

By: Representatives Gunn, Shanks, Reynolds

To: Constitution

HOUSE CONCURRENT RESOLUTION NO. 39

1 A CONCURRENT RESOLUTION PROPOSING AN AMENDMENT TO SECTIONS
2 33, 56, 61 AND 72, MISSISSIPPI CONSTITUTION OF 1890, TO PROVIDE
3 THAT THE PEOPLE RESERVE TO THEMSELVES THE RIGHT TO PROPOSE NEW
4 LAWS AND TO AMEND OR REPEAL EXISTING LAWS BY INITIATIVE, AND TO
5 APPROVE OR REJECT THE SAME IN AN ELECTION INDEPENDENT OF THE
6 LEGISLATURE; TO PROVIDE THAT SUCH AN INITIATIVE MEASURE MAY BE
7 PROPOSED BY A PETITION SIGNED OVER A TWELVE-MONTH PERIOD BY
8 QUALIFIED ELECTORS EQUAL IN NUMBER TO AT LEAST TWELVE PERCENT OF
9 THE VOTES FOR ALL CANDIDATES FOR GOVERNOR IN THE LAST
10 GUBERNATORIAL ELECTION; TO PROVIDE THAT THE SIGNATURES OF THE
11 QUALIFIED ELECTORS FROM ANY CONGRESSIONAL DISTRICT SHALL NOT
12 EXCEED THE TOTAL NUMBER OF SIGNATURES REQUIRED TO QUALIFY AN
13 INITIATIVE MEASURE FOR PLACEMENT ON THE BALLOT DIVIDED BY THE
14 NUMBER OF CONGRESSIONAL DISTRICTS IN EXISTENCE ON THE DAY THAT THE
15 PETITION IS FILED; TO PROVIDE THAT NO MORE THAN FIVE INITIATIVE
16 MEASURES MAY BE SUBMITTED TO THE VOTERS ON A SINGLE BALLOT, AND
17 THE FIRST FIVE INITIATIVE MEASURES SUBMITTED TO THE SECRETARY OF
18 STATE WITH SUFFICIENT PETITIONS SHALL BE THE MEASURES THAT ARE
19 SUBMITTED TO THE VOTERS; TO PROVIDE THAT IN ORDER TO BE APPROVED,
20 AN INITIATIVE MEASURE MUST RECEIVE A MAJORITY OF THE VOTES CAST
21 AND NOT LESS THAN FORTY PERCENT OF THE TOTAL VOTES CAST AT THE
22 ELECTION AT WHICH THE INITIATIVE MEASURE WAS SUBMITTED; TO PROVIDE
23 THAT IF CONFLICTING INITIATIVE MEASURES ARE APPROVED AT THE SAME
24 ELECTION, THE INITIATIVE MEASURE RECEIVING THE HIGHEST NUMBER OF
25 AFFIRMATIVE VOTES SHALL PREVAIL AND BECOME LAW; TO PROVIDE THAT
26 THE LEGISLATURE SHALL PROVIDE BY LAW THE MANNER IN WHICH
27 INITIATIVE PETITIONS SHALL BE CIRCULATED, PRESENTED AND CERTIFIED;
28 TO PROVIDE THAT THE MISSISSIPPI CONSTITUTION SHALL ONLY BE AMENDED
29 BY A PROPOSED AMENDMENT BEING PASSED BY TWO-THIRDS VOTE OF EACH
30 HOUSE OF THE LEGISLATURE AND UPON RECEIVING A MAJORITY VOTE WHEN
31 PLACED ON THE BALLOT TO BE VOTED UPON BY THE QUALIFIED ELECTORS OF
32 THE STATE; AND PROPOSING AN AMENDMENT TO SECTION 273, MISSISSIPPI
33 CONSTITUTION OF 1890, TO DELETE THE PROVISIONS AUTHORIZING
34 CONSTITUTIONAL AMENDMENTS BY INITIATIVE;



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

39 I.

40 Amend Section 33, Mississippi Constitution of 1890, to read
41 as follows:

42 "Section 33. (1) The legislative power of this state shall
43 be vested in a Legislature which shall consist of a Senate and a
44 House of Representatives, but the people reserve to themselves the
45 right to exercise the legislative power of the state to propose
46 new laws and to amend or repeal existing laws by initiative, and
47 to approve or reject the same in an election independent of the
48 Legislature, in the manner prescribed in and subject to the
49 provisions of this section.

