

1 SB423
2 177218-1
3 By Senator Whatley (Constitutional Amendment)
4 RFD: Judiciary
5 First Read: 19-APR-16

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8 SYNOPSIS: Under the common law doctrine of absolute
9 judicial immunity, municipal court judges,
10 magistrates, and clerks of court have absolute
11 judicial immunity for discretionary judicial acts.

12 This bill would propose a constitutional
13 amendment to include this doctrine in the
14 Constitution of Alabama of 1901, as amended, by
15 providing that municipal court judges, magistrates,
16 and clerks of court would have absolute judicial
17 immunity for discretionary judicial acts.

18
19 A BILL
20 TO BE ENTITLED
21 AN ACT
22

23 To propose a constitutional amendment to the
24 Constitution of Alabama of 1901, as amended, to provide that
25 municipal court judges, magistrates, and clerks of court would
26 have absolute judicial immunity for discretionary judicial
27 acts.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. The following amendment to the
3 Constitution of Alabama of 1901, as amended, is proposed and
4 shall become valid as a part thereof when approved by a
5 majority of the qualified electors voting thereon and in
6 accordance with Sections 284, 285, and 287 of the Constitution
7 of Alabama of 1901, as amended:

8 PROPOSED AMENDMENT

9 A municipal judge, municipal magistrate, or
10 municipal clerk of court is immune from liability for any
11 discretionary act taken in his or her official capacity to the
12 same extent as provided to circuit and district court judges,
13 magistrates, and clerks of the court of this state.

14 Section 2. An election upon the proposed amendment
15 shall be held in accordance with Sections 284 and 285 of the
16 Constitution of Alabama of 1901, now appearing as Sections 284
17 and 285 of the Official Recompilation of the Constitution of
18 Alabama of 1901, as amended, and the election laws of this
19 state.

20 Section 3. The appropriate election official shall
21 assign a ballot number for the proposed constitutional
22 amendment on the election ballot and shall set forth the
23 following description of the substance or subject matter of
24 the proposed constitutional amendment:

25 "Proposing an amendment to the Constitution of
26 Alabama of 1901, relating to judicial immunity, to provide
27 that municipal court judges, magistrates, and clerks of court

1 would have absolute judicial immunity for discretionary
2 judicial acts.

3 "Proposed by Act _____."

4 This description shall be followed by the following
5 language:

6 "Yes () No ()."