but instead preserves the tradition of hunting and fishing so it cannot be criminalized in the future.<sup>5</sup>

### *Hunting and Fishing Constitutional Amendments from Other States and the Language of SR 67*

Currently, eight states have constitutional amendments that protect the right to hunt and fish, and ten other states are considering adding

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1. 1977 Ga. Laws 396, § 1, at 399 (codified at O.C.G.A. § 27-1-1 (2003)).  
 2. 2001 Ga. Laws 302, § 1, at 302 (codified at O.C.G.A. § 27-1-3 (Supp. 2005)).  
 3. *Id.*  
 4. 2001 Ga. Laws 302, § 1, at 302-03 (codified at O.C.G.A. § 27-1-3 (2004)).  
 5. See Audio Recording of House Proceedings, Mar. 17, 2005 (remarks by Rep. Earl Ehrhart), [http://www.ga.gov/00/article/0,2086,4802\\_6107103\\_33078458,00.html](http://www.ga.gov/00/article/0,2086,4802_6107103_33078458,00.html) [hereinafter House Audio].

such language.<sup>6</sup> Most of the language in these amendments is very similar to SR 67, which preserves the tradition of hunting and fishing.<sup>7</sup> But some states, such as Virginia, amended their constitution to create a right to hunt and fish.<sup>8</sup> Virginia realized the problems that arise from using the word “right,” as opposed to “tradition,” when a local hunting preserve sued its respective county for violating its constitutional right to hunt because the county denied it a special-use permit for a shotgun shooting range.<sup>9</sup> Although the lawsuit is still pending, its existence alone shows the importance and sensitivity of the language states use.<sup>10</sup> Despite pressure from the National Rifle Association to create a “right,” Senator Eric Johnson of the 1st district, who is the resolution’s sponsor, and other individuals who drafted the legislation were careful to use the word “tradition,” as opposed to “right,” so individuals could not use the amendment to challenge otherwise permissible hunting and fishing regulations.<sup>11</sup>

### *Georgia’s Prior Attempts to Pass Similar Legislation*

The Georgia General Assembly attempted to pass similar legislation during the 2004 legislative session.<sup>12</sup> After offering Committee substitutes and floor amendments, the Senate adopted SR

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6. See Audio Recording of Senate Proceedings, Feb. 16, 2005 (remarks by Sen. Eric Johnson), [http://www.ga.gov/00/article/0,2086,4802\\_6107103\\_33091490,00.html](http://www.ga.gov/00/article/0,2086,4802_6107103_33091490,00.html) [hereinafter Senate Audio]. The states that currently protect hunting and fishing rights through a constitutional amendment include Alabama, California, Minnesota, North Dakota, Rhode Island, Vermont, and Virginia. See Telephone Interview with Heidi Prescott, Senior Vice President of Campaigns, Humane Society of the United States (Apr. 12, 2005) [hereinafter Prescott Interview].

7. See SR 67, as passed, 2005 Ga. Gen. Assem.; Telephone Interview with Barbara Schmitz, Government Affairs Coordinator, Animal Protection Institute (Apr. 13, 2005) [hereinafter Schmitz Interview]; see, e.g., N.D. CONST. art. XI, § 27 (2005) (“Hunting, trapping, and fishing and the taking of game and fish are a valued part of our heritage and will be forever preserved for the people and managed by law and regulation for the public good.”).

8. See VA. CONST. art. XI, § 4 (2004) (“The people have a *right* to hunt, fish, and harvest game, subject to such regulations and restrictions as the General Assembly may prescribe by general law.”) (emphasis added).

9. Carlos Santos, *Fleshing Out the Meaning of ‘Hunt’; Deeds Hoped to Protect Activity; Now Lawsuit Seeks to Establish What it Means*, RICHMOND TIMES DISPATCH, May 1, 2005, at B1.

10. *Id.*

11. See *id.*; Telephone Interview with Sen. Eric Johnson, Senate District No. 1 (Apr. 13, 2005) [hereinafter Johnson Interview]. For example, hunters could challenge the constitutionality of regulations forbidding deer baiting if they had a constitutional “right” to hunt and fish. *Id.*

12. See Senate Audio, *supra* note 6 (remarks by Sen. Eric Johnson).

563, which was identical to SR 67.<sup>13</sup> The House adopted HR 985, its own version of a resolution with language identical to SR 67.<sup>14</sup> Neither of the resolutions passed due to pressure at the close of the 2004 session.<sup>15</sup> Senator Johnson believes that the political split in the legislature was the real reason neither one passed.<sup>16</sup> The legislation was so popular that both the Democrat-led House and Republican-led Senate wanted to claim credit for passing it.<sup>17</sup> But neither resolution passed both houses.<sup>18</sup> This problem did not exist during the 2005 legislative session because the Republicans were a majority in both the House and the Senate.<sup>19</sup>

