

SECOND REGULAR SESSION

SENATE JOINT RESOLUTION NO. 41

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LEMBKE.

Pre-filed January 3, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

4777S.021

JOINT RESOLUTION

Submitting to the qualified voters of Missouri, an amendment repealing sections 2, 16, 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 six new sections in lieu thereof relating to the election of judges.

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

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

Section A. Sections 2, 16, 25(a), 25(b), 25(c)(1), 25(c)(2), 25(d), 25(e), 25(f),
2 and 25(g), article V, Constitution of Missouri, are repealed and six new sections
3 adopted in lieu thereof, to be known as sections 2, 16, 25(a), 25(b), 25(c), and 28,
4 to read as follows:

Section 2. The supreme court shall be the highest court in the state. Its
2 jurisdiction shall be coextensive with the state. Its decisions shall be controlling
3 in all other courts. It shall be composed of [seven] **nine** judges, who shall hold
4 their sessions in Jefferson City at times fixed by the court.

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

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

7 in which they are to serve.

Section 25(a). Each Congressional district, as such districts exist
2 on January 1, 2012, shall elect one judge to the supreme
3 court. Candidates to be elected in the congressional districts shall be
4 nonpartisan, and no such judge or candidate for such office shall be
5 identified by political party or shall publicly affiliate with any political
6 party. The terms of supreme court judges elected pursuant to this
7 section shall begin on the first Wednesday following the second Monday
8 in January following the election in which they were elected.

Section 25(b). The governor, with the advice and consent of the
2 senate, shall appoint one person possessing the qualification for such
3 office to be an at-large supreme court judge. If the senate is in regular
4 session, and such appointment is made more than thirty calendar days
5 prior to the end of the regular session, the senate shall vote on such
6 appointment within thirty calendar days. If the appointment is made
7 in the last thirty days of the regular session or prior to the next regular
8 session, the senate shall vote on such appointment within the first
9 thirty days of the next regular session, unless the appointment is made
10 at least thirty days prior to a special session, in which case the senate
11 shall vote on such appointment at the special session. The appointee
12 shall have no authority to act until the appointee receives the advice
13 and consent of the senate. Upon the expiration of an at-large judge's
14 term, the governor, with the advice and consent of the senate, may
15 either retain the judge or appoint a new judge in accordance with this
16 section.

Section 25(c). Each court of appeals district shall elect the judges
2 to serve that district. Each judicial circuit shall elect the circuit judges
3 to serve that circuit. Elections for judges of the court of appeals,
4 circuit judges, and associate circuit judges shall occur at the general
5 election. The terms of judges elected pursuant to this section shall
6 begin on the first Wednesday following the second Monday in January
7 following the election in which they were elected.

Section 28. Election of supreme court judges pursuant to section
2 25(a) of this article shall begin with the general election in 2014. The
3 terms of all supreme court judges sitting prior to January 14, 2015, will
4 be terminated on that day. The governor shall have appointed an at-
5 large judge prior to September 10, 2014, to be voted on by the senate at

6 **their September session. The term of the at-large judge will begin on**
7 **January 14, 2015. Election of judges of the court of appeals, circuit**
8 **judges, and associate circuit judges pursuant to section 25(c) of this**
9 **article shall occur upon the ending of a term of the then serving judge.**

2 [Section 25(a). Whenever a vacancy shall occur in the office
3 of judge of any of the following courts of this state, to wit: The
4 supreme court, the court of appeals, or in the office of circuit or
5 associate circuit judge within the city of St. Louis and Jackson
6 County, the governor shall fill such vacancy by appointing one of
7 three persons possessing the qualifications for such office, who
8 shall be nominated and whose names shall be submitted to the
9 governor by a nonpartisan judicial commission established and
10 organized as hereinafter provided. If the governor fails to appoint
11 any of the nominees within sixty days after the list of nominees is
12 submitted, the nonpartisan judicial commission making the
nomination shall appoint one of the nominees to fill the vacancy.]

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

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

37 The petition shall be in substantially the following form:

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

40 We, the undersigned, legal voters of the state of Missouri,
 41 and of the county of, respectfully demand that the question
 42 of the discontinuance of the nonpartisan selection of the circuit and
 43 associate circuit judges be submitted to the legal voters of the
 44 judicial circuit, for their approval or rejection, at the general
 45 election to be held on the day of, A.D. 19...

46 The ballot shall provide as follows:

47 "Shall the nonpartisan appointment by the governor of the
 48 circuit and associate circuit judges be discontinued in the
 49 judicial circuit?

50 Yes

51 No

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

53 If a majority of the votes upon the question are cast in favor
 54 of such discontinuance in each county comprising the circuit, the
 55 nonpartisan selection of the circuit and associate circuit judges
 56 shall be discontinued in such judicial circuit.

