HOUSE CONCURRENT RESOLUTION NO. 36

A CONCURRENT RESOLUTION PROPOSING AMENDMENTS TO THE MISSISSIPPI CONSTITUTION OF 1890, BY AMENDING SECTION 145 TO PROVIDE THAT JUDGES OF THE SUPREME COURT SHALL BE APPOINTED; TO PROVIDE THAT EACH JUDGE SHALL STAND FOR AN ELECTION DURING THE LAST YEAR OF HIS TERM OF OFFICE TO DETERMINE IF SUCH JUDGE SHALL BE RETAINED IN SERVICE OR REMOVED FROM OFFICE AND A SUCCESSOR APPOINTED; BY AMENDING SECTIONS 149 AND 149-A, MISSISSIPPI CONSTITUTION OF 1890, IN CONFORMITY; BY REPEALING SECTIONS 145-A AND 145-B, MISSISSIPPI CONSTITUTION OF 1890, WHICH PROVIDE FOR SIX JUDGES IN ADDITION TO THE ORIGINAL THREE JUDGES OF THE SUPREME COURT; AND FOR RELATED PURPOSES.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI, That the following amendments to the Mississippi Constitution of 1890 are proposed to the qualified electors of the state:

I.

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

"Section 145. The Supreme Court shall consist of nine (9) judges, any five (5) of whom, when convened, shall form a quorum. The Legislature shall divide the state into three (3) Supreme Court districts, and there shall be appointed one (1) judge for and from each district by the Governor with the advice and consent of the Senate, and such judge shall stand for an election during the last year of his term to determine if such judge shall be retained in service or removed from office and a successor appointed at a time and in the manner provided by law; but the removal of a judge to the State Capitol during his term of office shall not render him ineligible as his own successor for the district from which he has removed. * * * The adoption of this amendment shall not abridge the terms of any of the present
incumbents, but they shall continue to hold their respective
offices until the expiration of the terms for which they were
respectively elected."

II.

Amend Section 149, Mississippi Constitution of 1890, to read
as follows:

"Section 149. The term of office of the judges of the
Supreme Court shall be eight (8) years. The Legislature shall
provide as near as can be conveniently done that the offices of
not more than a majority of the judges of said court shall become
vacant at any one time * * *.

III.

Amend Section 149-A, Mississippi Constitution of 1890, to
read as follows:

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

IV.

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

"Section 145-A. The Supreme Court shall consist of six (6)
judges, that is to say, of three (3) judges in addition to the
three (3) provided for by Section 145 of this Constitution, any
four (4) of whom when convened shall form a quorum. The additional judges herein provided for shall be selected one (1) for and from each of the Supreme Court districts in the manner provided by Section 145 of this Constitution, or any amendments thereto. Their terms of office shall be as provided by Section 149 of this Constitution, or any amendment thereto."

V.

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

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

BE IT FURTHER RESOLVED, That these proposed amendments shall be submitted by the Secretary of State to the qualified electors at an election to be held on the first Tuesday after the first Monday of November 2003, as provided by Section 273 of the Constitution and by general law, with the amendments in this resolution being voted on as one amendment since the proposed amendments pertain to one subject.

BE IT FURTHER RESOLVED, That the explanation of this proposed amendment for the ballot shall read as follows: "This proposed constitutional amendment amends three sections of the Constitution and repeals two other sections to provide that judges of the Supreme Court shall be appointed by the Governor with the advice and consent of the Senate and shall stand for an election for retention or removal from office during the last year of their term of office."
ST: Amend Constitution; Supreme Court judges to be appointed.

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