

1 SB346
2 156514-6
3 By Senators Fielding, Taylor and Brewbaker (Constitutional
4 Amendment)
5 RFD: Finance and Taxation General Fund
6 First Read: 12-FEB-14

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8 SYNOPSIS: Under existing law, the Constitution of
9 Alabama of 1901, provides that vacancies in the
10 offices of judge of the circuit and district courts
11 are filled by appointment of the Governor or as
12 otherwise provided by constitutional amendment.

13 Under existing law, vacancies in the office
14 of district attorney are filled by the Governor.

15 Under existing law, the Constitution of
16 Alabama of 1901, provides that vacancies in the
17 offices of clerk of the circuit courts are filled
18 by the circuit judge or judges having jurisdiction
19 over the county in which the office of the clerk is
20 located.

21 This bill would propose an amendment to the
22 Constitution of Alabama of 1901, to establish the
23 Nineteenth Judicial Circuit Judicial Commission.
24 This bill would establish the duties and membership
25 of the commission and would provide that the
26 commission would make nominations to the Governor

1 for filling of vacancies in the offices of circuit
2 judge and district attorney.

3 This bill would also establish the
4 Nineteenth Judicial Circuit Autauga County Judicial
5 Commission, the Nineteenth Judicial Circuit Chilton
6 County Judicial Commission, and the Nineteenth
7 Judicial Circuit Elmore County Judicial Commission,
8 respectively, for the purpose of nominating to the
9 Governor persons to fill vacancies in the office of
10 district court judge and for nominating persons to
11 the presiding judge to fill vacancies in the office
12 of the clerk of the circuit court in those
13 counties.

14
15 A BILL
16 TO BE ENTITLED
17 AN ACT
18

19 Relating to the Nineteenth Judicial Circuit; to
20 propose an amendment to the Constitution of Alabama of 1901,
21 to establish the Nineteenth Judicial Circuit Judicial
22 Commission; to provide for the duties and membership of the
23 commission; and to provide that the commission shall make
24 nominations to the Governor for filling vacancies in the
25 offices of circuit court judge and district attorney; to
26 establish the Nineteenth Judicial Circuit Autauga County
27 Judicial Commission, the Nineteenth Judicial Circuit Chilton

1 County Judicial Commission, and the Nineteenth Judicial
2 Circuit Elmore County Judicial Commission, respectively, for
3 the purpose of nominating to the Governor persons to fill a
4 vacancy in the office of district court judge and nominating
5 to the presiding judge persons to fill a vacancy in the office
6 of the clerk of the circuit court those counties.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

14 PROPOSED AMENDMENT

15 (a) In the Nineteenth Judicial Circuit, all
16 vacancies in the offices of judge of the circuit court, clerk
17 of the circuit court, district attorney, and judge of the
18 district court shall be filled in the manner and for the time
19 as provided in this amendment.

20 (b) The Nineteenth Judicial Circuit Judicial
21 Commission is created for the purpose of nominating to the
22 Governor persons for appointment to any vacancy in the offices
23 of judge of the circuit court and district attorney. There
24 shall be one Circuit Judicial Commission in the Nineteenth
25 Judicial Circuit. The five members of the commission shall
26 consist of the following: The Presiding Circuit Judge of the
27 Nineteenth Judicial Circuit, who shall preside over all

1 meetings of the commission and vote only in the event of a
2 tie; the District Attorney of the Nineteenth Judicial Circuit,
3 or his or her representative; and the president of each local
4 bar association in the Nineteenth Judicial Circuit, or his or
5 her representative.

6 Each member, or his or her appointee, shall reside
7 in the territorial jurisdiction of the Nineteenth Judicial
8 Circuit.