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

 [Section 25(c)(1). Each judge appointed pursuant to the
 2 provisions of sections 25(a)-(g) shall hold office for a term ending
 3 December thirty-first following the next general election after the
 4 expiration of twelve months in the office. Any judge holding office,
 5 or elected thereto, at the time of the election by which the
 6 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
 8 would have been entitled had the provisions of sections 25(a)-(g)
 9 not become applicable to his office. Not less than sixty days prior
 10 to the holding of the general election next preceding the expiration
 11 of his term of office, any judge whose office is subject to the
 12 provisions of sections 25(a)-(g) may file in the office of the secretary
 13 of state a declaration of candidacy for election to succeed himself.
 14 If a declaration is not so filed by any judge, the vacancy resulting
 15 from the expiration of his term of office shall be filled by
 16 appointment as herein provided. If such declaration is filed, his
 17 name shall be submitted at said next general election to the voters
 18 eligible to vote within the state if his office is that of judge of the
 19 supreme court, or within the geographic jurisdiction limit of the
 20 district where he serves if his office is that of a judge of the court
 21 of appeals, or within the circuit if his office is that of circuit judge,
 22 or within the county if his office is that of associate circuit judge on
 23 a separate judicial ballot, without party designation, reading:

24 "Shall Judge
 25 (Here the name of the judge shall be inserted) of the
 26
 27 (Here the title of the court shall be inserted) be retained in

28 office? Yes No

29 (Mark an "X" in the box you prefer.)"
 30 If a majority of those voting on the question vote against retaining
 31 him in office, upon the expiration of his term of office, a vacancy

32 shall exist which shall be filled by appointment as provided in
33 section 25(a); otherwise, said judge shall, unless removed for cause,
34 remain in office for the number of years after December thirty-first
35 following such election as is provided for the full term of such
36 office, and at the expiration of each such term shall be eligible for
37 retention in office by election in the manner here prescribed.]

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

[Section 25(d). Nonpartisan judicial commissions whose
2 duty it shall be to nominate and submit to the governor names of
3 persons for appointment as provided by sections 25(a)-(g) are
4 hereby established and shall be organized on the following basis:
5 For vacancies in the office of judge of the supreme court or of the
6 court of appeals, there shall be one such commission, to be known
7 as "The Appellate Judicial Commission"; for vacancies in the office
8 of circuit judge or associate circuit judge of any circuit court subject
9 to the provisions of sections 25(a)-(g) there shall be one such
10 commission, to be known as "The Circuit Judicial Commission",
11 for each judicial circuit which shall be subject to the provisions of
12 sections 25(a)-(g); the appellate judicial commission shall consist of
13 a judge of the supreme court selected by the members of the

14 supreme court, and the remaining members shall be chosen in the
15 following manner: The members of the bar of this state residing in
16 each court of appeals district shall elect one of their number to
17 serve as a member of said commission, and the governor shall
18 appoint one citizen, not a member of the bar, from among the
19 residents of each court of appeals district, to serve as a member of
20 said commission, and the members of the commission shall select
21 one of their number to serve as chairman. Each circuit judicial
22 commission shall consist of five members, one of whom shall be the
23 chief judge of the district of the court of appeals within which the
24 judicial circuit of such commission, or the major portion of the
25 population of said circuit is situated and the remaining four
26 members shall be chosen in the following manner: The members of
27 the bar of this state residing in the judicial circuit of such
28 commission shall elect two of their number to serve as members of
29 said commission, and the governor shall appoint two citizens, not
30 members of the bar, from among the residents of said judicial
31 circuit to serve as members of said commission, the members of the
32 commission shall select one of their number to serve as chairman;
33 and the terms of office of the members of such commission shall be
34 fixed by law, but no law shall increase or diminish the term of any
35 member then in office. No member of any such commission other
36 than a judge shall hold any public office, and no member shall hold
37 any official position in a political party. Every such commission
38 may act only by the concurrence of a majority of its members. The
39 members of such commission shall receive no salary or other
40 compensation for their services but they shall receive their
41 necessary traveling and other expenses incurred while actually
42 engaged in the discharge of their official duties. All such
43 commissions shall be administered, and all elections provided for
44 under this section shall be held and regulated, under such rules as
45 the supreme court shall promulgate.]

2 [Section 25(e). All expenses incurred in administering
3 sections 25(a)-(g), when approved by the supreme court, shall be
4 paid out of the state treasury. The supreme court shall certify such
expense to the commissioner of administration, who shall draw his

5 warrant therefor payable out of funds not otherwise appropriated.]

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

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

Unofficial ✓

Bill

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