

1 SB216
2 197669-5
3 By Senators Orr and Ward (Constitutional Amendment)
4 RFD: Judiciary
5 First Read: 02-APR-19

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Proposing an amendment to the Constitution of
12 Alabama of 1901, to amend Section 6.05 of Amendment 328;
13 Section 6.09 of Amendment 328, as further amended by Amendment
14 426; Sections 6.10, 6.12, 6.14, and 6.16 of Amendment 328;
15 Sections 6.17 and 6.18 of Amendment 328, as amended by
16 Amendment 581; Sections 6.19 and 6.20 of Amendment 328, and
17 Sections 173 and 174 of the Constitution of Alabama of 1901,
18 now appearing as Sections 143, 148, 149, 151, 153, 155, 156,
19 157, 159, 160, 162, 173, and 174 of the Official Recompilation
20 of the Constitution of Alabama of 1901, as amended, to delete
21 the requirement that a district court hold court in each
22 incorporated municipality with a population of 1,000 or more
23 where there is no municipal court; to provide that the
24 procedure for the filling of vacancies in the office of a
25 judge may be changed by statewide or local constitutional
26 amendment; to increase the age restriction on elected or
27 appointed judicial officers to 75 years; to delete certain

1 language relating to a constable holding more than one state
2 office; to delete a provision providing for the temporary
3 maintenance of the prior judicial system; to repeal the office
4 of circuit solicitor; to make certain nonsubstantive stylistic
5 changes; to increase the membership of the Judicial Inquiry
6 Commission; to further provide for the appointment of the
7 commission's members; to further provide for the appointment
8 of the membership of the Court of the Judiciary; to provide
9 further for the process of disqualifying an active judge; and
10 to remove provisions authorizing the impeachment of the
11 justices of the Supreme Court and judges of the appellate
12 courts; to remove provisions authorizing the Supreme Court to
13 remove judges of the district and circuit courts, judges of
14 the probate courts, and judges of certain other courts; to
15 delete the authority of the Chief Justice of the Supreme Court
16 to appoint an Administrative Director of Courts; to provide
17 the Supreme Court of Alabama with authority to appoint an
18 Administrative Director of Courts; and to require the
19 Legislature to establish procedures for the appointment of the
20 Administrative Director of Courts; and to repeal Amendment
21 580, Section 6.21 of Amendment 328, and Amendment 226 of the
22 Constitution of Alabama of 1901, now appearing as Sections
23 158, 161, and 162 of the Official Recompilation of the
24 Constitution of Alabama of 1901, as amended.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. The following amendment to the
27 Constitution of Alabama of 1901, as amended, is proposed and

1 shall become valid as a part thereof when approved by a
2 majority of the qualified electors voting thereon and in
3 accordance with Sections 284, 285, and 287 of the Constitution
4 of Alabama of 1901, as amended:

5 PROPOSED AMENDMENT

6 (a) The following amendments to the Constitution of
7 Alabama of 1901 are repealed:

8 (1) Amendment 580 of the Constitution of Alabama of
9 1901, now appearing as Section 158 of the Official
10 Recompilation of the Constitution of Alabama of 1901, as
11 amended.

12 (2) Section 6.21 of Amendment 328 of the
13 Constitution of Alabama of 1901, now appearing as Section 161
14 of the Official Recompilation of the Constitution of Alabama
15 of 1901, as amended.

16 (3) Amendment 226 of the Constitution of Alabama of
17 1901, now appearing as Section 162 of the Official
18 Recompilation of the Constitution of Alabama of 1901, as
19 amended.

20 (b) Section 6.05 of Amendment 328; Section 6.09 of
21 Amendment 328, as further amended by Amendment 426; Sections
22 6.10, 6.12, 6.14, and 6.16 of Amendment 328; Sections 6.17 and
23 6.18 of Amendment 328, as amended by Amendment 581; Sections
24 6.19 and 6.20 of Amendment 328, and Sections 173 and 174 of
25 the Constitution of Alabama of 1901, now appearing as Sections
26 143, 148, 149, 151, 153, 155, 156, 157, 159, 160, 162, 173,

1 and 174 of the Official ReCompilation of the Constitution of
2 Alabama of 1901, as amended, are amended to read as follows:

3 "Amendment 328.

