

By: Representative Moss

To: Constitution

HOUSE CONCURRENT RESOLUTION NO. 39

1 A CONCURRENT RESOLUTION PROPOSING AMENDMENTS TO THE
 2 MISSISSIPPI CONSTITUTION OF 1890, TO CREATE A NEW SECTION TO
 3 REQUIRE LAWS TO BE PASSED PROVIDING FOR CONSERVATION OF FISH AND
 4 WILDLIFE; TO PROVIDE THAT SUCH LAWS SHALL PROTECT THE POPULATION
 5 OF WILDLIFE SPECIES; TO PROVIDE THAT SUCH LAWS SHALL NOT BE VALID
 6 UNLESS ENACTED BY THE LEGISLATURE; AND THAT REGULATIONS
 7 PROMULGATED PURSUANT TO SUCH LAWS SHALL NOT BE VALID UNLESS
 8 ADOPTED BY AN AGENCY AS PRESCRIBED BY LAW THAT SPECIALIZES IN
 9 WILDLIFE MANAGEMENT; TO AMEND SECTION 273, MISSISSIPPI
 10 CONSTITUTION OF 1890, TO PROVIDE THAT THE INITIATIVE PROCESS FOR
 11 AMENDING THE CONSTITUTION SHALL NOT BE USED TO PERMIT, LIMIT OR
 12 PROHIBIT THE TAKING OF ANY SPECIES OF FISH AND WILDLIFE; AND FOR
 13 RELATED PURPOSES.

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

18 I.

19 Amend the Mississippi Constitution of 1890, by creating a new
 20 section to read as follows:

21 "Section ____ . The State of Mississippi's fish and wildlife
 22 belong to the people and shall be utilized and maintained on a
 23 sustained yield basis. The Legislature shall pass laws to provide
 24 for the conservation of the fish and wildlife resources of the
 25 state, including laws to empower an agency specializing in the
 26 study, protection, use and scientific management of fish and
 27 wildlife and their habitat. Such laws, and such agency, may not
 28 permit any taking which will reduce the population of any species
 29 authorized for taking as a game species below that level essential
 30 to its continued health and existence. No laws or regulations
 31 which permit, limit or prohibit the taking of any species of fish
 32 and wildlife, are valid except laws enacted by the Legislature and



33 regulations adopted by the agency specializing in the study,
34 protection, use and scientific management of fish and wildlife and
35 their habitat."

36 II.

37 Amend Section 273, Mississippi Constitution of 1890, to read
38 as follows:

39 "Section 273. (1) Amendments to this Constitution may be
40 proposed by the Legislature or by initiative of the people.

41 (2) Whenever two-thirds (2/3) of each house of the
42 Legislature, which two-thirds (2/3) shall consist of not less than
43 a majority of the members elected to each house, shall deem any
44 change, alteration or amendment necessary to this Constitution,
45 such proposed amendment, change or alteration shall be read and
46 passed by two-thirds (2/3) vote of each house, as herein provided;
47 public notice shall then be given by the Secretary of State at
48 least thirty (30) days preceding an election, at which the
49 qualified electors shall vote directly for or against such change,
50 alteration or amendment, and if more than one (1) amendment shall
51 be submitted at one (1) time, they shall be submitted in such
52 manner and form that the people may vote for or against each
53 amendment separately; and, notwithstanding the division of the
54 Constitution into sections, the Legislature may provide in its
55 resolution for one or more amendments pertaining and relating to
56 the same subject or subject matter, and may provide for one or
57 more amendments to an article of the Constitution pertaining and
58 relating to the same subject or subject matter, which may be
59 included in and voted on as one (1) amendment; and if it shall
60 appear that a majority of the qualified electors voting directly
61 for or against the same shall have voted for the proposed change,
62 alteration or amendment, then it shall be inserted as a part of
63 the Constitution by proclamation of the Secretary of State
64 certifying that it received the majority vote required by the