50 (2) The initiative process shall not be used:

51 (a) To propose amendments to the Mississippi
52 Constitution of 1890;

53 (b) To propose any new law or amend or repeal any
54 existing law relating to the Mississippi Public Employees'
55 Retirement System;

56 (c) To propose any new law or amend or repeal any
57 existing law on any subject or matter that any section of this
58 constitution prohibits the Legislature from enacting; or



59 (d) To propose any new law or amend or repeal any
60 existing law that appropriates funds from the State Treasury.

61 (3) As used in this section, the term "initiative measure"
62 or "measure" means a document proposing a new law or amending or
63 repealing an existing law that is the functional equivalent of a
64 bill that is introduced in the Legislature.

65 (4) An initiative measure shall only propose new laws or
66 amend or repeal existing laws pertaining and relating to the same
67 subject or subject matter.

68 (5) The sponsor of an initiative measure shall identify in
69 the text of the measure the amount and source of revenue required
70 to implement the measure. If the provisions of an initiative
71 measure would cause a substantial cost to the state or require the
72 substantial expenditure of state funds, as determined according to
73 law by the Legislative Budget Office or any successor agency, the
74 sponsor also shall provide in the text of the measure for the
75 specific funding source or mechanism to pay the cost of the
76 provisions of the measure so that the measure will not result in a
77 reduction in state funds available for expenditure by the
78 Legislature. If an initiative measure requires (a) a reduction in
79 any source of government revenue that would cause the amount of
80 state funds available for expenditure by the Legislature to be
81 less than the amount of state funds appropriated for the most
82 recent fiscal year, or (b) requires a reallocation of funding from
83 currently funded programs, the sponsor shall identify in the text



84 of the measure the program or programs whose funding must be
85 reduced or eliminated to implement the measure. Compliance with
86 the requirements of this subsection shall not be a violation of
87 the subject matter requirements of subsection (4) of this section.

88 (6) The chief legislative budget officer shall prepare a
89 fiscal analysis of each initiative measure, and a summary of each
90 fiscal analysis shall appear on the ballot.

91 (7) An initiative measure authorized under this section may
92 be proposed by a petition signed over a twelve-month period by
93 qualified electors equal in number to at least twelve percent
94 (12%) of the votes for all candidates for Governor in the last
95 gubernatorial election. The signatures of the qualified electors
96 from any congressional district shall not exceed the total number
97 of signatures required to qualify an initiative measure for
98 placement on the ballot divided by the number of congressional
99 districts in existence on the day that the petition is filed. If
100 an initiative petition contains signatures from a single
101 congressional district that exceed the total number of required
102 signatures, the excess number of signatures from that
103 congressional district shall not be considered by the Secretary of
104 State in determining whether the initiative measure qualifies for
105 placement on the ballot.

106 (8) The style of all initiative measures shall be: "Be it
107 enacted by the people of the State of Mississippi."



108 (9) The sufficiency of petitions shall be decided in the
109 first instance by the Secretary of State, subject to review by the
110 Supreme Court of the state, which shall have original and
111 exclusive jurisdiction over all such cases.

112 (10) If an initiative measure is certified by the Secretary
113 of State not less than ninety (90) days before a statewide general
114 election, the Secretary of State shall place the initiative
115 measure on the ballot for that statewide general election. If an
116 initiative measure is certified by the Secretary of State less
117 than ninety (90) days before a statewide general election, the
118 Secretary of State shall place the initiative measure on the
119 ballot for the next statewide general election occurring after the
120 upcoming statewide general election.

121 (11) No more than five (5) initiative measures may be
122 submitted to the voters on a single ballot, and the first five (5)
123 initiative measures submitted to the Secretary of State with
124 sufficient petitions shall be the measures that are submitted to
125 the voters.