4 "Section 6.05.

5 "(a) The district court shall be a court of limited
6 jurisdiction and shall exercise uniform original jurisdiction
7 in such cases~~7~~ and within ~~such~~ the geographical boundaries~~7~~ as
8 shall be prescribed by law~~7~~; provided,~~4~~ that the district court
9 shall hold court in each county seat and at ~~such~~ other places
10 as prescribed by law.

11 "(b) The district court shall have jurisdiction of
12 all cases arising under ordinances of municipalities in which
13 there is no municipal court ~~and shall hold court in each~~
14 ~~incorporated municipality of a population of 1000 or more~~
15 ~~where there is no municipal court at places prescribed by law.~~

16 "Amendment 328, as amended by Amendment 426.

17 "Section 6.09.

18 "(a) A state judicial compensation commission is
19 ~~hereby~~ created which shall recommend the salary and expense
20 allowances to be paid from the ~~state treasury~~ State Treasury
21 for all the judges of this state,~~4~~ except for judges of the
22 probate court. The commission shall consist of five members~~7~~:
23 ~~one~~ One shall be appointed by the ~~governor~~ Governor, one by
24 the ~~president~~ President of the ~~senate~~ Senate, one by the
25 ~~speaker~~ Speaker of the ~~house~~ House, and two by the governing
26 body of the Alabama ~~state bar~~ State Bar.

1 "(b) Members of the judicial compensation commission
2 shall serve for terms of four years. Any vacancy on the
3 commission shall be filled in the same manner in which ~~such~~
4 the position was originally filled. The ~~legislature~~
5 Legislature shall appropriate sufficient funds for the
6 expenses of the commission.

7 "(c) No member of the commission shall hold any
8 other public office, or office in any political party, and no
9 member of the commission shall be eligible for appointment to
10 a state judicial office so long as he or she is a member of
11 the commission and for two years thereafter.

12 "(d) The commission may submit a report to the
13 ~~legislature~~ Legislature at any time within the first five
14 calendar days of any session. The recommendations of the
15 commission shall become law upon confirmation by a joint
16 resolution or such recommendations may be altered by an act of
17 the ~~legislature~~ Legislature at the session to which the report
18 is submitted. The compensation of a judge shall not be
19 diminished during his or her official term.

20 "Amendment 328.

21 "Section 6.10.

22 "(a) The ~~chief justice~~ Chief Justice of the ~~supreme~~
23 ~~court~~ Supreme Court shall be the administrative head of the
24 judicial system. ~~He shall appoint an administrative director~~
25 ~~of courts and other needed personnel to assist him with his~~
26 ~~administrative tasks.~~ The Supreme Court shall appoint an
27 Administrative Director of Courts according to procedures

1 provided by general law. The Administrative Director of Courts
2 shall assist the Chief Justice with his or her administrative
3 tasks. The ~~chief justice~~ Chief Justice may assign appellate
4 justices and judges to any appellate court for temporary
5 service and may assign trial judges, supernumerary justices
6 and judges, and retired trial judges and retired appellate
7 judges for temporary service in any court.

8 "(b) The Legislature shall provide adequate ~~Adequate~~
9 and reasonable financing for the entire unified judicial
10 system ~~shall be provided.~~ Adequate and reasonable
11 appropriations shall be made by the ~~legislature~~ Legislature
12 for the entire unified judicial system, exclusive of probate
13 courts and municipal courts. The ~~legislature~~ Legislature shall
14 receive recommendations for appropriations for the trial
15 courts from the ~~administrative director of courts~~
16 Administrative Director of Courts and for the appellate courts
17 from each such court. The Legislature shall establish
18 procedures for the appointment of the Administrative Director
19 of Courts.

20 "Amendment 328.

21 "Section 6.12.

22 "(a) The ~~supreme court~~ Supreme Court shall establish
23 criteria for determining the number and boundaries of judicial
24 circuits and districts, and the number of judges needed in
25 each circuit and district. If the ~~supreme court~~ Supreme Court
26 finds that a need exists for increasing or decreasing the
27 number of circuit or district judges, or for changing the

1 boundaries of judicial circuits or districts, ~~it shall,~~ at the
2 beginning of any session of the ~~legislature~~ Legislature, the
3 court shall certify its findings and recommendations to the
4 ~~legislature~~ Legislature.

