

SECOND REGULAR SESSION

HOUSE JOINT RESOLUTION NO. 73

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES EMERY (Sponsor), LEMBKE, BIVINS, SCHARNHORST,
SMITH (14) AND NIEVES (Co-sponsors).

Read 1st time February 28, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

5175L.01I

JOINT RESOLUTION

Submitting to the qualified voters of Missouri an amendment repealing sections 25(a) and 25(b) of article V of the Constitution of Missouri, and adopting two new sections in lieu thereof relating to appointment of judges.

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, 2008, 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Section A. Sections 25(a) and 25(b), article V, Constitution of Missouri, are repealed and two new sections adopted in lieu thereof, to be known as sections 25(a) and 25(b), to read as follows:

Section 25(a). **On or after January 1, 2010**, whenever a vacancy shall occur in the office of judge of any of the following courts of this state, to wit: The supreme court, the court of appeals, or in the office of circuit or associate circuit judge within the city of St. Louis and Jackson County, the governor shall fill such vacancy by appointing [one of three persons] **a person** possessing the qualifications for such office, who shall be nominated and whose [names] **name** shall be submitted to the [governor by a nonpartisan judicial commission established and organized as hereinafter provided. If the governor fails to appoint any of the nominees within

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.

8 sixty days after the list of nominees is submitted, the nonpartisan judicial commission making
9 the nomination shall appoint one of the nominees to fill the vacancy] **judicial confirmation**
10 **commission for confirmation or rejection no later than ninety days from the date the**
11 **nomination is received by the judicial confirmation commission. Procedures for**
12 **appointment, hearings, and confirmation or rejection of gubernatorial nominations for**
13 **such judgeships shall be as provided in section 25(b) of this article.**

Section 25(b). 1. At any general election the qualified voters of any judicial circuit
2 outside of the city of St. Louis and Jackson County, may by a majority of those voting on the
3 question elect to have the circuit and associate circuit judges appointed by the governor in the
4 manner provided for the appointment of judges to the courts designated in section 25(a), or,
5 outside the city of St. Louis and Jackson County, to discontinue any such plan. The question of
6 whether the circuit and associate circuit judges of any such circuit shall be so appointed shall be
7 submitted to the voters of each county in any circuit at the next general election whenever
8 petitions therefor signed by ten percent of the legal voters of each county in the circuit voting for
9 the office of governor at the last election thereof are filed in the office of secretary of state at
10 least 90 days before such election. The question shall be presented as follows: "Shall the circuit
11 and associate circuit judges of the judicial circuit be selected as provided in Section 25
12 of Article V of the Missouri Constitution?"

13 ☐ YES

☐ NO

14 (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...

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

☐ NO

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

42

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.

49 **2. A seven-member judicial confirmation commission shall be established for the**
50 **supreme court, for each court of appeals, and for any circuit court which appoints judges**
51 **upon the provisions of this article. Each judicial confirmation commission shall be**
52 **comprised of three members of the Missouri Bar appointed by the governor, two members**
53 **currently serving as members of the general assembly appointed by the speaker of the**
54 **house of representatives, and two members currently serving as members of the general**
55 **assembly appointed by the president pro tempore of the senate. No person appointed to**
56 **serve on a judicial confirmation commission shall be replaced by the appointing official**
57 **except during a thirty-day period beginning January first. Upon receipt by the judicial**
58 **confirmation commission of a governor's nomination as provided in section 25(a) of this**
59 **article, the commission shall proceed in a timely manner to hold public hearings on the**
60 **nomination. Recommendations by the Missouri Bar, as provided in this subsection, shall**
61 **be considered by the commission. A nomination is confirmed by an affirmative vote of at**
62 **least a majority of the commission members.**

63 **3. Within forty-five days of receipt of the governor's nomination by the judicial**
64 **confirmation commission, a recommendation by a committee of the Missouri Bar,**
65 **composed of the president of the Missouri Bar and three members designated by the board**

66 of governors of the Missouri Bar, shall be delivered to the applicable judicial confirmation
67 commission as to the fitness of a particular candidate. Any such recommendation shall be
68 classified as one of the following: exceptionally qualified; qualified; no opinion; or not
69 qualified. Any recommendation of not qualified shall be accompanied with supporting
70 evidence. Bar committee members may be requested by the commission to testify under
71 oath as to the committee's recommendation.

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