

FIRST REGULAR SESSION

# HOUSE JOINT RESOLUTION NO. 27

93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE VOGT.

Read 1<sup>st</sup> time March 31, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

2179L.011

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## JOINT RESOLUTION

Submitting to the qualified voters of Missouri an amendment repealing section 15 of article V of the Constitution of Missouri, and adopting one new section in lieu thereof relating to the judicial department.

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*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, 2006, 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Section A. Section 15, article V, Constitution of Missouri, is repealed and one new section adopted in lieu thereof, to be known as section 15, to read as follows:

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 **or her** 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.

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.

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

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

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

18           **5. All workers' compensation administrative law judges as established in chapter**  
19 **287, RSMo, who hold office on January 1, 2007, shall cease to hold that office and that**  
20 **office shall hereby be abolished. When such offices cease to exist:**

21           **(1) The jurisdiction of workers' compensation administrative law judges shall be**  
22 **transferred to the circuit court of the circuit within the geographic jurisdiction of the**  
23 **district where he or she serves on January 1, 2007, and such administrative law judges**  
24 **shall become divisions of the circuit court to be known as "The Workers' Compensation**  
25 **Court". Administrative law judges who hold office on January 1, 2007, shall thereafter**  
26 **become circuit court judges of the workers' compensation court. If the geographic**  
27 **jurisdiction of the district where the administrative law judge serves on January 1, 2007,**  
28 **is encompassed by more than one circuit court, the administrative law judge's office shall**  
29 **be transferred for administrative purposes to that circuit with the largest population;**

30           **(2) The provisions of law relating to practice and procedure under the workers'**  
31 **compensation act, crime victims' compensation act, and tort victims' compensation act**  
32 **shall, until otherwise changed by law, remain in effect and the provision of law relating to**  
33 **practice, procedure, venue, jurisdiction, change of judge, and all other provisions of law**  
34 **shall, until otherwise changed by law, remain in effect;**

35           **(3) All records, papers and files shall remain as currently maintained;**

36           **(4) Divisions of the circuit court created by this subsection may be changed**  
37 **hereafter by law;**

38           **(5) On and after January 1, 2007, the office expenses and salaries of the workers'**  
39 **compensation court judges shall continue to be paid from the sources and funds from**  
40 **which they were paid before such date. A pro-rata portion of assets of the administrative**  
41 **law judge retirement plan shall be transferred to the judicial retirement plan for the offices**  
42 **so transferred, and the workers' compensation court judges shall thereafter participate in**  
43 **the judicial plan with credit for service under the prior plan as if that service had accrued**  
44 **under the judicial plan;**

45           **(6) Until otherwise provided by law, circuit judges of the workers' compensation**

46 court shall hear all claims for workers' compensation, tort victims' compensation, and  
47 crime victims' compensation;

48 (7) Until otherwise provided by law or supreme court rule, the practice, procedure,  
49 filing fees, and administration of causes heard by circuit judges of the workers'  
50 compensation court within the jurisdiction of former workers' compensation  
51 administrative law judges shall be and remain the same as in the office abolished;

52 (8) On January 1, 2007, the circuit judges of the workers' compensation court shall  
53 have and be entitled to the same compensation as provided by law for circuit judges on  
54 such date and shall be entitled to the same compensation as provided by law for circuit  
55 judges thereafter and be entitled to all the same benefits and emoluments of the office of  
56 circuit court judge, and shall have the same powers as judges of the circuit court but  
57 limited to the class of cases as prescribed in the workers' compensation, tort victims'  
58 compensation, and crime victims' compensation acts, or as otherwise expanded but not  
59 contracted by law;

60 (9) Each judge who served as an administrative law judge and who is in office on  
61 January 1, 2007, shall continue to serve in the capacity of judge of the workers'  
62 compensation court of the circuit court until his or her successor is selected and qualified;

63 (10) Until January 1, 2007, administrative law judges shall continue to have the  
64 jurisdiction and power provided in the laws repealed;

65 (11) On January 1, 2007, the right to and method of review from a final judgment  
66 or appealable order of a circuit judge of the workers' compensation court, when so acting  
67 within the jurisdiction of cases heretofore within the jurisdiction of the administrative law  
68 judges hereby abolished, shall be to the court of appeals encompassing that circuit;

69 (12) The costs of proceedings as provided before January 1, 2007, shall remain in  
70 effect with respect to cases which would have been within the jurisdiction of the division  
71 of workers' compensation or labor and industrial relations commission until such costs are  
72 otherwise changed by law;

73 (13) Until January 1, 2007, administrative law judges shall continue to have the  
74 jurisdiction and power provided in the laws repealed hereby and provided by the laws and  
75 rules previously enacted and shall continue to follow the procedures as provided in such  
76 laws and rules;

77 (14) Each administrative law judge who, on January 1, 2007, becomes a circuit  
78 judge, shall become a nonpartisan judge under section 25 of this article. The retention vote  
79 prescribed in such section for workers' compensation court judges shall be of voters  
80 eligible to vote within the state;

81 (15) Circuit judges of the workers' compensation court, in addition to their regular  
82 duties, shall be subject to temporary assignment for the performance of judicial duties as

83 special judges of the supreme court, court of appeals, or circuit court on order of the  
84 supreme court. During such temporary assignments, and sitting as special judges, circuit  
85 court judges of the workers' compensation court shall have the same powers, duties, and  
86 responsibilities as are vested by law in the regular judges of the courts to which they are  
87 assigned;

88 (16) Nothing in this section shall deprive any person of any right or privilege to  
89 retire and the retirement benefits to which he or she was entitled immediately prior to  
90 January 1, 2007;

91 (17) Until January 1, 2007, the labor and industrial relations commission shall  
92 continue to have jurisdiction to review administrative decisions, findings, rules, and orders  
93 in the manner and practice and pursuant to the laws and rules in force prior to January  
94 1, 2007;

95 (18) All rights, claims, causes of action and obligations existing and all contracts,  
96 prosecutions, and other instruments executed or entered into and all pleadings, papers and  
97 complaints which shall have been filed and all actions which shall have been instituted and  
98 all fines, penalties and forfeitures assessed, due or owing prior to January 1, 2007, shall  
99 continue to be as valid as if this section had not been adopted;

100 (19) The general assembly may enact such laws and make such appropriations as  
101 may be necessary to carry out the provisions of this article;

102 (20) All laws and rules inconsistent with the provisions of this article shall, on  
103 January 1, 2007, be and are repealed. Except to the extent inconsistent with the provisions  
104 of this article, all provisions of law and rules of court in force on January 1, 2007, shall  
105 continue in effect until superseded in a manner authorized by the constitution or by law;

106 (21) Judges who on January 1, 2007, or within six months thereafter, are seventy  
107 years of age or older, may petition the commission on retirement, removal, and discipline  
108 to continue to serve until age seventy-six if he or she has not completed a total of twelve  
109 years of service as a judge; and

110 (22) Judges who are in office on January 1, 2007, may continue to serve despite the  
111 provisions of section 5 of this article until he or she has completed the total of years of  
112 service as a judge which combined with age which would have entitled the judge to a  
113 normal retirement benefit under the office abolished, whichever shall first occur, if the  
114 commission on retirement and removal of judges finds the judge mentally capable and  
115 willing to perform the judge's duties and approves such service. No such judge shall be  
116 permitted to serve as such a judge beyond the age of seventy-six years regardless of  
117 whether or not he or she has completed a total of twelve years except for the purpose of  
118 completing the term to which he or she was elected or appointed.