5 "(b) If a bill is introduced at any session of the
6 ~~legislature~~ Legislature to increase or decrease the number of
7 circuit or district judges, or to change the boundaries of any
8 judicial circuit or district, the ~~supreme court~~ Supreme Court
9 ~~must,~~ within three weeks, shall report to the ~~legislature~~
10 Legislature its recommendations on the proposed change. No
11 change shall be made in the number of circuit or district
12 judges, or the boundaries of any judicial circuit or district,
13 unless authorized by an act adopted after the recommendation
14 of the ~~supreme court~~ Supreme Court on such proposal has been
15 filed with the ~~legislature~~ Legislature.

16 "(c) An act decreasing the number of circuit or
17 district judges shall not affect the right of any judge to
18 hold his or her office for his or her full term.

19 "Amendment 328.

20 "Section 6.14.

21 "The office of a judge shall be vacant if he or she
22 dies, resigns, retires, or is removed. Vacancies in any
23 judicial office shall be filled by appointment by the ~~governor~~
24 ~~; however, vacancies occurring in any judicial office in~~
25 ~~Jefferson county shall be filled as now provided by amendments~~
26 ~~83 and 110 to the Constitution of Alabama of 1901 [Jefferson~~
27 ~~County §§ 8 and 9] and vacancies occurring in Shelby, Madison,~~

1 ~~Wilcox, Monroe, Conecuh, Clarke, Washington, Henry, Etowah,~~
2 ~~Walker, Tallapoosa, Pickens, Greene, Tuscaloosa, St. Clair~~
3 ~~county shall be filled as provided in the Constitution of 1901~~
4 ~~with amendments now or hereafter adopted, or as may be~~
5 ~~otherwise established by a properly advertised and enacted~~
6 ~~local law~~ Governor, except as specified by a separate local
7 constitutional amendment now existing or hereafter adopted
8 that affects only one county or a political subdivision within
9 one or more counties. A judge, other than a probate judge,
10 appointed to fill a vacancy, shall serve an initial term
11 lasting until the first Monday after the second Tuesday in
12 January following the next general election held after he or
13 she has completed one year in office. At such election, such
14 judicial office shall be filled for a full term of office
15 beginning at the end of the appointed term.

16 "Amendment 328.

17 "Section 6.16.

18 The ~~legislature~~ Legislature shall provide by law for
19 the retirement of judges, including supernumerary judges, with
20 such conditions, retirement benefits, and pensions for ~~them~~
21 the judges and their dependents as ~~it~~ the Legislature may
22 prescribe. No person shall be elected or appointed to a
23 judicial office after reaching the age of ~~seventy~~ 70 years,
24 provided that a judge over the age of ~~seventy~~ 70 years may be
25 appointed to the office of supernumerary judge if he or she is
26 not eligible to receive state judicial retirement benefits.

27 "Amendment 328, as amended by Amendment 581.

1 "Section 6.17.

2 "(a) A Judicial Inquiry Commission is created
3 consisting of ~~nine~~ 11 members. The Supreme Court shall appoint
4 one appellate judge who shall not be a Justice on the Supreme
5 Court; the Circuit Judges' Association shall appoint two
6 judges of the circuit court; the Governor shall appoint three
7 persons who are not lawyers, who shall be subject to Senate
8 confirmation before serving; ~~the Lieutenant Governor shall~~
9 ~~appoint one district judge who shall be subject to Senate~~
10 ~~confirmation~~ the District Judges' Association shall appoint
11 one judge of the district court; the Probate Judges'
12 Association shall appoint one judge of the probate court; the
13 Municipal Judges' Association organized under the Alabama
14 League of Municipalities shall appoint one judge of the
15 municipal court; and the governing body of the Alabama State
16 Bar shall appoint two members of the state bar to serve as
17 members of the commission. The nominating authorities shall
18 make every effort to coordinate their appointments to assure
19 commission membership is inclusive and reflects the racial,
20 gender, geographic, urban, rural, and economic diversity of
21 the state without regard to political affiliation. Provided,
22 ~~however, that on January 1, 2005, the appointment authority~~
23 ~~granted to the Lieutenant Governor shall revert to the~~
24 ~~Governor and the Governor shall thereafter be entitled to~~
25 ~~appoint three persons who are not lawyers and one district~~
26 ~~judge, all subject to Senate confirmation.~~ The commission
27 shall select its own chair. The terms of the members of the

1 commission shall be four years and each member may serve no
2 more than two consecutive terms. A vacancy on the commission
3 shall be filled for a full term in the manner the original
4 appointment was made.

