

By: Representative Snowden

To: Constitution; Judiciary
A

HOUSE CONCURRENT RESOLUTION NO. 41

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; at a time and in the manner provided by law; but
25 the removal of a judge to the State Capitol during his term of
26 office shall not render him ineligible as his own successor for
27 the district from which he has removed. * * * The adoption of
28 this amendment shall not abridge the terms of any of the present
29 incumbents, but they shall continue to hold their respective
30 offices until the expiration of the terms for which they were
31 respectively elected."

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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

65 provided by Section 145 of this Constitution, or any amendments
66 thereto. Their terms of office shall be as provided by Section
67 149 of this Constitution, or any amendment thereto."

68 V.

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

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

80 BE IT FURTHER RESOLVED, That these proposed amendments shall
81 be submitted by the Secretary of State to the qualified electors
82 at an election to be held on the first Tuesday after the first
83 Monday of November 2006, as provided by Section 273 of the
84 Constitution and by general law, with the amendments in this
85 resolution being voted on as one amendment since the proposed
86 amendments pertain to one subject.

87 BE IT FURTHER RESOLVED, That the explanation of this proposed
88 amendment for the ballot shall read as follows: "This proposed
89 constitutional amendment amends three sections of the Constitution
90 and repeals two other sections to provide that judges of the
91 Supreme Court shall be appointed by the Governor with the advice
92 and consent of the Senate."

93 BE IT FURTHER RESOLVED, That the Attorney General of the
94 State of Mississippi shall submit this resolution, immediately
95 upon adoption by the Legislature, to the Attorney General of the
96 United States or to the United States District Court for the

97 District of Columbia, in accordance with the provisions of the
98 Voting Rights Act of 1965, as amended and extended.