

1 SB465
2 138516-3
3 By Senator Waggoner (Constitutional Amendment)
4 RFD: Judiciary
5 First Read: 05-APR-12

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8 SYNOPSIS: Under existing law, the nine appointed
9 member Judicial Inquiry Commission may file
10 complaints against a judge for a violation of any
11 canon of judicial ethics or misconduct and the nine
12 appointed member Court of the Judiciary would hear
13 the complaint with an appeal of its decision to the
14 Supreme Court. Also under existing law, the
15 Judicial Inquiry Commission members serve a
16 four-year term with no term limits, and the members
17 of the Court of the Judiciary serve an unlimited
18 term.

19 This bill would propose an amendment to the
20 Constitution of Alabama of 1901, to specify that
21 the appointed members of the Judicial Inquiry
22 Commission and the Court of the Judiciary would
23 serve four-year terms and no member would serve
24 more than two consecutive terms.

25
26 A BILL

1 TO BE ENTITLED

2 AN ACT

3
4 To propose an amendment to Section 6.17 and Section
5 6.18 of Amendment No. 581 of the Constitution of Alabama of
6 1901, to specify terms and term limits for the members of the
7 Judicial Inquiry Commission and the Court of the Judiciary.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

9 Section 1. The following amendment to the
10 Constitution of Alabama of 1901, as amended, is proposed and
11 shall become valid as a part thereof when approved by a
12 majority of the qualified electors voting thereon and in
13 accordance with Sections 284, 285, and 287 of the Constitution
14 of Alabama of 1901, as amended:

15 PROPOSED AMENDMENT

16 Section 6.17 and Section 6.18 of Amendment No. 581
17 of the Constitution of Alabama of 1901, are amended to read as
18 follows:

19 "6.17. Judicial Inquiry Commission.

20 "(a) A Judicial Inquiry Commission is created
21 consisting of nine members. The Supreme Court shall appoint
22 one appellate judge who shall not be a Justice on the Supreme
23 Court; the Circuit Judges' Association shall appoint two
24 judges of the circuit court; the Governor shall appoint three
25 persons who are not lawyers, who shall be subject to Senate
26 confirmation before serving; the Lieutenant Governor shall

1 appoint one district judge who shall be subject to Senate
2 confirmation; and the governing body of the Alabama State Bar
3 shall appoint two members of the state bar to serve as members
4 of the commission. Provided, however, that on January 1, 2005,
5 the appointment authority granted to the Lieutenant Governor
6 shall revert to the Governor and the Governor shall thereafter
7 be entitled to appoint three persons who are not lawyers and
8 one district judge, all subject to Senate confirmation. The
9 commission shall select its own chair. The terms of the
10 members of the commission shall be four years. A vacancy on
11 the commission shall be filled for a full term in the manner
12 the original appointment was made. No person shall serve more
13 than two consecutive terms regardless of the appointing
14 authority. Any member currently serving who has served two or
15 more consecutive terms at the time of ratification of this
16 amendment to this section shall not be eligible for
17 reappointment at the end of his or her current term. Any
18 member currently serving by virtue of his or her judicial
19 position as a member of an appellate, circuit, or district
20 court who vacates that judicial position is deemed to have
21 resigned from the commission and a new member shall be
22 appointed by the appropriate appointing authority.

23 " (b) The commission shall be convened permanently
24 with authority to conduct investigations and receive or
25 initiate complaints concerning any judge of a court of the
26 judicial system of this state. The commission shall file a

1 complaint with the Court of the Judiciary in the event that a
2 majority of the members of the commission decide that a
3 reasonable basis exists, (1) to charge a judge with violation
4 of any Canon of Judicial Ethics, misconduct in office, failure
5 to perform his or her duties, or (2) to charge that the judge
6 is physically or mentally unable to perform his or her duties.
7 All proceedings of the commission shall be confidential except
8 the filing of a complaint with the Court of the Judiciary. The
9 commission shall prosecute the complaints.

