

SECOND REGULAR SESSION

HOUSE JOINT RESOLUTION NO. 78

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE VAN SCHOIACK.

3517H.011

DANA RADEMAN MILLER, Chief Clerk

JOINT RESOLUTION

Submitting to the qualified voters of Missouri an amendment repealing Sections 25(a), 25(b), and 25(d) of Article V of the Constitution of Missouri, and adopting two new sections in lieu thereof relating to the selection of judges.

Be it resolved by the House of Representatives, the Senate concurring therein:

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2022, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to Article V of the Constitution of the state of Missouri:

Section A. Sections 25(a), 25(b), and 25(d), Article V, Constitution of Missouri, are repealed and two new sections adopted in lieu thereof, to be known as Sections 25(a) and 25 (b), to read as follows:

Section 25(a). Whenever a vacancy shall occur in the office of judge of any of the following courts of this state, to wit: The supreme court, the court of appeals, or in the office of circuit or associate circuit judge within the city of St. Louis and Jackson county, the governor shall ~~[fill such vacancy by appointing one of three persons possessing the qualifications for such office, who shall be nominated and whose names shall be submitted to the governor by a nonpartisan judicial commission established and organized as hereinafter provided. If the governor fails to appoint any of the nominees within sixty days after the list of nominees is submitted, the nonpartisan judicial commission making the nomination shall appoint one of the nominees to fill the vacancy]~~, **by and with the advice and two-thirds consent vote of the senate, appoint a judge to fill such vacancy.**

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

Section 25(b). At any general election the qualified voters of any judicial circuit outside of the city of St. Louis and Jackson county, may by a majority of those voting on the question elect to have the circuit and associate circuit judges appointed by the governor in the manner provided for the appointment of judges to the courts designated in section 25(a), or, outside the city of St. Louis and Jackson county, to discontinue any such ~~[plan]~~ **appointment**. The question of whether the circuit and associate circuit judges of any such circuit shall be so appointed shall be submitted to the voters of each county in any circuit at the next general election whenever petitions therefor signed by ten percent of the legal voters of each county in the circuit voting for the office of governor at the last election thereof are filed in the office of secretary of state at least 90 days before such election. The question shall be presented as follows: "Shall the circuit and associate circuit judges of the _____ judicial circuit be selected as provided in Section 25 of Article V of the Missouri Constitution? Yes ☐ No ☐ (Mark One)". The provisions of law with respect to initiative petitions shall apply insofar as applicable relative to the certification of the petitions to local officials by the secretary of state, the preparation, printing, publishing and distribution of the judicial ballots required by this section, the holding and conduct of the election, and the counting, canvassing, return, certification, and proclamation of the votes. If a majority of the votes upon the question are cast in favor of the adoption in each county comprising the circuit, the ~~[nonpartisan]~~ selection of the circuit and associate judges **by appointment of the governor** shall be adopted in the circuit. The question of selection of circuit and associate circuit judges in the manner provided in section 25(a) shall not be submitted more often than once every four years. If any judicial circuit adopts the ~~[nonpartisan]~~ selection of the circuit and associate circuit judges **by appointment of the governor** under the provisions of this section, the question of its discontinuance shall not be submitted more often than once every four years and may be submitted at any general election and shall be proceeded upon insofar as may be applicable in like manner as prescribed in this section for the original adoption of the ~~[plan]~~ **appointment**.

The petition shall be in substantially the following form:

To the Honorable Officials in general charge of elections for the county of _____ for the state of Missouri:

We, the undersigned, legal voters of the state of Missouri, and of the county of _____, respectfully demand that the question of the discontinuance of the ~~[nonpartisan]~~ selection of the circuit and associate circuit judges **by appointment of the governor** be submitted to the legal voters of the _____ judicial circuit, for their approval or rejection, at the general election to be held on the _____ day of _____, A.D. 19_____.

The ballot shall provide as follows:

"Shall the [nonpartisan] appointment by the governor of the circuit and associate circuit judges be discontinued in the _____ judicial circuit?

☐ Yes

☐ No

(Place an "X" in one square.)"

If a majority of the votes upon the question are cast in favor of such discontinuance in each county comprising the circuit, the [nonpartisan] selection of the circuit and associate circuit judges **by appointment of the governor** shall be discontinued in such judicial circuit.

If the [nonpartisan] selection of the judges be discontinued in any such judicial circuit, other than the city of St. Louis and Jackson county, the selection of such judges therein shall be made as otherwise prescribed by law. This section shall be self-enforcing.

~~[Section 25(d). Nonpartisan judicial commissions whose duty it shall be to nominate and submit to the governor names of persons for appointment as provided by sections 25(a)-(g) are hereby established and shall be organized on the following basis: For vacancies in the office of judge of the supreme court or of the court of appeals, there shall be one such commission, to be known as "The Appellate Judicial Commission"; for vacancies in the office of circuit judge or associate circuit judge of any circuit court subject to the provisions of sections 25(a)-(g) there shall be one such commission, to be known as "The _____ Circuit Judicial Commission", for each judicial circuit which shall be subject to the provisions of sections 25(a)-(g); the appellate judicial commission shall consist of a judge of the supreme court selected by the members of the supreme court, and the remaining members shall be chosen in the following manner: The members of the bar of this state residing in each court of appeals district shall elect one of their number to serve as a member of said commission, and the governor shall appoint one citizen, not a member of the bar, from among the residents of each court of appeals district, to serve as a member of said commission, and the members of the commission shall select one of their number to serve as chairman. Each circuit judicial commission shall consist of five members, one of whom shall be the chief judge of the district of the court of appeals within which the judicial circuit of such commission, or the major portion of the population of said circuit is situated and the remaining four members shall be chosen in the following manner: The members of the bar of this state residing in the judicial circuit of such commission shall elect two of their number to serve as members of said commission, and the governor shall appoint two citizens, not members of the bar, from among the residents of said judicial circuit to serve as members of said commission, the members of the commission shall select one of their number to serve as chairman; and the terms of office of the members of such commission shall be fixed by law, but no law shall increase or diminish the term of any member then in office. No member of any such commission other than a judge shall hold any public office, and no member shall hold any official position in a political party. Every such commission may act only by~~

33 ~~the concurrence of a majority of its members. The members of such~~
34 ~~commission shall receive no salary or other compensation for their services~~
35 ~~but they shall receive their necessary traveling and other expenses incurred~~
36 ~~while actually engaged in the discharge of their official duties. All such~~
37 ~~commissions shall be administered, and all elections provided for under this~~
38 ~~section shall be held and regulated, under such rules as the supreme court shall~~
39 ~~promulgate.]~~

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