65 Constitution; and the resolution may fix the date and direct the
66 calling of elections for the purposes hereof.

67 (3) The people reserve unto themselves the power to propose
68 and enact constitutional amendments by initiative. An initiative
69 to amend the Constitution may be proposed by a petition signed
70 over a twelve-month period by qualified electors equal in number
71 to at least twelve percent (12%) of the votes for all candidates
72 for Governor in the last gubernatorial election. The signatures
73 of the qualified electors from any congressional district shall
74 not exceed one-fifth (1/5) of the total number of signatures
75 required to qualify an initiative petition for placement upon the
76 ballot. If an initiative petition contains signatures from a
77 single congressional district which exceed one-fifth (1/5) of the
78 total number of required signatures, the excess number of
79 signatures from that congressional district shall not be
80 considered by the Secretary of State in determining whether the
81 petition qualifies for placement on the ballot.

82 (4) The sponsor of an initiative shall identify in the text
83 of the initiative the amount and source of revenue required to
84 implement the initiative. If the initiative requires a reduction
85 in any source of government revenue, or a reallocation of funding
86 from currently funded programs, the sponsor shall identify in the
87 text of the initiative the program or programs whose funding must
88 be reduced or eliminated to implement the initiative. Compliance
89 with this requirement shall not be a violation of the subject
90 matter requirements of this section of the Constitution.

91 (5) The initiative process shall not be used:

92 (a) For the proposal, modification or repeal of any
93 portion of the Bill of Rights of this Constitution;

94 (b) To amend or repeal any law or any provision of the
95 Constitution relating to the Mississippi Public Employees'
96 Retirement System;



97 (c) To amend or repeal the constitutional guarantee
98 that the right of any person to work shall not be denied or
99 abridged on account of membership or nonmembership in any labor
100 union or organization; * * *

101 (d) To modify the initiative process for proposing
102 amendments to this Constitution; or

103 (e) To amend or repeal the Constitution to permit,
104 limit or prohibit the taking of any species of fish or wildlife.

105 (6) The Secretary of State shall file with the Clerk of the
106 House and the Secretary of the Senate the complete text of the
107 certified initiative on the first day of the regular session. A
108 constitutional initiative may be adopted by a majority vote of
109 each house of the Legislature. If the initiative is adopted,
110 amended or rejected by the Legislature; or if no action is taken
111 within four (4) months of the date that the initiative is filed
112 with the Legislature, the Secretary of State shall place the
113 initiative on the ballot for the next statewide general election.

114 The chief legislative budget officer shall prepare a fiscal
115 analysis of each initiative and each legislative alternative. A
116 summary of each fiscal analysis shall appear on the ballot.

117 (7) If the Legislature amends an initiative, the amended
118 version and the original initiative shall be submitted to the
119 electors. An initiative or legislative alternative must receive a
120 majority of the votes thereon and not less than forty percent
121 (40%) of the total votes cast at the election at which the measure
122 was submitted to be approved. If conflicting initiatives or
123 legislative alternatives are approved at the same election, the
124 initiative or legislative alternative receiving the highest number
125 of affirmative votes shall prevail.

126 (8) If an initiative measure proposed to the Legislature has
127 been rejected by the Legislature and an alternative measure is
128 passed by the Legislature in lieu thereof, the ballot titles of
129 both such measures shall be so printed on the official ballots



130 that a voter can express separately two (2) preferences: First,
131 by voting for the approval of either measure or against both
132 measures, and, secondly, by voting for one measure or the other
133 measure. If the majority of those voting on the first issue is
134 against both measures, then both measures fail, but in that case
135 the votes on the second issue nevertheless shall be carefully
136 counted and made public. If a majority voting on the first issue
137 is for the approval of either measure, then the measure receiving
138 a majority of the votes on the second issue and also receiving not
139 less than forty percent (40%) of the total votes cast at the
140 election at which the measure was submitted for approval shall be
141 law. Any person who votes for the ratification of either measure
142 on the first issue must vote for one (1) of the measures on the
143 second issue in order for the ballot to be valid. Any person who
144 votes against both measures on the first issue may vote but shall
145 not be required to vote for any of the measures on the second
146 issue in order for the ballot to be valid. Substantially the
147 following form shall be a compliance with this subsection:

