

SECOND REGULAR SESSION

HOUSE JOINT RESOLUTION NO. 77

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES FUNDERBURK (Sponsor), TILLEY, DIECKHAUS, CROSS,
BAHR, LAIR, BERRY, HIGDON, LEARA, GUERNSEY, CONWAY (14), PARKINSON,
GATSCHENBERGER AND SCHARNHORST (Co-sponsors).

4588L.02I

D. ADAM CRUMBLISS, Chief Clerk

JOINT RESOLUTION

Submitting to the qualified voters of Missouri an amendment repealing sections 16, 19, 25(a), 25(b), 25(c)(1), 25(c)(2), 25(d), 25(e), 25(f), and 25(g) of article V of the Constitution of Missouri, and adopting three new sections in lieu thereof relating to judicial elections.

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
2 following the first Monday in November, 2012, or at a special election to be called by the
3 governor for that purpose, there is hereby submitted to the qualified voters of this state, for
4 adoption or rejection, the following amendment to article V of the Constitution of the state of
5 Missouri:

Section A. Sections 16, 19, 25(a), 25(b), 25(c)(1), 25(c)(2), 25(d), 25(e), 25(f), and
2 25(g), article V, Constitution of Missouri, are repealed and three new sections adopted in lieu
3 thereof, to be known as sections 16, 19, and 25(a), to read as follows:

Section 16. Each county shall have such number of associate circuit judges as provided
2 by law. There shall be at least one resident associate circuit judge in each county. Associate
3 circuit judges shall be [selected or] elected in each county **in which they are to serve**. [In those
4 circuits where the circuit judge is selected under section 25 of article 5 of the constitution the
5 associate circuit judge shall be selected in the same manner. All other associate circuit judges
6 shall be elected in the county in which they are to serve.]

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 19. **1.** Judges of the supreme court and of the court of appeals shall [be selected]
2 **hold office** for terms of [twelve] **eight** years, judges of the circuit courts for terms of six years,
3 and associate circuit judges for terms of four years.

4 **2.** **After each decennial census of the United States is certified to the governor, the**
5 **general assembly shall by law divide the state into seven judicial circuits, which districts**
6 **shall be composed of contiguous territory as compact, as nearly equal in population, and**
7 **splitting as few political subdivisions, as may be.**

Section 25(a). Whenever a vacancy shall occur in the office of judge of any of the
2 following courts of this state, to wit: The supreme court, the court of appeals, or in the office of
3 circuit or associate circuit judge [within the city of St. Louis and Jackson County, the governor
4 shall fill such vacancy by appointing one of three persons possessing the qualifications for such
5 office, who shall be nominated and whose names shall be submitted to the governor by a
6 nonpartisan judicial commission established and organized as hereinafter provided. If the
7 governor fails to appoint any of the nominees within sixty days after the list of nominees is
8 submitted, the nonpartisan judicial commission making the nomination shall appoint one of the
9 nominees to fill the vacancy] , **the secretary of state or the appropriate election authorities**
10 **shall notify the public of such vacancy, accept declarations of candidacy, and submit the**
11 **name or names of eligible candidates at the next general election to the voters eligible to**
12 **vote within the state if the vacant office is that of judge of the supreme court, or within the**
13 **geographic jurisdiction limit of the district where the former judge served if the vacant**
14 **office is that of a judge of the court of appeals, or within the circuit if the vacant office is**
15 **that of circuit judge, or within the county if the vacant office is that of associate circuit**
16 **judge.**

[Section 25(b). At any general election the qualified voters of any judicial
2 circuit outside of the city of St. Louis and Jackson County, may by a majority of
3 those voting on the question elect to have the circuit and associate circuit judges
4 appointed by the governor in the manner provided for the appointment of judges
5 to the courts designated in section 25(a), or, outside the city of St. Louis and
6 Jackson County, to discontinue any such plan. The question of whether the
7 circuit and associate circuit judges of any such circuit shall be so appointed shall
8 be submitted to the voters of each county in any circuit at the next general
9 election whenever petitions therefor signed by ten percent of the legal voters of
10 each county in the circuit voting for the office of governor at the last election
11 thereof are filed in the office of secretary of state at least 90 days before such
12 election. The question shall be presented as follows: "Shall the circuit and
13 associate circuit judges of the judicial circuit be selected as provided in
14 Section 25 of Article V of the Missouri Constitution? Yes No (Mark One)"
15 The provisions of law with respect to initiative petitions shall apply insofar as
16 applicable relative to the certification of the petitions to local officials by the