9 The Presiding Circuit Judge of the Nineteenth
10 Judicial Circuit shall empanel the commission when there is a
11 vacancy in the office of circuit judge or district attorney.
12 When the vacancy in the office of circuit judge occurs, the
13 presiding judge shall send notice to the district attorney and
14 each local bar association president in the Nineteenth
15 Judicial Circuit requesting acceptance of his or her
16 appointment to the commission. The notice shall include the
17 time and place of the first meeting. Each recipient of the
18 notice shall give written reply of acceptance of the
19 appointment to the commission or provide the name of his or
20 her representative. In the event that a recipient does not
21 accept appointment to the commission or provide the name of a
22 representative within 10 business days from service of the
23 notice sent by the presiding circuit judge, the presiding
24 circuit judge of the Nineteenth Judicial Circuit shall appoint
25 a person to the vacant seat on the commission. When the
26 vacancy occurs in the office of district attorney, the
27 presiding judge shall send notice to each local bar

1 association president in the Nineteenth Judicial Circuit
2 requesting acceptance of his or her appointment. The notice
3 shall include the time and place of the first meeting. Each
4 recipient shall give notice of acceptance in the same manner
5 as notice is given for a vacancy in the office of circuit
6 judge. The presiding circuit judge shall appoint a
7 representative from the office of the district attorney to
8 serve on the commission. The terms of office of the members on
9 the commission shall expire once the vacancy is filled.

10 After the ratification of this amendment, if a
11 vacancy occurs in the Nineteenth Judicial Circuit in the
12 office of judge of the circuit court or the office of district
13 attorney, or both, the commission shall submit to the
14 Governor, within 30 days from the empaneling of the Nineteenth
15 Judicial Circuit Commission, a list of up to three persons who
16 are qualified for the office. The nominees for circuit judge
17 shall have been a resident of the county in which the judicial
18 vacancy has occurred for at least one year prior to the
19 nomination. The nominees for district attorney shall have been
20 a resident of the Nineteenth Judicial Circuit for at least one
21 year prior to the nomination. The nominations shall be made
22 only by the concurrence of a majority of the members of the
23 commission. The presiding judge of the circuit court shall
24 certify the list of nominees to the Governor, who shall
25 appoint one of the nominees to the office in which the vacancy
26 exists or return the list to the presiding judge within 14
27 days of receipt along with a request to submit up to three new

1 nominees for the vacancy within 28 days of receipt. If the
2 presiding judge fails to certify a new list to the Governor in
3 28 days, the Governor may appoint a person to fill the
4 vacancy. If the Governor fails to request a new list within 14
5 days or fails to make an appointment from the list of nominees
6 within 30 days from the date the list is presented to the
7 Governor, the appointment shall be made by the Chief Justice
8 of the Alabama Supreme Court from the list of nominees within
9 30 days from the date the list is submitted to him or her.

10 If the appointment is for the office of circuit
11 judge, the appointee shall hold office for an initial term
12 lasting until the first Monday after the second Tuesday in
13 January following the next general election held after
14 completing one year in office. At the election, the judicial
15 office shall be filled for a full term of office beginning at
16 the end of the appointed term. If the appointment is for the
17 office of district attorney, the appointee shall hold office
18 for the term or the remainder of the unexpired term as
19 provided by law.

20 (c) The Nineteenth Circuit Autauga County Judicial
21 Commission, the Nineteenth Circuit Chilton County Judicial
22 Commission, and the Nineteenth Circuit Elmore County Judicial
23 Commission are created for the purpose of nominating to the
24 Governor or presiding circuit judge, as the case may be,
25 persons for appointment to any vacancy in the offices of judge
26 of the district courts and circuit clerk. There shall be one
27 local commission in each county comprising the Nineteenth

1 Judicial Circuit. Each local commission shall have five voting
2 members and consist of the following: The resident circuit
3 judge shall fill one seat and may vote only in the event of a
4 tie; the district attorney of the Nineteenth Judicial Circuit,
5 or his or her representative; one member selected by a
6 majority vote of the county commission of the respective
7 county; the president of the local bar association, or his or
8 her representative; and the member of the legislative
9 delegation representing the largest percentage of the
10 population in the respective county. The presiding circuit
11 judge of the Nineteenth Judicial Circuit shall be the chair,
12 preside over the meetings, and be a non-voting member of the
13 commission.

14 Each voting member of a local commission shall
15 reside in the territorial jurisdiction of the office of judge
16 of the district court or circuit clerk for which they will be
17 nominating, with the exception of the district attorney of the
18 Nineteenth Judicial Circuit, who must reside within the
19 territorial jurisdiction of the Nineteenth Judicial Circuit.

