

1 SB461
2 146931-2
3 By Senator Waggoner (Constitutional Amendment)
4 RFD: Judiciary
5 First Read: 18-APR-13

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8 SYNOPSIS: Under existing law, the nine appointed
9 member Judicial Inquiry Commission may file
10 complaints against a judge for a violation of any
11 canon of judicial ethics or misconduct and the nine
12 appointed member Court of the Judiciary would hear
13 the complaint with an appeal of its decision to the
14 Supreme Court. Also under existing law, the
15 Judicial Inquiry Commission members serve a
16 four-year term with no term limits, and the members
17 of the Court of the Judiciary serve an unlimited
18 term.

19 This bill would propose an amendment to the
20 Constitution of Alabama of 1901, to specify that
21 the members of the Judicial Inquiry Commission and
22 the Court of the Judiciary would all be subject to
23 Senate confirmation, would serve four-year terms,
24 and could not serve more than two consecutive
25 terms.

26
27 A BILL

1 TO BE ENTITLED

2 AN ACT

3
4 To propose an amendment to Section 6.17 and Section
5 6.18 of Amendment No. 581 of the Constitution of Alabama of
6 1901, to specify terms and term limits for the members of the
7 Judicial Inquiry Commission and the Court of the Judiciary.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

9 Section 1. The following amendment to the
10 Constitution of Alabama of 1901, as amended, is proposed and
11 shall become valid as a part thereof when approved by a
12 majority of the qualified electors voting thereon and in
13 accordance with Sections 284, 285, and 287 of the Constitution
14 of Alabama of 1901, as amended:

15 PROPOSED AMENDMENT

16 Section 6.17 and Section 6.18 of Amendment No. 581
17 of the Constitution of Alabama of 1901, are amended to read as
18 follows:

19 "6.17. Judicial Inquiry Commission.

20 "(a) A Judicial Inquiry Commission is created
21 consisting of nine members. The Supreme Court shall appoint
22 one appellate judge who shall not be a Justice on the Supreme
23 Court; the Circuit Judges' Association shall appoint two
24 judges of the circuit court; the Governor shall appoint three
25 persons who are not lawyers, ~~who shall be subject to Senate~~
26 ~~confirmation before serving; the Lieutenant Governor shall~~
27 ~~appoint and~~ one district judge ~~who shall be subject to Senate~~

1 ~~confirmation~~; and the governing body of the Alabama State Bar
2 shall appoint two members of the state bar to serve as members
3 of the commission. ~~Provided, however, that on January 1, 2005,~~
4 ~~the appointment authority granted to the Lieutenant Governor~~
5 ~~shall revert to the Governor and the Governor shall thereafter~~
6 ~~be entitled to appoint three persons who are not lawyers and~~
7 ~~one district judge, all subject to Senate confirmation. All~~
8 ~~members of the commission shall be subject to Senate~~
9 ~~confirmation.~~ The commission shall select its own chair. The
10 terms of the members of the commission shall be four years. A
11 vacancy on the commission shall be filled for a full term in
12 the manner the original appointment was made. No person may
13 serve more than two consecutive terms regardless of the
14 appointing authority. Any member currently serving who has
15 served two or more consecutive terms at the time of
16 ratification of this amendment to this section shall not be
17 eligible for reappointment at the end of his or her current
18 term. Any member serving by virtue of his or her judicial
19 position as a member of an appellate, circuit, or district
20 court who vacates that judicial position is deemed to have
21 resigned from the commission and a new member shall be
22 appointed by the appropriate appointing authority.

23 " (b) The commission shall be convened permanently
24 with authority to conduct investigations and receive or
25 initiate complaints concerning any judge of a court of the
26 judicial system of this state. The commission shall file a
27 complaint with the Court of the Judiciary in the event that a

1 majority of the members of the commission decide that a
2 reasonable basis exists, (1) to charge a judge with violation
3 of any Canon of Judicial Ethics, misconduct in office, failure
4 to perform his or her duties, or (2) to charge that the judge
5 is physically or mentally unable to perform his or her duties.
6 All proceedings of the commission shall be confidential except
7 the filing of a complaint with the Court of the Judiciary. The
8 commission shall prosecute the complaints.

