

1 HB431
2 175266-1
3 By Representative Sessions (Constitutional Amendment)
4 RFD: Mobile County Legislation
5 First Read: 17-MAR-16

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8 SYNOPSIS: Under existing law, generally, vacancies in
9 judicial office are filled by appointment by the
10 Governor and the appointee holds office until the
11 first Monday after the second Tuesday in January
12 following the first general election held more than
13 one year after the appointee takes office.

14 Notwithstanding the general provision,
15 vacancies in the Office of Circuit Court Judge and
16 District Court Judge in Mobile County, are filled
17 by the Governor based on nominations made by the
18 Mobile County Judicial Commission and the appointee
19 holds office until the next general election for
20 any state officer held at least six months after
21 the vacancy occurs. Thereafter, a successor is
22 elected for the remainder of the unexpired term of
23 the original judgeship.

24 This bill would propose an amendment to
25 Amendment 408 of the Constitution of Alabama of
26 1901, now appearing as Local Amendments, Mobile
27 County, Section 16, of the Official ReCompilation

1 of the Constitution of Alabama of 1901, as amended,
2 specifying that when a vacancy in the office of
3 circuit or district judge in Mobile County is
4 filled by an appointment, the term of office of the
5 appointed judge would be the same as for judicial
6 vacancies generally.

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8 A BILL
9 TO BE ENTITLED
10 AN ACT

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12 Relating to Mobile County; to propose an amendment
13 to Amendment 408 of the Constitution of Alabama of 1901, now
14 appearing as Local Amendments, Mobile County, Section 16, of
15 the Official Recompilation of the Constitution of Alabama of
16 1901, as amended; to revise the term of office of a circuit
17 court judge or district court judge appointed to fill a
18 vacancy in Mobile County so that the term will correspond to
19 the general provisions of Section 153 of the Constitution.
20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. The following amendment to the
22 Constitution of Alabama of 1901, is proposed and shall become
23 valid as a part of the Constitution when all requirements of
24 this act are fulfilled:

25 PROPOSED AMENDMENT

26 Amendment 408 to the Constitution of Alabama of
27 1901, now appearing as Local Amendments, Mobile County,

1 Section 16, of the Official Recompilation of the Constitution
2 of Alabama of 1901, as amended, to read as follows:

3 "Amendment 408.

4 "All vacancies in the office of judge of the circuit
5 court and the office of judge of the district court of Mobile
6 county which shall occur subsequent to January 15, 1982, shall
7 be filled in the manner and for the time as herein provided.

8 "The Mobile county judicial commission is hereby
9 created for the purpose of nominating to the governor persons
10 for appointment to such a vacancy. The members of such
11 commission shall be (a) two persons who are members of the
12 Alabama state bar, and (b) two persons who are not members of
13 the Alabama state bar, and (c) one judge of the circuit court
14 of Mobile county.

15 "All members of such commission must reside in the
16 territorial jurisdiction of the circuit court of Mobile
17 county.

18 "The two members of such commission who are required
19 to be members of the Alabama state bar shall be elected by the
20 members of such bar who are regularly licensed and qualified
21 to practice law in this state and who reside in the
22 territorial jurisdiction of the circuit court of Mobile
23 county. The executive committee of the Mobile county bar
24 association or its successor body in such capacity, is
25 authorized and directed to make rules, not inconsistent with
26 this amendment, for the election of such members of such
27 commission as are required to be members of the Alabama state

1 bar. Such executive committee shall certify in writing to the
2 probate judge of Mobile county the names of the persons
3 elected as members of such commission by such members of such
4 bar.

5 "The senators and representatives in the Alabama
6 legislature from Mobile county shall elect the two members of
7 such commission who are required not to be members of the
8 Alabama state bar. Such senators and representatives shall
9 certify in writing to such probate judge the names of the
10 persons elected by them as such members.

11 "The judges of the circuit court of Mobile county
12 shall elect the member of such commission who is required to
13 be a judge of such circuit court. The judges of such circuit
14 court shall certify in writing to such probate judge the name
15 of the circuit judge elected by such circuit judges as such
16 member.

17 "The terms of office of all members of such
18 commission shall be six years, except that the terms of office
19 of the two members of the state bar first elected shall be for
20 one and two years respectively, and of the two members first
21 elected by the senators and representatives in the Alabama
22 legislature from Mobile county shall be for three and four
23 years respectively, and the term of the circuit judge elected
24 by the circuit judges shall be for five years; the length of
25 such terms of office of the members of such commission being
26 indicated by the respective electing bodies. The terms of the
27 initial members of such commission shall begin on January 16,

1 1982. A vacancy in the office of a member of such commission
2 shall be filled for the unexpired term in the same manner as
3 such member was originally chosen.

4 "The probate judge of Mobile county shall record all
5 such certificates of election and shall safely and permanently
6 keep the original certificates. Forthwith upon his receipt and
7 recordation of every such certificate, he shall send to the
8 governor a certified copy of every such certificate.

9 "No member of such commission shall be eligible to
10 succeed himself as such member or for nomination to the
11 governor for appointment as judge of such circuit court or
12 district court during the term of office for which such member
13 shall have been selected.

14 "The members of such commission shall not receive
15 any salary or other compensation for their services as such
16 members. No member of such commission other than the member
17 required to be a judge of the circuit court shall hold any
18 public office, and no member of such commission shall hold any
19 official position in any political party.

20 "If, subsequent to January 15, 1982, a vacancy
21 occurs in the office of judge of the circuit court or in the
22 office of judge of the district court of Mobile county, such
23 commission shall nominate to the governor three persons having
24 the qualifications for such office. Such nomination shall be
25 made only by the concurrence of a majority of the members of
26 such commission. The governor shall appoint to the office in
27 which the vacancy exists one of the three persons so nominated

1 for such office. Any vacancy occurring in the office of judge
2 of the circuit or district court of Mobile county, which is
3 required to be filled by appointment on nominations made by a
4 judicial commission, shall be made within ninety days from the
5 date of the submission of such nominations. In the event the
6 governor fails to fill the vacancy from such nominations
7 within such period, the appointment shall be made by the chief
8 justice of the supreme court of Alabama. ~~The appointee shall~~
9 ~~hold such office until the next general election for any state~~
10 ~~officer held at least six months after the vacancy occurs and~~
11 ~~until his successor is elected and qualified; the successor~~
12 ~~shall hold office for the unexpired term and until his~~
13 ~~successor is elected and qualified.~~ The term of office of a
14 judge appointed to fill a vacancy shall be as otherwise
15 provided in Section 153 of this constitution. The election of
16 any successor to any person appointed to fill a judicial
17 vacancy in Mobile County prior to January 16, 2017, is
18 ratified and confirmed.

19 This amendment shall be self-executing."

20 Section 2. An election upon the proposed amendment
21 shall be held in accordance with Amendment 555 to the
22 Constitution of Alabama of 1901, now appearing as Section
23 284.01 of the Official Recompilation of the Constitution of
24 Alabama of 1901, as amended, and the election laws of this
25 state.

26 Section 3. The appropriate election official shall
27 assign a ballot number for the proposed constitutional

1 amendment on the election ballot and shall set forth the
2 following description of the substance or subject matter of
3 the proposed constitutional amendment:

4 "Relating to Mobile County, proposing an amendment
5 to Amendment 408 to the Constitution of Alabama of 1901, to
6 revise the term of office of a person appointed to fill a
7 vacancy in the office of circuit or district judge in Mobile
8 County so that the term would be the same for judicial
9 vacancies generally.

10 "Proposed by Act _____"

11 This description shall be followed by the following
12 language:

13 "Yes () No ()."