5 "(b) The commission shall be convened permanently
6 with authority to conduct investigations and receive or
7 initiate complaints concerning any judge of a court of the
8 judicial system of this state. The commission shall file a
9 complaint with the Court of the Judiciary in the event that a
10 majority of the members of the commission decide that a
11 reasonable basis exists, (1) to charge a judge with violation
12 of any Canon of Judicial Ethics, misconduct in office, or
13 failure to perform his or her duties, or (2) to charge that
14 the judge is physically or mentally unable to perform his or
15 her duties. All proceedings of the commission shall be
16 confidential except the filing of a complaint with the Court
17 of the Judiciary. The commission shall prosecute the
18 complaints.

19 "(c) The Supreme Court shall adopt rules governing
20 the procedures of the commission.

21 "(d) The commission shall have subpoena power and
22 authority to appoint and direct its staff. Members of the
23 commission who are not judges shall receive per diem
24 compensation and necessary expenses; members who are judges
25 shall receive necessary expenses only. The Legislature shall
26 appropriate funds for the operation of the commission.

27 "Amendment 328, as amended by Amendment 581.

1 "Section 6.18.

2 "(a) The Court of the Judiciary is created
3 consisting of one judge of an appellate court, other than the
4 Supreme Court, who shall be selected by the Supreme Court and
5 shall serve as Chief Judge of the Court of the Judiciary; two
6 judges of the circuit court, who shall be selected by the
7 Circuit Judges' Association; and one ~~district~~ judge of the
8 district court, who shall be selected by the District Judges'
9 Association. Other members of the Court of the Judiciary shall
10 consist of two members of the state bar, who shall be selected
11 by the governing body of the Alabama State Bar; ~~two~~ and three
12 persons who are not lawyers, who shall be appointed by the
13 Governor; ~~and one person appointed by the Lieutenant Governor.~~
14 The nominating authorities shall make every effort to
15 coordinate their appointments to assure court membership is
16 inclusive and reflects the racial, gender, geographic, urban,
17 rural, and economic diversity of the state without regard to
18 political affiliation. Members appointed by the Governor ~~and~~
19 ~~Lieutenant Governor~~ shall be subject to Senate confirmation
20 before serving. ~~Provided, however, that on January 1, 2005,~~
21 ~~the appointment authority granted to the Lieutenant Governor~~
22 ~~shall revert to the Governor and the Governor shall thereafter~~
23 ~~be entitled to appoint three persons who are not lawyers,~~
24 ~~subject to Senate confirmation.~~ The court shall be convened to
25 hear complaints filed by the Judicial Inquiry Commission. The
26 court shall have authority, after notice and public hearing,
27 to do either of the following:

1 (1) ~~to remove~~ Remove from office, suspend, with or
2 without pay, or censure a judge, or apply ~~such~~ any other
3 sanction as may be prescribed by law, for a violation of a
4 Canon of Judicial Ethics, misconduct in office, or failure to
5 perform his or her duties~~7.~~

6 (2) ~~to suspend~~ Suspend, with or without pay, or ~~to~~
7 retire a judge who is physically or mentally unable to perform
8 his or her duties.

9 "(b) A judge aggrieved by a decision of the Court of
10 the Judiciary may appeal to the Supreme Court. The Supreme
11 Court shall review the record of the proceedings on the law
12 and the facts.

13 "(c) The Supreme Court shall adopt rules governing
14 the procedures of the Court of the Judiciary.

15 "(d) The Court of the Judiciary ~~shall have power to~~
16 may issue subpoenas. The Legislature shall provide by law for
17 the expenses of the court.

18 "Amendment 328.

19 "Section 6.19.

