

1 SB8
2 179374-2
3 By Senator Hightower (Constitutional Amendment)
4 RFD: Judiciary
5 First Read: 07-FEB-17
6 PFD: 10/04/2016

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8 SYNOPSIS: Under Article VI, Section 157 of the
9 Official Recompilation of the Constitution of
10 Alabama of 1901, as amended, the Court of the
11 Judiciary is created to hear complaints filed by
12 the Judicial Inquiry Commission, and a judge
13 aggrieved by a decision of the Court of the
14 Judiciary may appeal the decision to the Supreme
15 Court of Alabama.

16 This bill would propose an amendment to the
17 Constitution of Alabama of 1901, to require
18 legislative approval of affirmations by the Supreme
19 Court of decisions by the Court of the Judiciary
20 removing a judge from office.

21 Under Article VI, Section 159 of the
22 Official Recompilation of the Constitution of
23 Alabama of 1901, as amended, a judge is
24 disqualified from acting as judge when a complaint
25 has been filed against him or her by the Judicial
26 Inquiry Commission with the Court of the Judiciary.

1 This bill would propose an amendment to the
2 Constitution of Alabama of 1901, to delete this
3 provision.

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5 A BILL
6 TO BE ENTITLED
7 AN ACT

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9 To amend Article VI, Section 157 of the Official
10 Recompilation of the Constitution of Alabama of 1901, as
11 amended, to require legislative approval of affirmations by
12 the Supreme Court of decisions by the Court of the Judiciary
13 removing a judge from office; and to amend Section 159 of the
14 Official Recompilation of the Constitution of Alabama of 1901,
15 as amended, to delete the provision disqualifying a judge from
16 acting as judge upon the filing of a complaint against him or
17 her by the Judicial Inquiry Commission with the Court of the
18 Judiciary.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. The following amendment to the
21 Constitution of Alabama of 1901, as amended, is proposed and
22 shall become valid as a part thereof when approved by a
23 majority of the qualified electors voting thereon and in
24 accordance with Sections 284, 285, and 287 of the Constitution
25 of Alabama of 1901, as amended:

26 PROPOSED AMENDMENT

27 "Section 157.

1 "(a) The Court of the Judiciary is created
2 consisting of one judge of an appellate court, other than the
3 Supreme Court, who shall be selected by the Supreme Court and
4 shall serve as Chief Judge of the Court of the Judiciary; two
5 judges of the circuit court, who shall be selected by the
6 Circuit Judges' Association; and one district judge who shall
7 be selected by the District Judges' Association. Other members
8 of the Court of the Judiciary shall consist of two members of
9 the state bar, who shall be selected by the governing body of
10 the Alabama State Bar; two persons who are not lawyers who
11 shall be appointed by the Governor; and one person appointed
12 by the Lieutenant Governor. Members appointed by the Governor
13 and Lieutenant Governor shall be subject to Senate
14 confirmation before serving. Provided, however, that on
15 January 1, 2005, the appointment authority granted to the
16 Lieutenant Governor shall revert to the Governor and the
17 Governor shall thereafter be entitled to appoint three persons
18 who are not lawyers, subject to Senate confirmation. The court
19 shall be convened to hear complaints filed by the Judicial
20 Inquiry Commission. The court shall have authority, after
21 notice and public hearing (1) to remove from office, suspend
22 without pay, or censure a judge, or apply such other sanction
23 as may prescribed by law, for violation of a Canon of Judicial
24 Ethics, misconduct in office, failure to perform his or her
25 duties, or (2) to suspend with or without pay, or to retire a
26 judge who is physically or mentally unable to perform his or
27 her duties.

1 "(b) (1) A judge aggrieved by a decision of the Court
2 of the Judiciary may appeal to the Supreme Court. The Supreme
3 Court shall review the record of the proceedings on the law
4 and the facts.

5 "(2) In the event the Supreme Court affirms the
6 decision of the Court of the Judiciary to remove a judge from
7 office, the question of removal shall be transmitted to the
8 Legislature for final determination. If two-thirds of the
9 members elected to each house of the Legislature vote to
10 affirm the decision of the Supreme Court to remove the judge
11 from office, the judge shall then be removed from office. If
12 the Legislature is not in session when the affirmation of the
13 Court of Judiciary decision is made, the Governor shall call
14 the Legislature into an extraordinary session for the limited
15 purpose of considering the decision of the Supreme Court upon
16 notification from the President Pro Tempore of the Senate and
17 the Speaker of the House of Representatives to the Governor
18 that review of a decision is necessary. The Legislature may
19 adopt rules of procedure to implement this section.

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

22 "(d) The Court of the Judiciary shall have power to
23 issue subpoenas. The Legislature shall provide by law for the
24 expenses of the court.

25 "Section 159.

26 "A judge shall be disqualified from acting as a
27 judge, without loss of salary, while there is pending ~~(1)~~ an

1 indictment or an information charging him or her in the United
2 States with a crime punishable as a felony under a state or
3 federal law, ~~or (2) a complaint against him filed by the~~
4 ~~judicial inquiry commission with the court of the judiciary."~~

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

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

16 "Proposing an amendment to the Constitution of
17 Alabama of 1901, to require legislative approval of
18 affirmations by the Supreme Court of decisions by the Court of
19 the Judiciary removing a judge from office; and to delete the
20 provision disqualifying a judge from acting as judge upon the
21 filing of a complaint against him or her by the Judicial
22 Inquiry Commission with the Court of the Judiciary.

23 "Proposed by Act _____."

24 This description shall be followed by the following
25 language:

26 "Yes () No ()."