

SECOND REGULAR SESSION

HOUSE JOINT RESOLUTION NO. 58

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES HOSMER AND HOLAND (Co-sponsors).

Read 1st time March 5, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

4534L.01I

JOINT RESOLUTION

Submitting to the qualified voters of Missouri an amendment repealing sections 14, 15, 16, 17, 19, 20, 21, 25(a), 25(b), 25(c)(2), and 25(d) of article V of the Constitution of Missouri, and adopting ten new sections in lieu thereof relating to the judiciary.

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, 2002, 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A. Sections 14, 15, 16, 17, 19, 20, 21, 25(a), 25(b), 25(c)(2), and 25(d), article V, Constitution of Missouri, are repealed and ten new sections adopted in lieu thereof, to be known as sections 14, 15, 19, 20, 21, 24(a), 25(a), 25(b), 25(c)(2), and 25(d), to read as follows:

Section 14. (a) The circuit courts shall have original jurisdiction over all cases and matters, civil and criminal. Such courts may issue and determine original remedial writs and shall sit at times and places within the circuit as determined by the circuit court. **Effective January 1, 2003, all associate circuit judges shall become circuit judges with all the powers, duties, and compensation of circuit judges, and the office of associate circuit judge shall be abolished as of that date.**

(b) Procedures for the adjudication of small claims shall be as provided by law.

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

Section 15. 1. The state shall be divided into convenient circuits of contiguous counties. In each circuit there shall be at least one circuit judge. The circuits may be changed or abolished by law as public convenience and the administration of justice may require, but no judge shall be removed from office during his term by reason of alteration of the geographical boundaries of a circuit. Any circuit [or associate circuit] judge may temporarily sit in any other circuit at the request of a judge thereof. In circuits having more than one judge, the court may sit in general term or in divisions. The circuit judges of the circuit may make rules for the circuit not inconsistent with the rules of the supreme court.

2. Each circuit shall have such number of circuit judges as provided by law.

3. The circuit [and associate circuit] judges in each circuit shall select by secret ballot a circuit judge from their number to serve as presiding judge. The presiding judge shall have general administrative authority over the court and its divisions.

4. Personnel to aid in the business of the circuit court shall be selected as provided by law or in accordance with a governmental charter of a political subdivision of this state. Where there is a separate probate division of the circuit court, the judge of the probate division shall, until otherwise provided by law, appoint a clerk and other nonjudicial personnel for the probate division.

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

[Section 17. Associate circuit judges may hear and determine all cases, civil or criminal and all other matters as now provided by law for magistrate or probate judges and may be assigned such additional cases or classes of cases as may be provided by law. In probate matters the associate circuit judge shall have general equitable jurisdiction.]

Section 19. Judges of the supreme court and of the court of appeals shall be selected for terms of twelve years[, and judges of the circuit courts for terms of six years[, and associate circuit judges for terms of four years]. **Effective January 1, 2003, all associate circuit judges who have become circuit court judges pursuant to section 14 of this article shall serve an additional two year term, and upon reappointment or election shall be selected for terms of six years.**

Section 20. All judges shall receive as salary the total amount of their present compensation until otherwise provided by law, but no judge's salary shall be diminished during his term of office. No judge shall receive any other or additional compensation for any public

4 service. No supreme, appellate, **or** circuit [or associate circuit] judge shall practice law or do law
5 business. Judges may receive reasonable traveling and other expenses allowed by law.

Section 21. Judges of the supreme court and of the court of appeals shall have been
2 citizens of the United States for at least fifteen years, and qualified voters of the state for nine
3 years next preceding their selection. Such judges shall be at least thirty years of age. Except as
4 provided by section 6, judges of the court of appeals shall be residents of the court of appeals
5 district in which they serve. Circuit judges shall have been citizens of the United States for at
6 least ten years, and qualified voters of this state three years next preceding their selection, and
7 be not less than thirty years of age and residents of the circuit for at least one year. [Associate
8 circuit judges shall be qualified voters of this state and residents of the county, at least
9 twenty-five years old, and have such other qualifications as may be provided by law.] Every
10 supreme, appellate, **or** circuit[, and associate circuit] court judge shall be licensed to practice law
11 in this state.