20 "(a) A judge shall be disqualified from acting as a
21 judge, without loss of salary, ~~while there is pending in~~
22 either of the following circumstances:

23 "(1) ~~an~~ An indictment or ~~an~~ information charging him
24 or her in the United States with a crime punishable as a
25 felony under a state or federal law, ~~or is pending.~~

26 "(2) ~~a~~ A complaint against him ~~filed by the judicial~~
27 ~~inquiry commission with the court of the judiciary.~~ or her

1 recommending disqualification adopted by a two-thirds vote of
2 the Judicial Inquiry Commission is pending with the Court of
3 the Judiciary and both of the following conditions are met:

4 "a. The complaint alleges the judge is physically or
5 mentally unable to perform his or her judicial duties or poses
6 a substantial threat of serious harm to the public or the
7 administration of justice.

8 "b. The recommendation of disqualification is
9 approved by the Chief Judge of the Court of the Judiciary.

10 "(b) A judge who is suspended pursuant to
11 subdivision (2) of subsection (a) shall have the opportunity
12 to request a review of the suspension pursuant to rules of
13 procedure adopted by the Supreme Court to govern the Court of
14 the Judiciary.

15 "Amendment 328.

16 "Section 6.20.

17 "(a) A district attorney for each judicial circuit
18 shall be elected by the qualified electors of those counties
19 in such circuit. ~~Such~~ The district attorney shall be licensed
20 to practice law in this state and ~~shall~~, at the time of his or
21 her election and during his or her continuance in office,
22 shall reside in his or her circuit. ~~His~~ The term of office
23 shall be for six years and he or she shall receive ~~such~~
24 compensation as provided by law. Vacancies in the office of
25 district attorney and in his or her staff shall be filled as
26 provided by law.

1 "(b) Clerks of the circuit courts shall be elected
2 by the qualified electors in each county for a term of six
3 years. If the office of register in chancery continues to be
4 provided by law, then the clerk of the circuit court may also
5 fill such office in a manner prescribed by law. Vacancies in
6 the office of clerk of the circuit court shall be filled by
7 the judge or judges of the circuit court who have jurisdiction
8 over the county in which the office of clerk of the circuit
9 court is located.

10 "~~(c) Persons elected to the position of constable to~~
11 ~~assist the courts of the state as provided by law shall be~~
12 ~~subject to the same restrictions, rights and limitations as~~
13 ~~are specified in section 280 of the Constitution of 1901, and~~
14 ~~no law shall prohibit the receipt of fees for the performance~~
15 ~~of official duties of said position while holding any other~~
16 ~~elected or appointed office.~~

17 "~~(d)~~ (c) The revenue from fines, forfeitures, and
18 court costs produced in district courts from the exercise of
19 jurisdiction under municipal ordinances shall be apportioned
20 between the municipality and the state as shall be provided by
21 law.

22 "Section 173.

23 "(a) The Governor, Lieutenant Governor, Attorney
24 General, State Auditor, Secretary of State, State Treasurer,
25 members of the State Board of Education, and Commissioner of
26 Agriculture and Industries, ~~and justices of the supreme court~~
27 may be removed from office for willful neglect of duty,

1 corruption in office, incompetency, or intemperance in the use
2 of intoxicating liquors or narcotics to such an extent, in
3 view of the dignity of the office and importance of its
4 duties, as unfits the officer for the discharge of such duties
5 for any offense involving moral turpitude while in office, or
6 committed under color thereof, or connected therewith.

7 "(b) The House of Representatives shall present
8 articles or charges of impeachment against those persons
9 identified in subsection (a), specifying the cause to the
10 Senate.

11 "(c) The Senate, sitting as a court of impeachment,
12 shall take testimony under oath on articles or charges
13 preferred by the House of Representatives.

14 "(d) The Lieutenant Governor shall preside over the
15 Senate when sitting as a court of impeachment, provided,
16 however, that if the Governor or Lieutenant Governor is
17 impeached, the Chief Justice, or if the Chief Justice be
18 absent or disqualified, then one of the associate justices of
19 the supreme court, to be selected by the court, shall preside
20 over the Senate when sitting as a court of impeachment. No
21 person may be convicted by the Senate sitting as a court of
22 impeachment without the concurrence of two-thirds of the
23 members present.