148 INITIATED BY PETITION AND ALTERNATIVE
149 BY LEGISLATURE

150 Initiative Measure No. _____, entitled (here insert the
151 ballot title of the initiative measure).

152 Alternative Measure No. _____A, entitled (here insert the
153 ballot title of the alternative measure).

154 VOTE FOR APPROVAL OF EITHER, OR AGAINST BOTH:

155 FOR APPROVAL OF EITHER Initiative No. _____

156 OR Alternative No. _____A ()

157 AGAINST Both Initiative No. _____

158 AND Alternative No. _____A ()

159 AND VOTE FOR ONE:

160 FOR Initiative Measure No. _____ ()

161 FOR Alternative Measure No. _____A ()



162 (9) No more than five (5) initiative proposals shall be
163 submitted to the voters on a single ballot, and the first five (5)
164 initiative proposals submitted to the Secretary of State with
165 sufficient petitions shall be the proposals which are submitted to
166 the voters. The sufficiency of petitions shall be decided in the
167 first instance by the Secretary of State, subject to review by the
168 Supreme Court of the state, which shall have original and
169 exclusive jurisdiction over all such cases.

170 (10) An initiative approved by the electors shall take
171 effect thirty (30) days from the date of the official declaration
172 of the vote by the Secretary of State, unless the measure provides
173 otherwise.

174 (11) If any amendment to the Constitution proposed by
175 initiative petition is rejected by a majority of the qualified
176 electors voting thereon, no initiative petition proposing the
177 same, or substantially the same, amendment shall be submitted to
178 the electors for at least two (2) years after the date of the
179 election on such amendment.

180 (12) The Legislature shall provide by law the manner in
181 which initiative petitions shall be circulated, presented and
182 certified. To prevent signature fraud and to maintain the
183 integrity of the initiative process the state has a compelling
184 interest in insuring that no person shall circulate an initiative
185 petition or obtain signatures on an initiative petition unless the
186 person is a resident of this state at the time of circulation.
187 For the purposes of this subsection the term "resident" means a
188 person who is domiciled in Mississippi as evidenced by an intent
189 to maintain a principal dwelling place in Mississippi indefinitely
190 and to return to Mississippi if temporarily absent, coupled with
191 an act or acts consistent with that intent. Every person who
192 circulates an initiative petition shall print and sign his name on
193 each page of an initiative petition, or on a separate page
194 attached to each page, certifying that he was a resident of this



195 state at the time of circulating the petition. The Secretary of
196 State shall refuse to accept for filing any page of an initiative
197 petition upon which the signatures appearing thereon were obtained
198 by a person who was not a resident of this state at the time of
199 circulating the petition, and an initiative measure shall not be
200 placed on the ballot if the Secretary of State determines that
201 without such signatures the petition clearly bears an insufficient
202 number of signatures. The provisions of this subsection (12)
203 shall be applicable to all initiative measures that have not been
204 placed on the ballot at the time this proposed amendment is
205 ratified by the electorate.

206 (13) The Legislature may enact laws to carry out the
207 provisions of this section but shall in no way restrict or impair
208 the provisions of this section or the powers herein reserved to
209 the people."

210 BE IT FURTHER RESOLVED, That these proposed amendments shall
211 be submitted by the Secretary of State to the qualified electors
212 at an election to be held on the first Tuesday after the first
213 Monday of November 2002, as provided by Section 273 of the
214 Constitution and by general law, with the amendments in this
215 resolution being voted on as one (1) amendment since the proposed
216 amendments pertain to one (1) subject.

217 BE IT FURTHER RESOLVED, That the explanation of this proposed
218 amendment for the ballot shall read as follows: "This proposed
219 constitutional amendment creates a new section of the Constitution
220 to require laws to be passed providing for conservation and
221 protection of fish and wildlife. The amendment also provides that
222 the initiative process, which is available for citizens to propose
223 constitutional amendments by petition, shall not be used to
224 permit, limit or prohibit the taking of any species of fish and
225 wildlife."

