

By: Representatives McBride, Mayo

To: Constitution

HOUSE CONCURRENT RESOLUTION NO. 36

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:

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 2003, 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.