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

11 "(d) The commission shall have subpoena power and
12 authority to appoint and direct its staff. Members of the
13 commission ~~who are not judges shall receive per diem~~
14 ~~compensation and necessary expenses; members who are judges~~
15 ~~shall receive necessary expenses only~~ the same per diem
16 expense allowance and mileage expense as state employees. The
17 Legislature shall appropriate funds for the operation of the
18 commission.

19 "Sec. 6.18. Court of the Judiciary.

20 "(a) The Court of the Judiciary is created
21 consisting of one judge of an appellate court, other than the
22 Supreme Court, who shall be selected by the Supreme Court and
23 shall serve as Chief Judge of the Court of the Judiciary; two
24 judges of the circuit court, who shall be selected by the
25 Circuit Judges' Association; and one district judge who shall
26 be selected by the District Judges' Association. Other members
27 of the Court of the Judiciary shall consist of two members of

1 the state bar, who shall be selected by the governing body of
2 the Alabama State Bar; ~~two~~ and three persons who are not
3 lawyers who shall be appointed by the Governor; ~~and one person~~
4 ~~appointed by the Lieutenant Governor. Members appointed by the~~
5 ~~Governor and Lieutenant Governor~~ All members shall be subject
6 to Senate confirmation before serving. ~~Provided, however, that~~
7 ~~on January 1, 2005, the appointment authority granted to the~~
8 ~~Lieutenant Governor shall revert to the Governor and the~~
9 ~~Governor shall thereafter be entitled to appoint three persons~~
10 ~~who are not lawyers, subject to Senate confirmation. The~~
11 initial term of office for all members of the court appointed
12 as provided by the amendment adding this language shall be
13 staggered as follows:

14 "One circuit judge appointed, one member appointed
15 by the Alabama State Bar, and two members appointed by the
16 Governor shall serve an initial term of two years; the
17 remaining members shall serve an initial term of four years.
18 Thereafter, all members shall serve a term of four years. No
19 member shall continue to serve after the end of his or her
20 term.

21 "No person may serve more than two consecutive
22 terms. Any member of the court who, as of January 1, 2014, has
23 already served four or more years shall not be eligible for
24 reappointment to a new term regardless of the appointing
25 authority. Any member serving by virtue of his or her judicial
26 position as a member of an appellate, circuit, or district
27 court who vacates that judicial position is deemed to have

1 resigned from the court and a new member shall be appointed by
2 the appropriate appointing authority.

3 "(b) The court shall be convened to hear complaints
4 filed by the Judicial Inquiry Commission. The court shall have
5 authority, after notice and public hearing (1) to remove from
6 office, suspend without pay, or censure a judge, or apply such
7 other sanction as may prescribed by law, for violation of a
8 Canon of Judicial Ethics, misconduct in office, failure to
9 perform his or her duties, or (2) to suspend with or without
10 pay, or to retire a judge who is physically or mentally unable
11 to perform his or her duties.

12 "~~(b)~~ (c) A judge aggrieved by a decision of the Court
13 of the Judiciary may appeal to the Supreme Court. The Supreme
14 Court shall review the record of the proceedings on the law
15 and the facts.

16 "~~(c)~~ (d) The Supreme Court shall adopt rules
17 governing the procedures of the Court of the Judiciary.

18 "~~(d)~~ (e) The Court of the Judiciary shall have power
19 to issue subpoenas. The Legislature shall provide by law for
20 the expenses of the court."

21 Section 2. An election upon the proposed amendment
22 shall be held in accordance with Sections 284 and 285 of the
23 Constitution of Alabama of 1901, now appearing as Sections 284
24 and 285 of the Official Recompilation of the Constitution of
25 Alabama of 1901, as amended, and the election laws of this
26 state.

1 Section 3. The appropriate election official shall
2 assign a ballot number for the proposed constitutional
3 amendment on the election ballot and shall set forth the
4 following description of the substance or subject matter of
5 the proposed constitutional amendment:

6 "Proposing an amendment to the Constitution of
7 Alabama of 1901, to amend Sections 6.17 and 6.18 of Amendment
8 No. 581 to specify that the members of the Judicial Inquiry
9 Commission and the Court of the Judiciary are all subject to
10 Senate confirmation, would serve four-year terms, and could
11 not serve more than two consecutive terms.

12 "Proposed by Act _____."

13 This description shall be followed by the following
14 language:

15 "Yes () No ()."