17 secretary of state, the preparation, printing, publishing and distribution of the
 18 judicial ballots required by this section, the holding and conduct of the election,
 19 and the counting, canvassing, return, certification, and proclamation of the votes.
 20 If a majority of the votes upon the question are cast in favor of the adoption in
 21 each county comprising the circuit, the nonpartisan selection of the circuit and
 22 associate judges shall be adopted in the circuit. The question of selection of
 23 circuit and associate circuit judges in the manner provided in section 25(a) shall
 24 not be submitted more often than once every four years. If any judicial circuit
 25 adopts the nonpartisan selection of the circuit and associate circuit judges under
 26 the provisions of this section, the question of its discontinuance shall not be
 27 submitted more often than once every four years and may be submitted at any
 28 general election and shall be proceeded upon insofar as may be applicable in like
 29 manner as prescribed in this section for the original adoption of the plan.

30 The petition shall be in substantially the following form:

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

33 We, the undersigned, legal voters of the state of Missouri, and of the
 34 county of, respectfully demand that the question of the discontinuance of
 35 the nonpartisan selection of the circuit and associate circuit judges be submitted
 36 to the legal voters of the judicial circuit, for their approval or rejection, at
 37 the general election to be held on the day of, A.D. 19...

38 The ballot shall provide as follows:

39 "Shall the nonpartisan appointment by the governor of the circuit and
 40 associate circuit judges be discontinued in the judicial circuit?"

41 Yes

42 No

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

44 If a majority of the votes upon the question are cast in favor of such
 45 discontinuance in each county comprising the circuit, the nonpartisan selection
 46 of the circuit and associate circuit judges shall be discontinued in such judicial
 47 circuit.

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

52

2 [Section 25(c)(1). Each judge appointed pursuant to the provisions of
 3 sections 25(a)-(g) shall hold office for a term ending December thirty-first
 4 following the next general election after the expiration of twelve months in the
 5 office. Any judge holding office, or elected thereto, at the time of the election by
 6 which the provisions of sections 25(a)-(g) become applicable to his office, shall,
 7 unless removed for cause, remain in office for the term to which he would have
 been entitled had the provisions of sections 25(a)-(g) not become applicable to

8 his office. Not less than sixty days prior to the holding of the general election
 9 next preceding the expiration of his term of office, any judge whose office is
 10 subject to the provisions of sections 25(a)-(g) may file in the office of the
 11 secretary of state a declaration of candidacy for election to succeed himself. If
 12 a declaration is not so filed by any judge, the vacancy resulting from the
 13 expiration of his term of office shall be filled by appointment as herein provided.
 14 If such declaration is filed, his name shall be submitted at said next general
 15 election to the voters eligible to vote within the state if his office is that of judge
 16 of the supreme court, or within the geographic jurisdiction limit of the district
 17 where he serves if his office is that of a judge of the court of appeals, or within
 18 the circuit if his office is that of circuit judge, or within the county if his office
 19 is that of associate circuit judge on a separate judicial ballot, without party
 20 designation, reading:

21 "Shall Judge
 22 (Here the name of the judge shall be inserted) of the
 23

24 (Here the title of the court shall be inserted) be retained in office? Yes
 25 No

26 (Mark an "X" in the box you prefer.)" If a majority of those voting on the
 27 question vote against retaining him in office, upon the expiration of his term of
 28 office, a vacancy shall exist which shall be filled by appointment as provided in
 29 section 25(a); otherwise, said judge shall, unless removed for cause, remain in
 30 office for the number of years after December thirty-first following such election
 31 as is provided for the full term of such office, and at the expiration of each such
 32 term shall be eligible for retention in office by election in the manner here
 33 prescribed.]
 34

