

By: Senator(s) Ross

To: Constitution

SENATE CONCURRENT RESOLUTION NO. 509

1 A CONCURRENT RESOLUTION PROPOSING AN AMENDMENT TO SECTION
2 145, MISSISSIPPI CONSTITUTION OF 1890, TO PROVIDE FOR THE
3 APPOINTMENT OF THE SUPREME COURT JUDGES; TO ADD A NEW SECTION
4 144A, MISSISSIPPI CONSTITUTION OF 1890, TO PROVIDE FOR THE
5 SELECTION OF JUDGES; TO PROVIDE THAT THE GOVERNOR SHALL FILL
6 VACANCIES BY APPOINTMENT; TO ESTABLISH THE TERM OF OFFICE; TO
7 AUTHORIZE THE LEGISLATURE TO PROVIDE FOR STAGGERED TERMS; TO
8 REPEAL SECTIONS 145A AND 145B, MISSISSIPPI CONSTITUTION OF 1890,
9 WHICH PROVIDE FOR ADDITIONAL SUPREME COURT JUDGES; TO REPEAL
10 SECTIONS 149 AND 149A, MISSISSIPPI CONSTITUTION OF 1890, WHICH
11 PROVIDE FOR THE TERMS OF OFFICE OF JUDGES OF THE SUPREME COURT AND
12 AUTHORIZE THAT COURT TO SIT IN DIVISIONS; AND FOR RELATED
13 PURPOSES.

14 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF
15 MISSISSIPPI, TWO-THIRDS OF THE SENATE AND HOUSE OF REPRESENTATIVES
16 CONCURRING THEREIN, WHICH TWO-THIRDS CONSISTS OF NOT LESS THAN A
17 MAJORITY OF THE MEMBERS ELECTED TO EACH HOUSE, That the following
18 amendments to the Mississippi Constitution of 1890 be submitted to
19 the qualified electors of the state for ratification or rejection
20 at an election to be held on the first Tuesday after the first
21 Monday of November 1998:

22 Amend Section 145, Mississippi Constitution of 1890, to read
23 as follows:

24 Section 145. The Supreme Court shall consist of nine (9)
25 judges, any five (5) of whom, when convened, shall form a quorum.
26 The Legislature shall divide the state into three (3) Supreme
27 Court districts, and the Governor shall appoint three (3) judges
28 for and from each district * * * in the manner provided by this
29 Constitution; but the removal of a judge to the State Capitol
30 during his term of office shall not render him ineligible as his
31 own successor for the districts from which he has removed. * * *

32 The adoption of this amendment shall not abridge the terms of any
33 incumbent who shall continue to hold his respective office until
34 the expiration of the terms for which he was elected.

35 The Supreme Court shall have power, under such rules and
36 regulations as it may adopt, to sit in divisions of three (3)
37 judges each, any two (2) of whom when convened shall form a
38 quorum; each division shall have full power to hear and adjudge
39 all cases that may be assigned to it by the court. In the event
40 the judges composing any division shall differ as to the judgment
41 to be rendered in any cause, or in the event any judge of either
42 division, within a time and in a manner to be fixed by the rules
43 to be adopted by the court, shall certify that in his opinion any
44 decision of any division of the court is in conflict with any
45 prior decision of the court or of any division thereof, the cause
46 shall then be considered and adjudged by the full court or a
47 quorum thereof.

48 Amend Article 6 of the Mississippi Constitution of 1890 by
49 adding a new section to be designated as Section 144A, Mississippi
50 Constitution of 1890, to read as follows:

51 Section 144A. (1) Whenever a vacancy occurs in the Office
52 of Judge of the Supreme Court, the Governor shall fill such
53 vacancy by appointment, subject to the advice and consent of the
54 Senate.

55 (2) Any judge holding office, or elected thereto, at the
56 time which this section becomes applicable to his office, shall,
57 unless removed for cause, remain in office for the term to which
58 he was elected. The vacancy resulting from the expiration of his
59 term of office shall be filled by appointment as herein provided.

60 Judges of the Supreme Court are eligible to succeed themselves
61 indefinitely.

62 (3) The term of office shall be eight (8) years. The
63 Legislature shall provide as near as can be conveniently done that
64 the offices of not more than a majority of the judges of said
65 court shall become vacant at any one time.