10 "(c) The Supreme Court shall adopt rules governing
11 the procedures of the commission.

12 "(d) The commission shall have subpoena power and
13 authority to appoint and direct its staff. Members of the
14 commission who are not judges shall receive per diem
15 compensation and necessary expenses; members who are judges
16 shall receive necessary expenses only. The Legislature shall
17 appropriate funds for the operation of the commission

18 "Sec. 6.18. Court of the Judiciary.

19 "(a) The Court of the Judiciary is created
20 consisting of one judge of an appellate court, other than the
21 Supreme Court, who shall be selected by the Supreme Court and
22 shall serve as Chief Judge of the Court of the Judiciary; two
23 judges of the circuit court, who shall be selected by the
24 Circuit Judges' Association; and one district judge who shall
25 be selected by the District Judges' Association. Other members
26 of the Court of the Judiciary shall consist of two members of

1 the state bar, who shall be selected by the governing body of
2 the Alabama State Bar; two persons who are not lawyers who
3 shall be appointed by the Governor; and one person appointed
4 by the Lieutenant Governor. Members appointed by the Governor
5 and Lieutenant Governor shall be subject to Senate
6 confirmation before serving. Provided, however, that on
7 January 1, 2005, the appointment authority granted to the
8 Lieutenant Governor shall revert to the Governor and the
9 Governor shall thereafter be entitled to appoint three persons
10 who are not lawyers, subject to Senate confirmation. The terms
11 of the members shall be four years. Terms of office for all
12 members of the court shall begin January 1, 2013, and each
13 four years thereafter, and shall expire December 31, 2017, and
14 each four years thereafter. No person shall serve more than
15 two consecutive terms. Any member of the court who, as of
16 January 1, 2013, has already served four or more years shall
17 not be eligible for reappointment to a new term regardless of
18 the appointing authority. Any member currently serving by
19 virtue of his or her judicial position as a member of an
20 appellate, circuit, or district court who vacates that
21 judicial position is deemed to have resigned from the court
22 and a new member shall be appointed by the appropriate
23 appointing authority.

24 "(b) The court shall be convened to hear complaints
25 filed by the Judicial Inquiry Commission. The court shall have
26 authority, after notice and public hearing (1) to remove from

1 office, suspend without pay, or censure a judge, or apply such
2 other sanction as may prescribed by law, for violation of a
3 Canon of Judicial Ethics, misconduct in office, failure to
4 perform his or her duties, or (2) to suspend with or without
5 pay, or to retire a judge who is physically or mentally unable
6 to perform his or her duties.

7 "~~(b)~~ (c) A judge aggrieved by a decision of the Court
8 of the Judiciary may appeal to the Supreme Court. The Supreme
9 Court shall review the record of the proceedings on the law
10 and the facts.

11 "~~(c)~~ (d) The Supreme Court shall adopt rules
12 governing the procedures of the Court of the Judiciary.

13 "~~(d)~~ (e) The Court of the Judiciary shall have power
14 to issue subpoenas. The Legislature shall provide by law for
15 the expenses of the court."

16 Section 2. An election upon the proposed amendment
17 shall be held in accordance with Sections 284 and 285 of the
18 Constitution of Alabama of 1901, now appearing as Sections 284
19 and 285 of the Official Recompilation of the Constitution of
20 Alabama of 1901, as amended, and the election laws of this
21 state.

22 Section 3. The appropriate election official shall
23 assign a ballot number for the proposed constitutional
24 amendment on the election ballot and shall set forth the
25 following description of the substance or subject matter of
26 the proposed constitutional amendment:

1 "Proposing an amendment to the Constitution of
2 Alabama of 1901, to amend Sections 6.17 and 6.18 of Amendment
3 No. 581 to specify that the appointed members of the Judicial
4 Inquiry Commission and the Court of the Judiciary would serve
5 four-year terms and no member would serve more than two
6 consecutive terms.

7 "Proposed by Act _____."

8 This description shall be followed by the following
9 language:

10 "Yes () No ()."