24 "(e) If at any time when the Legislature is not in
25 session, a majority of all the members elected to the House of
26 Representatives shall certify in writing to the Secretary of
27 State their desire to meet to consider the impeachment of the

1 Governor, Lieutenant Governor, or other officer administering
2 the office of Governor, it shall be the duty of the Secretary
3 of State immediately to notify the Speaker of the House who,
4 within 10 days after receipt of the notice, shall summon the
5 members of the House to assemble at the capitol on a day to be
6 fixed by the Speaker, but not later than 15 days after receipt
7 of the notice by the Speaker from the Secretary of State, to
8 consider the impeachment of the Governor, Lieutenant Governor,
9 or other officer administering the office of Governor.

10 "(f) If the House of Representatives prefers
11 articles of impeachment, the Speaker of the House shall
12 forthwith notify the Lieutenant Governor, unless he or she is
13 the officer impeached, in which event the President Pro
14 Tempore of the Senate shall be notified, who shall summon the
15 members of the Senate to assemble at the capitol on a
16 specified day not later than 10 days after receipt of the
17 notice from the Speaker of the House, for the purpose of
18 hearing and trying the articles of impeachment against the
19 Governor, Lieutenant Governor, or other officer administering
20 the office of Governor, as may be preferred by the House of
21 Representatives.

22 "Section 174.

23 ~~"The judges of the district and circuit courts,~~
24 ~~judges of the probate courts, and judges of other courts from~~
25 ~~which an appeal may be taken directly to the supreme court,~~
26 ~~district~~ District attorneys, and sheriffs, may be removed from
27 office for any of the causes specified in Section 173 or

1 elsewhere in this constitution, by the supreme court, or under
2 such regulations as may be prescribed by rule of the Supreme
3 Court of Alabama or law. The Legislature may provide for the
4 impeachment or removal of other officers than those named in
5 this article."

6 Section 2. An election upon the proposed amendment
7 shall be held in accordance with Sections 284 and 285 of the
8 Constitution of Alabama of 1901, now appearing as Sections 284
9 and 285 of the Official Recompilation of the Constitution of
10 Alabama of 1901, as amended, and the election laws of this
11 state.

12 Section 3. The appropriate election official shall
13 assign a ballot number for the proposed constitutional
14 amendment on the election ballot and shall set forth the
15 following description of the substance or subject matter of
16 the proposed constitutional amendment:

17 "Proposing an amendment to the Constitution of
18 Alabama of 1901, to increase the membership of the Judicial
19 Inquiry Commission and further provide for the appointment of
20 the additional members; further provide for the membership of
21 the Court of the Judiciary and further provide for the
22 appointment of the additional members; further provide for the
23 process of disqualifying an active judge; repeal provisions
24 providing for the impeachment of Supreme Court Justices and
25 appellate judges and the removal for cause of the judges of
26 the district and circuit courts, judges of the probate courts,
27 and judges of certain other courts by the Supreme Court;

1 delete the authority of the Chief Justice of the Supreme Court
2 to appoint an Administrative Director Courts; provide the
3 Supreme Court of Alabama with authority to appoint an
4 Administrative Director of Courts; require the Legislature to
5 establish procedures for the appointment of the Administrative
6 Director of Courts; delete the requirement that a district
7 court hold court in each incorporated municipality with a
8 population of 1,000 or more where there is no municipal court;
9 provide that the procedure for the filling of vacancies in the
10 office of a judge may be changed by local constitutional
11 amendment; delete certain language relating to the position of
12 constable holding more than one state office; delete a
13 provision providing for the temporary maintenance of the prior
14 judicial system; repeal the office of circuit solicitor; and
15 make certain nonsubstantive stylistic changes.

16 "Proposed by Act _____."

17 This description shall be followed by the following
18 language:

19 "Yes () No ()."

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Senate

Read for the first time and referred to the Senate
committee on Judiciary..... 02-APR-19

Read for the second time and placed on the calen-
dar 1 amendment..... 11-APR-19

Read for the third time and passed as amended 30-APR-19

Yeas 28
Nays 0

Patrick Harris,
Secretary.