66 Repeal Section 145A, Mississippi Constitution of 1890, which
67 reads as follows:

68 Section 145A. The Supreme Court shall consist of six (6)

69 judges, that is to say, of three (3) judges in addition to the
70 three (3) provided for by Section 145 of this Constitution, any
71 four (4) of whom when convened shall form a quorum. The
72 additional judges herein provided for shall be selected one (1)
73 for and from each of the Supreme Court districts in the manner
74 provided by Section 145 of this Constitution, or any amendments
75 thereto. Their terms of office shall be as provided by Section
76 149 of this Constitution, or any amendment thereto.

77 Repeal Section 145B, Mississippi Constitution of 1890, which
78 reads as follows:

79 Section 145B. The Supreme Court shall consist of nine (9)
80 judges, that is to say, of three (3) judges in addition to the six
81 (6) provided for by Section 145A of this Constitution, any five
82 (5) of whom when convened shall constitute a quorum. The
83 additional judges herein provided for shall be selected one (1)
84 for and from each of the Supreme Court districts in the manner
85 provided by Section 145A of this Constitution or any amendment
86 thereto. Their terms of office shall be as provided by Section
87 149 of this Constitution or any amendment thereto.

88 Repeal Section 149, Mississippi Constitution of 1890, which
89 reads as follows:

90 Section 149. The term of Office of the Judges of the Supreme
91 Court shall be eight (8) years. The Legislature shall provide as
92 near as can be conveniently done that the offices of not more than
93 a majority of the judges of said court shall become vacant at any
94 one time; and if necessary for the accomplishment of that purpose,
95 it shall have power to provide that the terms of office of some of
96 the judges first to be elected shall expire in less than eight (8)
97 years. The adoption of this amendment shall not abridge the terms
98 of any of the present incumbents of the Office of Judge of the
99 Supreme Court; but they shall continue to hold their respective
100 offices until the expiration of the terms for which they were
101 respectively appointed.

102 Repeal Section 149A, Mississippi Constitution of 1890, which
103 reads as follows:

104 Section 149A. The Supreme Court shall have power, under such
105 rules and regulations as it may adopt, to sit in two (2) divisions
106 of three (3) judges each, any two (2) of whom when convened shall
107 form a quorum; each division shall have full power to hear and
108 adjudge all cases that may be assigned to it by the court. In
109 event the judges composing any division shall differ as to the
110 judgment to be rendered in any cause, or in event any judge of
111 either division, within a time and in a manner to be fixed by the
112 rules to be adopted by the court, shall certify that in his
113 opinion any decision of any division of the court is in conflict
114 with any prior decision of the court or of any division thereof,
115 the cause shall then be considered and adjudged by the full court
116 or a quorum thereof.

117 BE IT FURTHER RESOLVED, That the Secretary of State is hereby
118 directed to give public notice of an election in the manner and
119 for the time provided by Section 273 of the Constitution, and an
120 election is hereby called and fixed to be held on the first
121 Tuesday after the first Monday in November 1999, for the purpose
122 of submitting this and other amendments to the Constitution to
123 qualified electors of this state for approval or rejection, with
124 the amendments in this resolution being voted on as one (1)
125 amendment since the proposed amendments pertain to one (1)
126 subject, such election to be conducted and held as provided by law
127 for statewide general elections.

128 BE IT FURTHER RESOLVED, That the explanation of the amendment
129 for the ballot shall read as follows: "This proposed
130 constitutional amendment provides for the appointment of the
131 Judges of the Supreme Court. The Governor shall appoint a judge
132 subject to the advice and consent of the Senate. Sections which
133 increased the size of the court, provided for the term of office
134 to be eight (8) years and authorized the hearing of cases in

135 divisions, are repealed because the substance of these sections is
136 included in the proposed amendment."

137 BE IT FURTHER RESOLVED, That the Attorney General of the
138 State of Mississippi is hereby directed to submit this resolution,
139 immediately upon adoption by the Legislature, to the Attorney
140 General of the United States or to the United States District
141 Court for the District of Columbia, in accordance with the
142 provisions of the Voting Rights Act of 1965, as amended and
143 extended.