20 The presiding circuit judge of the Nineteenth
21 Judicial Circuit shall empanel the commission once a vacancy
22 in the office of district judge or circuit clerk occurs by
23 sending notice to the resident circuit judge in each county,
24 the district attorney, and the local bar association president
25 in the territorial jurisdiction of the vacant office
26 requesting acceptance of their appointment to the commission.
27 The presiding circuit judge of the Nineteenth Judicial Circuit

1 shall also send notice to the chair of the county commission
2 and the member of the local legislative delegation
3 representing the largest percentage of the population for the
4 county in which the vacancy occurs, requesting selection of
5 their appointees. The notice shall include the time and place
6 of the first meeting. Each recipient of the original notice
7 sent by the presiding circuit judge of the Nineteenth Judicial
8 Circuit shall give written notice of acceptance of the
9 appointed seat on the commission. In the event an appointed
10 seat on the commission is not accepted within 10 business days
11 from service of the notice from the presiding circuit judge,
12 the vacant seat on the commission shall be filled by an
13 appointment made by the Presiding Circuit Judge of the
14 Nineteenth Judicial Circuit. The terms of office of the
15 members on the commission shall expire once the vacancy is
16 filled.

17 If a vacancy occurs in the Nineteenth Judicial
18 Circuit in the office of judge of the district court or
19 circuit clerk, the local commission shall submit to the
20 Governor or presiding circuit judge, as the case may be,
21 within 30 days from the empaneling of the local commission, a
22 list of up to three persons who are qualified for the office
23 and who have been residents of the county in which the office
24 is sought for at least one year. The nominations shall be made
25 only by the concurrence of a majority of the members of the
26 commission. The presiding judge of the circuit court shall
27 certify the list of the nominees for district judge to the

1 Governor, who shall appoint one to the office in which the
2 vacancy exists or return the list to the presiding judge
3 within 14 days of receipt along with a request to submit up to
4 three new nominees for the vacancy within 28 days of receipt.
5 If the presiding judge fails to certify a new list to the
6 Governor in 28 days, the Governor may appoint a person to fill
7 the vacancy. If the Governor fails to request a new list
8 within 14 days or fails to make an appointment from the list
9 of nominees within 30 days from the date it is presented to
10 the Governor, the appointment shall be made by the Chief
11 Justice of the Alabama Supreme Court from the list of nominees
12 within 30 days from the date that the list is submitted to him
13 or her.

14 If the appointment is for the office of district
15 judge, the appointee shall hold office for an initial term
16 lasting until the first Monday after the second Tuesday in
17 January following the next general election held after
18 completing one year in office. At the election, the judicial
19 office shall be filled for a full term of office beginning at
20 the end of the appointed term.

21 The local commission, by the concurrence of a
22 majority of the members of the commission, shall nominate up
23 to three nominees for circuit clerk, and the presiding circuit
24 judge shall make an appointment within 30 days from that list.
25 The appointee shall hold office for the term or the remainder
26 of the unexpired term as provided by law.

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 "Relating to the Nineteenth Judicial Circuit; to
13 propose an amendment to the Constitution of Alabama of 1901,
14 to establish the Nineteenth Judicial Circuit Judicial
15 Commission; to provide for the duties and membership of the
16 commission; and to provide that the commission shall make
17 nominations to the Governor for filling vacancies in the
18 offices of circuit court judge and district attorney; to
19 establish the Nineteenth Judicial Circuit Autauga County
20 Judicial Commission, the Nineteenth Judicial Circuit Chilton
21 County Judicial Commission, and the Nineteenth Judicial
22 Circuit Elmore County Judicial Commission, respectively, for
23 the purpose of nominating to the Governor persons to fill a
24 vacancy in the office of district court judge and nominating
25 to the presiding judge persons to fill a vacancy in the office
26 of the clerk of the circuit court in those counties.

27 "Proposed by Act _____."

1 This description shall be followed by the following
2 language:
3 "Yes () No ()."