

1 HB576
2 186113-1
3 By Representatives Mooney, Ainsworth, Butler, Williams (JW),
4 Holmes (M), Greer, Hanes, Whorton (R), Wadsworth, Wingo and
5 Moore (B) (Constitutional Amendment)
6 RFD: Constitution, Campaigns and Elections
7 First Read: 27-APR-17

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8 SYNOPSIS: Under Article VI, Sections 156 and 157 of
9 the Official ReCompilation of the Constitution of
10 Alabama of 1901, as amended, the Judicial Inquiry
11 Commission is created to investigate and receive or
12 initiate complaints relating to any judge in the
13 state, and the Court of the Judiciary is created to
14 hear complaints filed by the Judicial Inquiry
15 Commission. A judge aggrieved by a decision of the
16 Court of the Judiciary may appeal the decision to
17 the Supreme Court of Alabama.

18 This bill would propose an amendment to the
19 Constitution of Alabama of 1901, to revise the
20 membership of the Judicial Inquiry Commission and
21 the Court of the Judiciary, to subject all Judicial
22 Inquiry Commission and Court of the Judiciary
23 appointees to confirmation by the Senate, to limit
24 and stagger the terms served by the appointees, and
25 to require legislative approval of decisions by the
26 Court of the Judiciary removing certain justices or
27 judges from office.

1 Under Article VI, Section 159 of the
2 Official Recompilation of the Constitution of
3 Alabama of 1901, as amended, a judge is
4 disqualified from acting as judge when a complaint
5 has been filed against him or her by the Judicial
6 Inquiry Commission with the Court of the Judiciary.

7 This bill would propose an amendment to the
8 Constitution of Alabama of 1901, to delete this
9 provision.

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11 A BILL
12 TO BE ENTITLED
13 AN ACT
14

15 To amend Sections 6.17, 6.18, and 6.19, as added by
16 Amendment 328, as amended by Amendment 581 to the Constitution
17 of Alabama of 1901, now appearing as Sections 156, 157, and
18 159 of the Official Recompilation of the Constitution of
19 Alabama of 1901, as amended, to revise the membership of the
20 Judicial Inquiry Commission and the Court of the Judiciary; to
21 subject all Judicial Inquiry Commission and Court of the
22 Judiciary appointees to confirmation by the Senate; to limit
23 and stagger the terms served by the appointees; to require
24 legislative approval of decisions by the Court of the
25 Judiciary removing Justices of the Supreme Court and judges of
26 the appellate courts from office; and to delete the provision
27 disqualifying a judge from acting as judge upon the filing of

1 a complaint against him or her by the Judicial Inquiry
2 Commission with the Court of the Judiciary.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

10 PROPOSED AMENDMENT

11 "Section 156.

12 "(a) A Judicial Inquiry Commission is created
13 consisting of nine members. The Supreme Court shall appoint
14 one appellate judge who shall not be a Justice on the Supreme
15 Court; the Circuit Judges' Association shall appoint two
16 judges of the circuit court; the Alabama Probate Judges
17 Association shall appoint one probate judge who is learned in
18 the law; the Governor shall appoint ~~three~~ two persons who are
19 not lawyers, ~~who shall be subject to Senate confirmation~~
20 ~~before serving~~ and a district court judge; ~~the Lieutenant~~
21 ~~Governor shall appoint one district judge who shall be subject~~
22 ~~to Senate confirmation;~~ and the governing body of the Alabama
23 State Bar shall appoint two members of the state bar to serve
24 as members of the commission. ~~Provided, however, that on~~
25 ~~January 1, 2005, the appointment authority granted to the~~
26 ~~Lieutenant Governor shall revert to the Governor and the~~
27 ~~Governor shall thereafter be entitled to appoint three persons~~

1 ~~who are not lawyers and one district judge, all subject to~~
2 ~~Senate confirmation. All members of the commission are subject~~
3 ~~to confirmation by the Senate.~~ The commission shall select its
4 own chair. Upon the date of ratification of this amendment,
5 the term of the existing commission members shall end and
6 appointments shall be made as provided in this amendment for
7 an initial term as follows: (1) The appellate judge and the
8 two circuit court judges shall serve for a term of four years;
9 (2) The district court judge, the probate judge, and the two
10 members appointed by the Governor shall serve a term of three
11 years; and (3) The two members appointed by the Alabama State
12 Bar shall serve for a term of two years. Initial appointees
13 shall immediately begin service on the commission until
14 confirmation or rejection by the Senate. After service of the
15 initial term, the terms of the members of the commission shall
16 be four years, and a member may not serve more than three
17 terms including the initial term. The terms of the members of
18 the commission shall be four years. A vacancy on the
19 commission shall be filled for a full term in the manner the
20 original appointment was made.

21 " (b) The commission shall be convened permanently
22 with authority to conduct investigations and receive or
23 initiate complaints concerning any judge of a court of the
24 judicial system of this state. The commission shall file a
25 complaint with the Court of the Judiciary in the event that a
26 majority of the members of the commission decide that a
27 reasonable basis exists, (1) to charge a judge with violation

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

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

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

15 "Section 157.