**Section 24(a). 1. There is created a commission to be known as the "Missouri
2 Judicial Assignment Commission", composed of three judges appointed by the chief justice
3 of the supreme court, one of whom shall be a current judge of the supreme court, one of
4 whom shall be a current judge of the court of appeals, and one of whom shall be a current
5 judge of a circuit court; two members of the general assembly, one of whom shall be a
6 member of the house of representatives appointed by the speaker of the house of
7 representatives and one of whom shall be a member of the senate appointed by the
8 president pro tempore of the senate; and the state courts administrator or his or her
9 designee.**

10 **2. Each of the members of the commission shall be appointed for a term of two
11 years. Upon a vacancy on the commission, a successor shall be selected and appointed to
12 fill the unexpired term in the same manner as the original appointment was made. The
13 appointment to fill a vacancy shall be made within thirty days of the date the position
14 becomes vacant. Members of the commission shall receive no compensation for their
15 services but shall be reimbursed for their actual and necessary expenses incurred in the
16 performance of their duties from appropriations made for that purpose.**

17 **3. The commission shall, beginning in 2004 and every two years thereafter, review
18 and study the assignment of judges and allocation of judicial staff and resources across the
19 state and make formal recommendations, beginning no later than the first day of
20 December, 2004, and by the first day of December every two years thereafter, to the
21 general assembly for the reduction, transfer, reallocation, or other changes to the number
22 and assignment of current circuit and associate circuit judges. The formal
23 recommendations shall become effective, unless disapproved by concurrent resolution**

24 **adopted by the general assembly prior to the first day of February of the year following the**
25 **filing of the formal recommendations, on the following first day of July. Unless**
26 **disapproved by concurrent resolution, the formal recommendations shall be published by**
27 **the revisor of statutes as a part of the revised statutes of Missouri.**

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.

Section 25(b). At any general election the qualified voters of any judicial circuit outside
2 of the city of St. Louis and Jackson County, may by a majority of those voting on the question
3 elect to have the circuit [and associate circuit] judges appointed by the governor in the manner
4 provided for the appointment of judges to the courts designated in section 25(a), or, outside the
5 city of St. Louis and Jackson County, to discontinue any such plan. The question of whether the
6 circuit [and associate circuit] judges of any such circuit shall be so appointed shall be submitted
7 to the voters of each county in any circuit at the next general election whenever petitions therefor
8 signed by ten percent of the legal voters of each county in the circuit voting for the office of
9 governor at the last election thereof are filed in the office of secretary of state at least 90 days
10 before such election. The question shall be presented as follows: "Shall the circuit [and
11 associate circuit] judges of the judicial circuit be selected as provided in Section 25 of
12 Article V of the Missouri Constitution?

13 ☐ Yes

14 ☐ No (Mark One)"

15

16 The provisions of law with respect to initiative petitions shall apply insofar as applicable relative
17 to the certification of the petitions to local officials by the secretary of state, the preparation,
18 printing, publishing and distribution of the judicial ballots required by this section, the holding
19 and conduct of the election, and the counting, canvassing, return, certification, and proclamation
20 of the votes. If a majority of the votes upon the question are cast in favor of the adoption in each
21 county comprising the circuit, the nonpartisan selection of the circuit [and associate] judges shall
22 be adopted in the circuit. The question of selection of circuit [and associate circuit] judges in the
23 manner provided in section 25(a) shall not be submitted more often than once every four years.

24 If any judicial circuit adopts the nonpartisan selection of the circuit [and associate circuit] judges
25 under the provisions of this section, the question of its discontinuance shall not be submitted
26 more often than once every four years and may be submitted at any general election and shall be
27 proceeded upon insofar as may be applicable in like manner as prescribed in this section for the
28 original adoption of the plan.

29 The petition shall be in substantially the following form:

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

32 We, the undersigned, legal voters of the state of Missouri, and of the county of,
33 respectfully demand that the question of the discontinuance of the nonpartisan selection of the
34 circuit [and associate circuit] judges be submitted to the legal voters of the judicial circuit,
35 for their approval or rejection, at the general election to be held on the day of, A.D.
36 [19] 20...

37 The ballot shall provide as follows:

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

40 ☐ Yes

41 ☐ No

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

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

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

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

12 governing voting upon measures proposed by the initiative.

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