

By: Representative Carlton

To: Constitution

HOUSE CONCURRENT RESOLUTION NO. 30

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 BY THE
4 GOVERNOR; TO PROVIDE THAT EACH JUDGE SHALL STAND FOR AN ELECTION
5 DURING THE FOURTH YEAR OF HIS TERM OF OFFICE TO DETERMINE IF SUCH
6 JUDGE SHALL BE RETAINED IN SERVICE OR REMOVED FROM OFFICE AND A
7 SUCCESSOR APPOINTED; TO PROVIDE THAT VACANCIES ON THE SUPREME
8 COURT SHALL BE FILLED BY APPOINTMENT OF THE GOVERNOR FROM A LIST
9 OF NOMINEES SUBMITTED BY A NOMINATING COMMITTEE CREATED BY GENERAL
10 LAW; BY AMENDING SECTIONS 149 AND 149-A, MISSISSIPPI CONSTITUTION
11 OF 1890, IN CONFORMITY; BY REPEALING SECTIONS 145-A AND 145-B,
12 MISSISSIPPI CONSTITUTION OF 1890, WHICH PROVIDE FOR SIX JUDGES IN
13 ADDITION TO THE ORIGINAL THREE JUDGES OF THE SUPREME COURT; AND
14 FOR RELATED PURPOSES.

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

19 I.

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

22 "Section 145. The Supreme Court shall consist of nine (9)
23 judges, any five (5) of whom, when convened, shall form a quorum.
24 The Legislature shall divide the state into three (3) Supreme
25 Court districts, and there shall be appointed one (1) judge for
26 and from each district by the Governor, and such judge shall stand
27 for an election during the fourth year of his term to determine if
28 the judge shall be retained in service or removed from office and
29 a successor appointed at a time and in the manner provided by law.
30 The Legislature shall provide, by general law, for the creation of
31 a commission which shall screen nominees for appointment to the
32 Supreme Court and which shall provide a list of nominees from
33 which the Governor shall appoint judges to fill vacant positions

34 on the Supreme Court. The removal of a judge to the state capitol
35 during his term of office shall not render him ineligible as his
36 own successor for the district from which he has removed. * * *
37 The adoption of this amendment shall not abridge the terms of any
38 of the present incumbents, but they shall continue to hold their
39 respective offices until the expiration of the terms for which
40 they were respectively elected."

41 II.

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

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

49 III.

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

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

65 IV.

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

68 "Section 145-A. 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 V.

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

80 "Section 145-B. The Supreme Court shall consist of nine (9)
81 judges, that is to say, of three (3) judges in addition to the six
82 (6) provided for by Section 145-A of this Constitution, any five
83 (5) of whom when convened shall constitute a quorum. The
84 additional judges herein provided for shall be selected one (1)
85 for and from each of the Supreme Court districts in the manner
86 provided by Section 145-A of this Constitution or any amendment
87 thereto. Their terms of office shall be as provided by Section
88 149 of this Constitution or any amendment thereto."

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

96 BE IT FURTHER RESOLVED, That the explanation of this proposed
97 amendment for the ballot shall read as follows: constitutional
98 amendment provides that judges of the Supreme Court shall be

99 appointed by the Governor and shall stand for election for
100 retention or removal from office during the fourth year of their
101 term of office. The amendment also provides that vacancies on the
102 Supreme Court shall be filled by appointment of the Governor from
103 a list of nominees submitted by a nominating committee created by
104 general law."

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