16 "(a) The Court of the Judiciary is created
17 consisting of one judge of an appellate court, other than the
18 Supreme Court, who shall be selected by the Supreme Court and
19 shall serve as Chief Judge of the Court of the Judiciary; two
20 judges of the circuit court, who shall be selected by the
21 Circuit Judges' Association; ~~and~~ one district judge who shall
22 be selected by the District Judges' Association, and one
23 probate judge who is learned in the law who shall be appointed
24 by the Alabama Probate Judges Association. Other members of
25 the Court of the Judiciary shall consist of two members of the
26 state bar, who shall be selected by the governing body of the
27 Alabama State Bar; two persons who are not lawyers who shall

1 be appointed by the Governor; and one person appointed by the
2 Lieutenant Governor. ~~Members appointed by the Governor and~~
3 ~~Lieutenant Governor~~ All members shall be subject to Senate
4 confirmation before serving. Provided, however, that on
5 January 1, 2005, the appointment authority granted to the
6 Lieutenant Governor shall revert to the Governor and the
7 Governor shall thereafter be entitled to appoint three persons
8 who are not lawyers, ~~subject to Senate confirmation.~~ Upon the
9 date of ratification of this amendment, the term of the
10 existing members shall end and appointments shall be made as
11 provided in this amendment for an initial term as follows: (1)
12 The appellate judge, the two circuit court judges, and the
13 district court judge, shall serve for a term of four years;
14 (2) The probate judge and the two members of the state bar
15 shall serve a term of three years; and (3) The two members
16 appointed by the Governor and the one member appointed by the
17 Lieutenant Governor shall serve a term of two years. Initial
18 appointees shall immediately begin service until confirmation
19 or rejection by the Senate. After service of the initial term,
20 the terms of the members shall be four years, and a member may
21 not serve more than three terms including the initial term.
22 The court shall be convened to hear complaints filed by the
23 Judicial Inquiry Commission. The court shall have authority,
24 after notice and public hearing (1) to remove from office,
25 suspend without pay, or censure a judge, or apply such other
26 sanction as may prescribed by law, for violation of a Canon of
27 Judicial Ethics, misconduct in office, failure to perform his

1 or her duties, or (2) to suspend with or without pay, or to
2 retire a judge who is physically or mentally unable to perform
3 his or her duties.

4 "(b) (1) ~~A~~ Except as provided in subdivision (2), a
5 judge aggrieved by a decision of the Court of the Judiciary
6 may appeal to the Supreme Court. The Supreme Court shall
7 review the record of the proceedings on the law and the facts.

8 "(2)a. In the event the Court of the Judiciary
9 decides to remove a Justice of the Supreme Court or judge of
10 an appellate court from office, the question of removal shall
11 be transmitted automatically to the Legislature for final
12 determination. Upon the third legislative day after submission
13 during a regular session, a final determination of the
14 Legislature under this subdivision shall commence and
15 thereafter continue as the first order of business, from
16 day-to-day, until all voting on the matter is completed.

17 "b. If two-thirds of the members elected to each
18 house of the Legislature vote to affirm the decision of the
19 Court of the Judiciary to remove the Justice or judge from
20 office, the Justice or judge shall then be removed from
21 office.

22 "c. If the Legislature is not in session when the
23 decision of the Court of the Judiciary is made, consideration
24 of the decision of the Court of the Judiciary shall commence
25 on the third legislative day of the succeeding Regular or
26 Special Session and thereafter continue as the first order of

1 business, from day-to-day, until all voting on the matter is
2 completed.

3 "d. The Legislature may adopt rules of procedure to
4 implement this section.

5 "(c) The Supreme Court shall adopt rules governing
6 the procedures of the Court of the Judiciary.

7 "(d) The Court of the Judiciary shall have power to
8 issue subpoenas. The Legislature shall provide by law for the
9 expenses of the court.

10 "Section 159.

11 "A judge shall be disqualified from acting as a
12 judge, without loss of salary, while there is pending ~~(1)~~ an
13 indictment or an information charging him or her in the United
14 States with a crime punishable as a felony under a state or
15 federal law, ~~or (2) a complaint against him filed by the~~
16 ~~judicial inquiry commission with the court of the judiciary.~~
17 If, in the opinion of the Judicial Inquiry Commission, a
18 judge, who is not under indictment or information for a felony
19 under state or federal law, has committed a violation of the
20 Canons of Judicial Ethics rising to the level of threatening,
21 unwarranted harm to the person or property of a person or
22 persons, the Judicial Inquiry Commission, may disqualify the
23 judge without loss of pay for 30 days and file a motion to
24 extend the disqualification until the Court of the Judiciary
25 has ruled on the charges against the judge. The Court of the
26 Judiciary shall review the basis for the motion and either
27 grant or deny the motion within 30 days."

1 Section 2. An election upon the proposed amendment
2 shall be held in accordance with Sections 284 and 285 of the
3 Constitution of Alabama of 1901, now appearing as Sections 284
4 and 285 of the Official Recompilation of the Constitution of
5 Alabama of 1901, as amended, and the election laws of this
6 state.

7 Section 3. The appropriate election official shall
8 assign a ballot number for the proposed constitutional
9 amendment on the election ballot and shall set forth the
10 following description of the substance or subject matter of
11 the proposed constitutional amendment:

12 "Proposing an amendment to the Constitution of
13 Alabama of 1901, to revise the membership of the Judicial
14 Inquiry Commission and the Court of the Judiciary; to subject
15 all Judicial Inquiry Commission and Court of the Judiciary
16 appointees to confirmation by the Senate; to limit and stagger
17 the terms served by the appointees; to require legislative
18 approval of decisions by the Court of the Judiciary removing
19 Justices of the Supreme Court and judges of the appellate
20 courts from office; and to delete the provision disqualifying
21 a judge from acting as judge upon the filing of a complaint
22 against him or her by the Judicial Inquiry Commission with the
23 Court of the Judiciary.

24 "Proposed by Act _____."

25 This description shall be followed by the following
26 language:

27 "Yes () No ()."

