

By: Senator(s) Little, Robertson

To: Constitution

SENATE CONCURRENT RESOLUTION NO. 523

1 A CONCURRENT RESOLUTION PROPOSING AN AMENDMENT TO SECTION
 2 145, MISSISSIPPI CONSTITUTION OF 1890, TO AUTHORIZE THE
 3 LEGISLATURE TO PROVIDE FOR MORE EXPEDITIOUSLY STAGGERED TERMS AND
 4 ELECTIONS FOR THE SUPREME COURT; TO INCORPORATE NECESSARY
 5 PROVISIONS OF SECTIONS PROPOSED FOR REPEAL IN ORDER TO CONSOLIDATE
 6 THE PROVISIONS; TO REPEAL SECTIONS 145A AND 145B, MISSISSIPPI
 7 CONSTITUTION OF 1890, WHICH PROVIDE FOR ADDITIONAL SUPREME COURT
 8 JUDGES; TO REPEAL SECTION 177, MISSISSIPPI CONSTITUTION OF 1890,
 9 WHICH PROVIDES FOR THE FILLING OF A JUDICIAL VACANCY WHEN THE
 10 LEGISLATURE IS NOT IN SESSION; TO REPEAL SECTIONS 149 AND 149A,
 11 MISSISSIPPI CONSTITUTION OF 1890, WHICH PROVIDE FOR THE TERMS OF
 12 OFFICE OF JUDGES OF THE SUPREME COURT AND AUTHORIZE THE COURT TO
 13 SIT IN DIVISIONS; AND FOR 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 be submitted to the qualified electors of the
 17 state:

18 I.

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

21 "Section 145. (1) (a) The Supreme Court shall consist of
 22 nine (9) judges, any five (5) of whom, when convened, shall
 23 constitute a quorum. The term of office of judges of the Supreme
 24 Court shall be eight (8) years. The Legislature shall divide the
 25 state into three (3) Supreme Court districts, and there shall be
 26 elected three (3) judges for and from each district by the
 27 qualified electors thereof at a time and in the manner provided by
 28 law.

29 (b) * * * The removal of a judge to the state capital
 30 during his term of office shall not render him ineligible as his
 31 own successor for the district from which he has removed. * * *

65 "Section 145-B. The Supreme Court shall consist of nine
66 judges, that is to say, of three judges in addition to the six
67 provided for by section 145A of this Constitution, any five of
68 whom when convened shall constitute a quorum. The additional
69 judges herein provided for shall be selected one for and from each
70 of the supreme court districts in the manner provided by section
71 145A of this Constitution or any amendment thereto. Their terms
72 of office shall be as provided by section 149 of this Constitution
73 or any amendment thereto."

74 IV.

75 Repeal Section 149, Mississippi Constitution of 1890, which
76 reads as follows:

77 "Section 149. The term of office of the judges of the
78 Supreme Court shall be eight (8) years. The legislature shall
79 provide as near as can be conveniently done that the offices of
80 not more than a majority of the judges of said court shall become
81 vacant at any one time; and if necessary for the accomplishment of
82 that purpose, it shall have power to provide that the terms of
83 office of some of the judges first to be elected shall expire in
84 less than eight years. The adoption of this amendment shall not
85 abridge the terms of any of the present incumbents of the office
86 of judge of the Supreme Court; but they shall continue to hold
87 their respective offices until the expiration of the terms for
88 which they were respectively appointed."

89 V.

90 Repeal Section 149-A, Mississippi Constitution of 1890, which
91 reads as follows:

92 "Section 149-A. The Supreme Court shall have power, under
93 such rules and regulations as it may adopt, to sit in two
94 divisions of three judges each, any two of whom when convened
95 shall form a quorum; each division shall have full power to hear
96 and adjudge all cases that may be assigned to it by the court. In
97 event the judges composing any division shall differ as to the

98 judgment to be rendered in any cause, or in event any judge of
99 either division, within a time and in a manner to be fixed by the
100 rules to be adopted by the court, shall certify that in his
101 opinion any decision of any division of the court is in conflict
102 with any prior decision of the court or of any division thereof,
103 the cause shall then be considered and adjudged by the full court
104 or a quorum thereof."

105 V.

106 Repeal Section 177, Mississippi Constitution of 1890, which
107 reads as follows:

108 "Section 177. The governor shall have power to fill any
109 vacancy which may happen during the recess of the senate in the
110 office of judge or chancellor, by making a temporary appointment
111 of an incumbent, which shall expire at the end of the next session
112 of the senate, unless a successor shall be sooner appointed and
113 confirmed by the senate. When a temporary appointment of a judge
114 or chancellor has been made during the recess of the senate, the
115 governor shall have no power to remove the person or appointee,
116 nor power to withhold his name from the senate for their action."

117 BE IT FURTHER RESOLVED, That the amendments in this
118 resolution shall be submitted to the qualified electors as one
119 amendment since the proposed amendments pertain to one subject at
120 an election to be held on the first Tuesday after the first Monday
121 of November 2004, as provided by Section 273 of the Constitution
122 and by law.

123 BE IT FURTHER RESOLVED, That the explanation of the amendment
124 for the ballot shall read as follows: "This proposed
125 constitutional amendment provides that the Legislature may extend
126 the terms of some of the Supreme Court judges in order to spread
127 out the occurrence of vacancies and to ensure that the election
128 for each position will occur in the November preceding the
129 expiration of that term.

130 Sections which increased the size of the court, provided for
131 the term of office to be eight (8) years, and authorized the
132 hearing of cases in divisions are repealed, because the substance
133 of these sections is included in the proposed amendment.

134 Section 177, which provided for the filling of a judicial
135 vacancy when the Legislature is out of session at a time when
136 judges were all appointed rather than elected, is repealed because
137 it dealt with the filling of vacancies on the Supreme Court at the
138 time before those judges were not elected."

139 BE IT FURTHER RESOLVED, That the Attorney General of the
140 State of Mississippi shall submit this resolution, immediately
141 upon adoption by the Legislature, to the Attorney General of the
142 United States or to the United States District Court for the
143 District of Columbia, in accordance with the provisions of the
144 Voting Rights Act of 1965, as amended and extended.