### *Bill Tracking of SR 67*

SR 67 overwhelmingly passed both houses in its original form without any amendments.<sup>20</sup>

### *Consideration by the Senate*

The Senate read SR 67 for the first time on February 1, 2005.<sup>21</sup> The Senate Committee on Natural Resources and Environment favorably reported on the resolution on February 10, 2005, and the Senate read it for the second time on February 14, 2005.<sup>22</sup> On February 16, 2005, the Senate read the resolution for the third time, debated, and then voted.<sup>23</sup>

Senator Eric Johnson of the 1st district spoke to the Senate.<sup>24</sup> No legislators posed any questions to Senator Johnson, nor did they

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13. See State of Georgia Final Composite Status Sheet, SR 563, Jan. 26, 2004 (May 19, 2004).

14. See State of Georgia Final Composite Status Sheet, SR 563, Jan. 29, 2004 (May 19, 2004).

15. See Senate Audio, *supra* note 6 (remarks by Sen. Eric Johnson).

16. See Johnson Interview, *supra* note 11.

17. *Id.*

18. *Id.*

19. *Id.*

20. See Georgia Senate Voting Record, SR 67 (Feb. 16, 2005); Georgia House of Representatives Voting Record, SR 67 (Mar. 17, 2005).

21. State of Georgia Final Composite Status Sheet, SR 67, Feb. 1, 2005 (May 11, 2005).

22. State of Georgia Final Composite Status Sheet, SR 67, Feb. 10, 2005 (May 11, 2005); State of Georgia Final Composite Status Sheet, SR 67, Feb. 14, 2005 (May 11, 2005).

23. State of Georgia Final Composite Status Sheet, SR 67, Feb. 16, 2005 (May 11, 2005).

24. See Senate Audio, *supra* note 6 (remarks by Sen. Eric Johnson).

propose any amendments during the resolution's four minute debate.<sup>25</sup> The Senate ultimately adopted SR 67 by a vote of 44 to 4.<sup>26</sup>

### *Consideration by the House*

The House first read SR 67 on February 17, 2005.<sup>27</sup> The House read SR 67 a second time on February 18, 2005, and the House Committee on Game, Fish and Parks favorably reported on the resolution on March 2, 2005.<sup>28</sup> The House read the resolution for the third time, debated, and voted on March 17, 2005.<sup>29</sup>

Representative Earl Ehrhart of the 36th district presented the resolution to the House.<sup>30</sup> The House debate lasted only four minutes, and only one representative asked a question before the resolution was put to a vote.<sup>31</sup> No legislators proposed or introduced any amendments.<sup>32</sup> SR 67 passed the House unanimously.<sup>33</sup>

### *The Resolution*

SR 67 will place a referendum on the proposed amendment to the Georgia Constitution on the November 2006 ballot.<sup>34</sup> If passed, the referendum will amend Article I, Section I of the Georgia Constitution by renumbering Paragraph XXVIII as Paragraph XXIX and inserting a new Paragraph XXVIII entitled "Fishing and Hunting."<sup>35</sup> The language on the ballot will state: "Shall the Constitution of Georgia be amended so as to provide that the tradition of fishing and hunting and the taking of fish and wildlife

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25. *See id.*

26. Georgia Senate Voting Record, SR 67 (Feb. 16, 2005).

27. State of Georgia Final Composite Status Sheet, SR 67, Feb. 17, 2005 (May 11, 2005).

28. State of Georgia Final Composite Status Sheet, SR 67, Feb. 18, 2005 (May 11, 2005); State of Georgia Final Composite Status Sheet, SR 67, Mar. 2, 2005 (May 11, 2005).

29. State of Georgia Final Composite Status Sheet, SR 67, Mar. 17, 2005 (May 11, 2005); Georgia House of Representatives Voting Record, SR 67 (Mar. 17, 2005).

30. *See House Audio, supra* note 5 (remarks by Rep. Earl Ehrhart).

31. *See id.* (remarks by Reps. Earl Ehrhart and Brian Thomas).

32. *See id.* (remarks by Rep. Earl Ehrhart).

33. State of Georgia Final Composite Status Sheet, SR 67, Mar. 17, 2005 (May 11, 2005); Georgia House of Representatives Voting Record, SR 67 (Mar. 17, 2005).