2 [Section 25(c)(2). Whenever a declaration of candidacy for election to
 3 succeed himself is filed by any judge or associate circuit judge under the
 4 provisions of this section, the secretary of state shall not less than thirty days
 5 before the election certify the name of said judge or associate circuit judge and
 6 the official title of his office to the clerks of the county courts, and to the boards
 7 of election commissioners in counties or cities having such boards, or to such
 8 other officials as may hereafter be provided by law, of all counties and cities
 9 wherein the question of retention of such judge in office is to be submitted to the
 10 voters, and, until legislation shall be expressly provided otherwise therefor, the
 11 judicial ballots required by this section shall be prepared, printed, published and
 12 distributed, and the election upon the question of retention of such judge in office
 13 shall be conducted and the votes counted, canvassed, returned, certified and
 14 proclaimed by such public officials in such manner as is now provided by the
 15 statutory law governing voting upon measures proposed by the initiative.]

2 [Section 25(d). Nonpartisan judicial commissions whose duty it shall be
3 to nominate and submit to the governor names of persons for appointment as
4 provided by sections 25(a)-(g) are hereby established and shall be organized on
5 the following basis: For vacancies in the office of judge of the supreme court or
6 of the court of appeals, there shall be one such commission, to be known as "The
7 Appellate Judicial Commission"; for vacancies in the office of circuit judge or
8 associate circuit judge of any circuit court subject to the provisions of sections
9 25(a)-(g) there shall be one such commission, to be known as "The Circuit
10 Judicial Commission", for each judicial circuit which shall be subject to the
11 provisions of sections 25(a)-(g); the appellate judicial commission shall consist
12 of a judge of the supreme court selected by the members of the supreme court,
13 and the remaining members shall be chosen in the following manner: The
14 members of the bar of this state residing in each court of appeals district shall
15 elect one of their number to serve as a member of said commission, and the
16 governor shall appoint one citizen, not a member of the bar, from among the
17 residents of each court of appeals district, to serve as a member of said
18 commission, and the members of the commission shall select one of their number
19 to serve as chairman. Each circuit judicial commission shall consist of five
20 members, one of whom shall be the chief judge of the district of the court of
21 appeals within which the judicial circuit of such commission, or the major
22 portion of the population of said circuit is situated and the remaining four
23 members shall be chosen in the following manner: The members of the bar of this
24 state residing in the judicial circuit of such commission shall elect two of their
25 number to serve as members of said commission, and the governor shall appoint
26 two citizens, not members of the bar, from among the residents of said judicial
27 circuit to serve as members of said commission, the members of the commission
28 shall select one of their number to serve as chairman; and the terms of office of
29 the members of such commission shall be fixed by law, but no law shall increase
30 or diminish the term of any member then in office. No member of any such
31 commission other than a judge shall hold any public office, and no member shall
32 hold any official position in a political party. Every such commission may act
33 only by the concurrence of a majority of its members. The members of such
34 commission shall receive no salary or other compensation for their services but
35 they shall receive their necessary traveling and other expenses incurred while
36 actually engaged in the discharge of their official duties. All such commissions
37 shall be administered, and all elections provided for under this section shall be
38 held and regulated, under such rules as the supreme court shall promulgate.]

2 [Section 25(e). All expenses incurred in administering sections 25(a)-(g),
3 when approved by the supreme court, shall be paid out of the state treasury. The
4 supreme court shall certify such expense to the commissioner of administration,
5 who shall draw his warrant therefor payable out of funds not otherwise
appropriated.]

2 [Section 25(f). No judge of any court in this state, appointed to or
3 retained in office in the manner prescribed in sections 25(a)-(g), shall directly or
4 indirectly make any contribution to or hold any office in a political party or
5 organization, or take part in any political campaign.]

2 [Section 25(g). All of the provisions of sections 25(a)-(g) shall be
3 self-enforcing except those as to which action by the general assembly may be
required.]

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