126 (12) In order to be approved, an initiative measure must
127 receive a majority of the votes cast thereon and not less than
128 forty percent (40%) of the total votes cast at the election at
129 which the initiative measure was submitted; however, an initiative
130 measure that would be considered as a revenue bill under the joint
131 rules of the Legislature in existence on the day that the
132 initiative petition is filed must receive sixty percent (60%) of



133 the votes cast thereon and not less than forty percent (40%) of
134 the total votes cast at the election at which the initiative
135 measure was submitted.

136 (13) Initiative measures approved by the people shall not
137 require the signature of the Governor to become law and shall not
138 be subject to the veto power of the Governor.

139 (14) If conflicting initiative measures are approved at the
140 same election, the initiative measure receiving the highest number
141 of affirmative votes shall prevail and become law.

142 (15) An initiative measure approved by the people shall take
143 effect thirty (30) days from the date of the official declaration
144 of the vote by the Secretary of State, unless the measure provides
145 otherwise.

146 (16) An initiative measure approved by the people shall be
147 subject to the same process for codification in the same manner as
148 provided by law for the codification of laws enacted by the
149 Legislature.

150 (17) If an initiative measure does not receive the required
151 number of votes to be approved by the people as provided in
152 subsection (12) of this section, an initiative measure that
153 proposes the same, or substantially the same, provisions as those
154 in the initiative measure that failed shall not be submitted to
155 the electors for at least two (2) years after the date of the
156 election on the initiative measure that failed.



157 (18) An initiative measure approved by the people shall not
158 be amended by the Legislature to make a substantive change to the
159 text in the measure, or repealed by the Legislature, for a period
160 of two (2) years after the initiative measure takes effect.
161 However, the Legislature may amend or repeal an initiative measure
162 less than two (2) years after the measure takes effect if the
163 Legislature determines the existence of an emergency affecting the
164 public peace, health, safety or financial solvency of the state
165 that necessitates the amendment or repeal of the initiative
166 measure, which emergency must be stated in the legislation, and
167 such amendment or repeal shall require a vote of two-thirds (2/3)
168 of each house present and voting.

169 (19) The Secretary of State shall implement and maintain a
170 secure electronic database accessible by the public through the
171 Secretary of State's website that provides the capability of
172 search and retrieval of all signatories and circulators of
173 initiative petitions. The searchable database shall provide the
174 ability for a member of the public to securely search for his or
175 her own name to determine if he or she has been listed as a
176 signatory, to search by the name of any circulator, and to
177 retrieve the text of the petition that was signed and/or
178 circulated. The sponsor of an initiative measure shall provide
179 the Secretary of State with the names of the signatories and
180 circulators on a regular basis as provided by law. The



181 Legislature shall provide the circumstances and manner in which a
182 name may be removed from a petition and the database.

183 (20) The Legislature shall enact laws to require the
184 disclosure of contributions and expenditures for the passage or
185 defeat of any initiative measure as well as any other disclosures
186 related to the initiative process as provided by law.

187 (21) The Legislature shall provide by law the manner in
188 which initiative petitions shall be circulated, presented and
189 certified. To prevent signature fraud and to maintain the
190 integrity of the initiative process, the state has a compelling
191 interest in ensuring that no person shall circulate an initiative
192 petition or obtain signatures on an initiative petition unless the
193 person is a resident of this state at the time of circulation.
194 For the purposes of this subsection, the term "resident" means a
195 person who is domiciled in Mississippi as evidenced by an intent
196 to maintain a principal dwelling place in Mississippi indefinitely
197 and to return to Mississippi if temporarily absent, coupled with
198 an act or acts consistent with that intent. Every person who
199 circulates an initiative petition shall print and sign his or her
200 name on each page of an initiative petition, or on a separate page
201 attached to each page, certifying that he or she was a resident of
202 this state at the time of circulating the petition. The Secretary
203 of State shall refuse to accept for filing any page of an
204 initiative petition upon which the signatures appearing thereon
205 were obtained by a person who was not a resident of this state at



206 the time of circulating the petition, and an initiative measure
207 shall not be placed on the ballot if the Secretary of State
208 determines that without such signatures the petition clearly bears
209 an insufficient number of signatures.

210 (22) The Legislature may enact laws to carry out the
211 provisions of this section, but such laws shall in no way restrict
212 or impair the provisions of this section or the exercise of the
213 rights reserved to the people in this section.