34. SR 67, as passed, 2005 Ga. Gen. Assem.; Editorial, *A Frivolous Amendment?*, AUGUSTA CHRON., Mar. 28, 2005, at A4.

35. SR 67, as passed, 2005 Ga. Gen. Assem.

shall be preserved for the people and shall be managed by law and regulation for the public good?"<sup>36</sup> The proposed amendment's actual language is nearly identical.<sup>37</sup> The new Paragraph XXVIII states: "The tradition of fishing and hunting and the taking of fish and wildlife shall be preserved for the people and shall be managed by law and regulation for the public good."<sup>38</sup>

### *Analysis*

#### *The Purpose Behind the Resolution*

The supporters of SR 67 touted the proposed amendment as an effective means of protecting hunting and fishing rights for future generations of Georgians.<sup>39</sup> Admittedly, there is no current significant threat that legislators will take away hunting and fishing rights from Georgia citizens.<sup>40</sup> The concern is that judges could arbitrarily rule that the practice of hunting and fishing is unconstitutional.<sup>41</sup> Further, an amendment to the Georgia Constitution places a formidable hurdle for future legislatures to overcome if they desire to criminalize hunting and fishing.<sup>42</sup> Senator Eric Johnson of the 1st district stressed that future legislative action is a significant possibility because of the increased urbanization of Georgia, namely through the growth and expansion of Atlanta.<sup>43</sup> Senator Johnson stressed that certain individuals falsely believe that the law should treat deer as an endangered species. In reality though, deer are not endangered, and hunting helps solve deer overpopulation problems.<sup>44</sup>

Senator Johnson further urged passage of the resolution because the criminalization of hunting and fishing would lead to an adverse

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36. *Id.*

37. *Id.*

38. *Id.*

39. See Senate Audio, *supra* note 6 (remarks by Sen. Eric Johnson).

40. See Johnson Interview, *supra* note 11; Jay Bookman, Editorial, *Real Danger is Threat of Amendments*, ATLANTA J. CONST., Jan. 26, 2004, at A9.

41. See Senate Audio, *supra* note 6 (remarks by Sen. Eric Johnson); *A Frivolous Amendment?*, *supra* note 34.

42. See Senate Audio, *supra* note 6 (remarks by Sen. Eric Johnson).

43. See *id.*; Johnson Interview, *supra* note 11.

44. See Johnson Interview, *supra* note 11; Bookman, *supra* note 40.

economic impact on the State of Georgia.<sup>45</sup> Senator Johnson noted that there are 400,000 hunters and 1.1 million anglers in Georgia that generate \$2.2 billion in economic impact.<sup>46</sup> Further, the hunting and fishing industry produces 21,000 jobs, generates \$18 million in license fees, and brings in \$61 million in tax revenue.<sup>47</sup> In addition, Senator Johnson noted hunting and fishing's importance to Georgia's heritage and culture.<sup>48</sup>

While speaking to the House, Representative Earl Ehrhart of the 36th district stressed the importance of constitutional preservation of the right to hunt and fish because hunting and fishing teaches responsibility to children.<sup>49</sup> He also noted how certain countries around the world have taken away hunting rights from their citizens.<sup>50</sup> Like Senator Johnson, Representative Ehrhart agrees that the use of an amendment is the only way to protect the tradition of hunting and fishing.<sup>51</sup>

### *Opposition to SR 67*

Though the voting records in the House and Senate portray the popularity of this legislation, some groups opposed SR 67.<sup>52</sup> Barbara Schmitz of the Animal Protection Institute stated that SR 67 is unnecessary because Georgia already adequately protects hunting and fishing rights in its statutes.<sup>53</sup> Ms. Schmitz also argued that wildlife is there for the benefit of everyone, and this bill elevates the wishes of a few over the needs of the whole.<sup>54</sup> She further offered statistics demonstrating that the number of hunters has declined over

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45. See Johnson Interview, *supra* note 11.

46. *Id.*

47. *Id.*

48. Senate Audio, *supra* note 6 (remarks by Sen. Eric Johnson).

49. See House Audio, *supra* note 5 (remarks by Rep. Earl Ehrhart).

50. *Id.*

51. *Id.*

52. See Georgia Senate Voting Record, SR 67 (Feb. 16, 2005); Georgia House of Representatives Voting Record, SR 67 (Mar. 17, 2005).

53. See Schmitz Interview, *supra* note 7; see also 2001 Ga. Laws 302, § 1, at 302 (codified at O.C.G.A. § 27-1-3 (Supp. 2005)).

54. See Schmitz Interview, *supra* note 7.



the years and said that this legislation is only a last ditch effort to keep hunting from dying out.<sup>55</sup>

Similarly, Heidi Prescott, Senior Vice President of Campaigns for the Humane Society of the United States, stated SR 67 is redundant.<sup>56</sup> She believes that the constitution is a sacred document, “not a graffiti wall for political rhetoric.”<sup>57</sup> Ms. Prescott stated that the proposed amendment does not protect hunting, but instead makes hunters and fishermen feel more secure.<sup>58</sup>

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55. *Id.*

56. *See Prescott Interview, supra note 6.*

57. *Id.*

58. *Id.*