

By: Ross

To: Constitution

SENATE CONCURRENT RESOLUTION NO. 505

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, That the following amendments to the Mississippi
16 Constitution of 1890 be submitted to the qualified electors of the
17 state.

18 Amend Section 145, Mississippi Constitution of 1890, to read
19 as follows:

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

27 own successor for the districts from which he has removed. * * *

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

31 The Supreme Court may sit in divisions of three (3) judges
32 each. Each division shall have full power to hear and adjudge all
33 cases that may be assigned to it by the court. Two (2) judges
34 shall constitute a quorum of a division. If the decision of a
35 division is not unanimous, or if a judge of a division shall
36 certify that in his opinion a decision of any division of the
37 court is in conflict with a prior decision of the court or of a
38 division, the cause shall then be considered and adjudged by the
39 court.

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

43 Section 144A. (1) Whenever a vacancy occurs in the Office
44 of Judge of the Supreme Court, the Governor shall fill the vacancy
45 by appointment, subject to the advice and consent of the Senate.

46 (2) Any judge holding office at the time which this section
47 becomes applicable to his office, shall, unless removed for cause,
48 remain in office for the remainder of his term. A vacancy
49 resulting from the expiration of a term of office shall be filled
50 by appointment.

51 (3) The term of office shall be eight (8) years. The
52 Legislature shall provide as near as can be done that the offices
53 of not more than a majority of the judges of the court shall
54 become vacant at any one time.

55 Repeal Section 145A, Mississippi Constitution of 1890, which
56 reads as follows:

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

58 judges, that is to say, of three (3) judges in addition to the
59 three (3) provided for by Section 145 of this Constitution, any
60 four (4) of whom when convened shall form a quorum. The
61 additional judges herein provided for shall be selected one (1)
62 for and from each of the Supreme Court districts in the manner
63 provided by Section 145 of this Constitution, or any amendments
64 thereto. Their terms of office shall be as provided by Section
65 149 of this Constitution, or any amendment thereto.

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

68 Section 145B. The Supreme Court shall consist of nine (9)
69 judges, that is to say, of three (3) judges in addition to the six
70 (6) provided for by Section 145A of this Constitution, any five
71 (5) of whom when convened shall constitute 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 145A of this Constitution or any amendment
75 thereto. Their terms of office shall be as provided by Section
76 149 of this Constitution or any amendment thereto.

77 Repeal Section 149, Mississippi Constitution of 1890, which
78 reads as follows:

79 Section 149. The term of Office of the Judges of the Supreme
80 Court shall be eight (8) years. The Legislature shall provide as
81 near as can be conveniently done that the offices of not more than
82 a majority of the judges of said court shall become vacant at any
83 one time; and if necessary for the accomplishment of that purpose,
84 it shall have power to provide that the terms of office of some of
85 the judges first to be elected shall expire in less than eight (8)

86 years. The adoption of this amendment shall not abridge the terms
87 of any of the present incumbents of the Office of Judge of the
88 Supreme Court; but they shall continue to hold their respective
89 offices until the expiration of the terms for which they were
90 respectively appointed.

91 Repeal Section 149A, Mississippi Constitution of 1890, which
92 reads as follows:

93 Section 149A. The Supreme Court shall have power, under such
94 rules and regulations as it may adopt, to sit in two (2) divisions
95 of three (3) judges each, any two (2) of whom when convened shall
96 form a quorum; each division shall have full power to hear and
97 adjudge all cases that may be assigned to it by the court. In
98 event the judges composing any division shall differ as to the
99 judgment to be rendered in any cause, or in event any judge of
100 either division, within a time and in a manner to be fixed by the
101 rules to be adopted by the court, shall certify that in his
102 opinion any decision of any division of the court is in conflict
103 with any prior decision of the court or of any division thereof,
104 the cause shall then be considered and adjudged by the full court
105 or a quorum thereof.

106 BE IT FURTHER RESOLVED, That the amendments in this
107 resolution shall be submitted to the qualified electors as one (1)
108 amendment since the proposed amendments pertain to one (1)
109 subject, at an election to be held on the first Tuesday after the
110 first Monday of November 2000, as provided by Section 273 of the
111 Constitution and by law.

112 BE IT FURTHER RESOLVED, That the explanation of the amendment
113 for the ballot shall read as follows: "This proposed

114 constitutional amendment provides for the appointment of the
115 Judges of the Supreme Court. The Governor shall appoint a judge
116 subject to the advice and consent of the Senate. Sections which
117 increased the size of the court, provided for the term of office
118 to be eight (8) years and authorized the hearing of cases in
119 divisions, are repealed because the substance of these sections is
120 included in the proposed amendment."

121 BE IT FURTHER RESOLVED, That the Attorney General of the
122 State of Mississippi shall submit this resolution, immediately
123 upon adoption by the Legislature, to the Attorney General of the
124 United States or to the United States District Court for the
125 District of Columbia, in accordance with the provisions of the
126 Voting Rights Act of 1965, as amended and extended.