214 II.

215 Amend Section 56, Mississippi Constitution of 1890, to read
216 as follows:

217 "Section 56. The style of the laws of the state that are
218 enacted by the Legislature shall be: "Be it enacted by the
219 Legislature of the State of Mississippi."

220 III.

221 Amend Section 61, Mississippi Constitution of 1890, to read
222 as follows:

223 "Section 61. No law enacted by the Legislature or by
224 initiative of the people shall be revived or amended by reference
225 to its title only, but the section or sections, as amended or
226 revived, shall be inserted at length."

227 IV.

228 Amend Section 72, Mississippi Constitution of 1890, to read
229 as follows:



230 "Section 72. Every Bill which shall pass both Houses shall
231 be presented to the Governor of the state. If he approve, he
232 shall sign it; but if he does not approve, he shall return it,
233 with his objections, to the House in which it originated, which
234 shall enter the objections at large upon its Journal, and proceed
235 to reconsider it. If after such reconsideration two-thirds (2/3)
236 of that House shall agree to pass the Bill, it shall be sent, with
237 the objections, to the other House, by which, likewise, it shall
238 be reconsidered; and if approved by two-thirds (2/3) of that
239 House, it shall become a law; but in all such cases the votes of
240 both Houses shall be determined by yeas and nays, and the names of
241 the persons voting for and against the Bill shall be entered on
242 the Journal of each House respectively. If any Bill shall not be
243 returned by the Governor within five (5) days (Sundays excepted)
244 after it has been presented to him, it shall become a law in like
245 manner as if he had signed it, unless the Legislature, by
246 adjournment, prevented its return, in which case such Bill shall
247 be a law unless the Governor shall veto it within fifteen (15)
248 days (Sundays excepted) after it is presented to him, and such
249 Bill shall be returned to the Legislature, with his objections,
250 within three (3) days after the beginning of the next session of
251 the Legislature. The provisions of this section are not
252 applicable to initiative measures approved by the people."

253

V.



254 Amend Section 273, Mississippi Constitution of 1890, to read
255 as follows:

256 "Section 273. * * * Whenever two-thirds (2/3) of each house
257 of the Legislature, which two-thirds (2/3) shall consist of not
258 less than a majority of the members elected to each house, shall
259 deem any change, alteration or amendment necessary to this
260 Constitution, such proposed amendment, change or alteration shall
261 be read and passed by two-thirds (2/3) vote of each house, as
262 herein provided; public notice shall then be given by the
263 Secretary of State at least thirty (30) days preceding an
264 election, at which the qualified electors shall vote directly for
265 or against such change, alteration or amendment, and if more than
266 one (1) amendment shall be submitted at one (1) time, they shall
267 be submitted in such manner and form that the people may vote for
268 or against each amendment separately; and, notwithstanding the
269 division of the Constitution into sections, the Legislature may
270 provide in its resolution for one or more amendments pertaining
271 and relating to the same subject or subject matter, and may
272 provide for one or more amendments to an article of the
273 Constitution pertaining and relating to the same subject or
274 subject matter, which may be included in and voted on as one (1)
275 amendment; and if it shall appear that a majority of the qualified
276 electors voting directly for or against the same shall have voted
277 for the proposed change, alteration or amendment, then it shall be
278 inserted as a part of the Constitution by proclamation of the



279 Secretary of State certifying that it received the majority vote
280 required by the Constitution; and the resolution may fix the date
281 and direct the calling of elections for the purposes hereof.

282 * * *

283 BE IT FURTHER RESOLVED, That these proposed amendments shall
284 be submitted by the Secretary of State to the qualified electors
285 at an election to be held on the first Tuesday after the first
286 Monday of November 2022, as provided by Section 273 of the
287 Constitution and by general law, with the proposed amendments in
288 Sections I, II, III and IV of this resolution being voted on as
289 one amendment since they pertain to one subject, and with the
290 proposed amendment in Section V of this resolution being voted on
291 separately.

292 BE IT FURTHER RESOLVED, That the explanation of this proposed
293 amendment for the ballot shall read as follows: "This proposed
294 constitutional amendment provides that the people have the right
295 to propose new statutes and to amend or repeal existing statutes
296 by initiative, and to approve or reject the same in an election
297 independent of the Legislature."

