

By: Representative McBride

To: Constitution

HOUSE CONCURRENT RESOLUTION NO. 5

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

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

16 I.

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

19 "Section 145. The Supreme Court shall consist of nine (9)
20 judges, any five (5) of whom, when convened, shall form a quorum.
21 The Legislature shall divide the state into three (3) Supreme
22 Court districts, and there shall be appointed one (1) judge for
23 and from each district by the Governor with the advice and consent
24 of the Senate, and such judge shall stand for an election during
25 the last year of his term to determine if such judge shall be
26 retained in service or removed from office and a successor
27 appointed at a time and in the manner provided by law; but the
28 removal of a judge to the State Capitol during his term of office
29 shall not render him ineligible as his own successor for the
30 district from which he has removed. * * * The adoption of this
31 amendment shall not abridge the terms of any of the present

32 incumbents, but they shall continue to hold their respective
33 offices until the expiration of the terms for which they were
34 respectively elected."

35 II.

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

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

43 III.

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

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

59 IV.

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

62 "Section 145-A. The Supreme Court shall consist of six (6)
63 judges, that is to say, of three (3) judges in addition to the
64 three (3) provided for by Section 145 of this Constitution, any

65 four (4) of whom when convened shall form a quorum. The
66 additional judges herein provided for shall be selected one (1)
67 for and from each of the Supreme Court districts in the manner
68 provided by Section 145 of this Constitution, or any amendments
69 thereto. Their terms of office shall be as provided by Section
70 149 of this Constitution, or any amendment thereto."

71 V.

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

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

83 BE IT FURTHER RESOLVED, That these proposed amendments shall
84 be submitted by the Secretary of State to the qualified electors
85 at an election to be held on the first Tuesday after the first
86 Monday of November 2004, as provided by Section 273 of the
87 Constitution and by general law, with the amendments in this
88 resolution being voted on as one amendment since the proposed
89 amendments pertain to one subject.

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

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