

1 HB472
2 176163-1
3 By Representative Whorton (R) (Constitutional Amendment)
4 RFD: Judiciary
5 First Read: 23-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 Madison County, are filled
17 by the Governor based on nominations made by the
18 Madison County Judicial Commission and the
19 appointee holds office until the next general
20 election for any state officer held at least six
21 months after the vacancy occurs. Thereafter, a
22 successor is elected for a full term.

23 This bill would propose an amendment to
24 Amendment 334 of the Constitution of Alabama of
25 1901, as amended by Amendment 607, now appearing as
26 Local Amendments, Madison County, Section 8 of the
27 Official ReCompilation of the Constitution of

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

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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11 Relating to Madison County; to propose an amendment
12 to Amendment 334 of the Constitution of Alabama of 1901, as
13 amended by Amendment 607, now appearing as Local Amendments,
14 Madison County, Section 8 of the Official Recompilation of the
15 Constitution of Alabama of 1901, as amended; to revise the
16 term of office of a circuit court judge or district court
17 judge appointed to fill a vacancy in Madison County so that
18 the term will correspond to the general provisions of Section
19 153 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 334.

1 "All vacancies in the office of judge of the circuit
2 court and the office of judge of the district court holding in
3 Madison County shall be filled in the manner and for the time
4 as herein provided.

5 "The Madison County Judicial Commission is created
6 for the purpose of nominating to the Governor persons for
7 appointment to such a vacancy. The commission shall be
8 composed of nine members. The members of the commission shall
9 be two persons who are members of the Alabama State Bar, one
10 judge of the circuit court holding in Madison County, two
11 members appointed by Members of the Alabama House of
12 Representatives who represent Madison County, irrespective of
13 whether such Members of the House of Representatives reside in
14 Madison County, two members appointed by Members of the
15 Alabama Senate who represent Madison County, irrespective of
16 whether such Members of the Senate reside in Madison County,
17 and two members appointed jointly by these Members of the
18 House of Representatives and Members of the Senate.

19 "All members of the commission shall reside in the
20 territorial jurisdiction of the circuit court holding in
21 Madison County.

22 "The two members of the commission who are required
23 to be members of the Alabama State Bar shall be elected by the
24 members of such bar who are regularly licensed and qualified
25 to practice law in this state and who reside in the
26 territorial jurisdiction of the circuit court holding in
27 Madison County. The Executive Committee of the Madison County

1 Bar Association or its successor body in such capacity, is
2 authorized and directed to make rules, not inconsistent with
3 this amendment, for the election of such members of the
4 commission as are required to be members of the Alabama State
5 Bar. The executive committee shall certify in writing to the
6 Judge of Probate of Madison County the names of the persons
7 elected as members of the commission by these members of the
8 bar.

9 "The Members of the Alabama House of Representatives
10 who represent Madison County, irrespective of whether these
11 members reside in Madison County, shall make one initial
12 appointment of a member of the commission immediately upon the
13 adoption of the amendment adding this amendatory language and
14 shall make the other initial appointment upon the first
15 expiration of the term of office of a member previously
16 appointed pursuant to this amendment by the Senators and
17 Representatives in the Alabama Legislature residing in Madison
18 County. These Members of the Alabama House of Representatives
19 representing Madison County shall make all succeeding
20 appointments to these two positions. These appointees shall
21 not be members of the Alabama State Bar.

22 "The Members of the Alabama Senate representing
23 Madison County, irrespective of whether these members reside
24 in Madison County, shall make one initial appointment of a
25 member of the commission immediately upon the adoption of the
26 amendment adding this amendatory language and shall make the
27 other initial appointment upon the expiration of the term of

1 office of the last member previously appointed pursuant to
2 this amendment by the Senators and Representatives of the
3 Alabama Legislature residing in Madison County. These Members
4 of the Alabama Senate representing Madison County shall make
5 all succeeding appointments to these two positions. These
6 appointees shall not be members of the Alabama State Bar. The
7 Members of the House of Representatives and Senate
8 representing Madison County, irrespective of whether these
9 members reside in Madison County, shall jointly make two
10 initial appointments upon the adoption of the amendment adding
11 this amendatory language. These Members of the House of
12 Representatives and the Senate shall jointly make all
13 succeeding appointments to these two positions. These
14 appointees shall not be members of the Alabama State Bar.

15 "These Members of the House of Representatives and
16 Senate, respectively, shall certify in writing to the Judge of
17 Probate of Madison County the names of persons appointed by
18 them to the commission.

19 "The judges of the circuit court holding in Madison
20 County shall elect the member of the commission who is
21 required to be a judge of the circuit court. The judges of the
22 circuit court shall certify in writing to the judge of probate
23 the name of the circuit judge elected by the circuit judges as
24 a member.

25 "The terms of office of all members of the
26 commission shall be six years. A vacancy in the office of a

1 member of the commission shall be filled for the unexpired
2 term in the same manner as the member was originally chosen.

3 "The Judge of Probate of Madison County shall record
4 all such certificates of election and shall safely and
5 permanently keep the original certificates. Forthwith upon his
6 or her receipt and recordation of every certificate, the judge
7 of probate shall send to the Governor a certified copy of
8 every certificate.

9 "No member of the commission shall be eligible for
10 nomination to the Governor for appointment as judge of the
11 circuit court or the district court during the term of office
12 of the commission member.

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

19 "If a vacancy occurs in the office of judge of the
20 circuit court or the office of judge of the district court
21 holding in Madison County, the commission shall nominate to
22 the Governor three persons having the qualifications for the
23 office. The names of all persons considered for nomination
24 shall be available for review by the public and shall be
25 deemed a public record. A nomination shall be made only by the
26 concurrence of at least five members of the commission, which
27 vote shall be conducted at a public meeting. The member of the

1 commission elected by the judges of the circuit court holding
2 in Madison County shall only vote on matters before the
3 commission in instances when the vote by other commission
4 members has resulted in a tie. The Governor shall appoint to
5 the office in which the vacancy exists one of the three
6 persons so nominated for the office. If the Governor fails to
7 make an appointment from the list within 30 days from the date
8 it is presented to the Governor, the appointment shall be made
9 by the Chief Justice or the acting Chief Justice of the
10 Supreme Court from the same list. ~~The appointee shall hold~~
11 ~~such office until the next general election for any state~~
12 ~~officer held at least six months after the vacancy occurs and~~
13 ~~until a successor is elected and qualified. At the general~~
14 ~~election, the judicial office shall be filled for a full term~~
15 ~~of office to commence on the first Monday after the second~~
16 ~~Tuesday in January following the general election. The term of~~
17 ~~office of a judge appointed to fill a vacancy shall be as~~
18 ~~otherwise provided in the Constitution of Alabama of 1901.~~"

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

25 Section 3. The appropriate election official shall
26 assign a ballot number for the proposed constitutional
27 amendment on the election ballot and shall set forth the

1 following description of the substance or subject matter of
2 the proposed constitutional amendment:

3 "Relating to Madison County, proposing an amendment
4 to Amendment 334 to the Constitution of Alabama of 1901, to
5 revise the term of office of a person appointed to fill a
6 vacancy in the office of circuit or district judge in Madison
7 County so that the term will correspond with the general
8 provisions of Section 153 of the Constitution.

9 "Proposed by Act _____"

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

12 "Yes () No ()."