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3 SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR SB8
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8 SYNOPSIS: Under Article VI, Sections 156 and 157 of
9 the Official ReCompilation of the Constitution of
10 Alabama of 1901, as amended, the Judicial Inquiry
11 Commission is created to investigate and receive or
12 initiate complaints relating to any judge in the
13 state, and the Court of the Judiciary is created to
14 hear complaints filed by the Judicial Inquiry
15 Commission. A judge aggrieved by a decision of the
16 Court of the Judiciary may appeal the decision to
17 the Supreme Court of Alabama.

18 This bill would propose an amendment to the
19 Constitution of Alabama of 1901, to revise the
20 membership of the Judicial Inquiry Commission and
21 the Court of the Judiciary, to subject all Judicial
22 Inquiry Commission and Court of the Judiciary
23 appointees to confirmation by the Senate, to limit
24 and stagger the terms served by the appointees, and
25 to require legislative approval of decisions by the

1 Court of the Judiciary removing certain justices or
2 judges from office.

3 Under Article VI, Section 159 of the
4 Official Recompilation of the Constitution of
5 Alabama of 1901, as amended, a judge is
6 disqualified from acting as judge when a complaint
7 has been filed against him or her by the Judicial
8 Inquiry Commission with the Court of the Judiciary.

9 This bill would propose an amendment to the
10 Constitution of Alabama of 1901, to delete this
11 provision.

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13 A BILL
14 TO BE ENTITLED
15 AN ACT
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17 To amend Sections 6.17, 6.18, and 6.19, as added by
18 Amendment 328, as amended by Amendment 581 to the Constitution
19 of Alabama of 1901, now appearing as Sections 156, 157, and
20 159 of the Official Recompilation of the Constitution of
21 Alabama of 1901, as amended, to revise the membership of the
22 Judicial Inquiry Commission and the Court of the Judiciary; to
23 subject all Judicial Inquiry Commission and Court of the
24 Judiciary appointees to confirmation by the Senate; to limit
25 and stagger the terms served by the appointees; to require
26 legislative approval of decisions by the Court of the

1 Judiciary removing Justices of the Supreme Court and judges of
2 the appellate courts from office; and to delete the provision
3 disqualifying a judge from acting as judge upon the filing of
4 a complaint against him or her by the Judicial Inquiry
5 Commission with the Court of the Judiciary.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

13 PROPOSED AMENDMENT

14 "Section 156.

15 "(a) A Judicial Inquiry Commission is created
16 consisting of nine members. The Supreme Court shall appoint
17 one appellate judge who shall not be a Justice on the Supreme
18 Court; the Circuit Judges' Association shall appoint two
19 judges of the circuit court; the Alabama Probate Judges
20 Association shall appoint one probate judge who is learned in
21 the law; the Governor shall appoint ~~three~~ two persons who are
22 not lawyers, ~~who shall be subject to Senate confirmation~~
23 ~~before serving~~ and a district court judge; ~~the Lieutenant~~
24 ~~Governor shall appoint one district judge who shall be subject~~
25 ~~to Senate confirmation;~~ and the governing body of the Alabama
26 State Bar shall appoint two members of the state bar to serve

1 as members of the commission. ~~Provided, however, that on~~
2 ~~January 1, 2005, the appointment authority granted to the~~
3 ~~Lieutenant Governor shall revert to the Governor and the~~
4 ~~Governor shall thereafter be entitled to appoint three persons~~
5 ~~who are not lawyers and one district judge, all subject to~~
6 ~~Senate confirmation.~~ All members of the commission are subject
7 to confirmation by the Senate. The commission shall select its
8 own chair. Upon the date of ratification of this amendment,
9 the term of the existing commission members shall end and
10 appointments shall be made as provided in this amendment for
11 an initial term as follows: (1) The appellate judge and the
12 two circuit court judges shall serve for a term of four years;
13 (2) The district court judge, the probate judge, and the two
14 members appointed by the Governor shall serve a term of three
15 years; and (3) The two members appointed by the Alabama State
16 Bar shall serve for a term of two years. Initial appointees
17 shall immediately begin service on the commission until
18 confirmation or rejection by the Senate. After service of the
19 initial term, the terms of the members of the commission shall
20 be four years, and a member may not serve more than three
21 terms including the initial term. The terms of the members of
22 the commission shall be four years. A vacancy on the
23 commission shall be filled for a full term in the manner the
24 original appointment was made.

25 "(b) The commission shall be convened permanently
26 with authority to conduct investigations and receive or

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

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

14 "(d) The commission shall have subpoena power and
15 authority to appoint and direct its staff. Members of the
16 commission who are not judges shall receive per diem
17 compensation and necessary expenses; members who are judges
18 shall receive necessary expenses only. The Legislature shall
19 appropriate funds for the operation of the commission

20 "Section 157.

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

1 be selected by the District Judges' Association, and one
2 probate judge who is learned in the law who shall be appointed
3 by the Alabama Probate Judges Association. Other members of
4 the Court of the Judiciary shall consist of two members of the
5 state bar, who shall be selected by the governing body of the
6 Alabama State Bar; two persons who are not lawyers who shall
7 be appointed by the Governor; ~~and one person appointed by the~~
8 ~~Lieutenant Governor.~~ ~~Members appointed by the Governor and~~
9 ~~Lieutenant Governor~~ All members shall be subject to Senate
10 confirmation before serving. ~~Provided, however, that on~~
11 ~~January 1, 2005, the appointment authority granted to the~~
12 ~~Lieutenant Governor shall revert to the Governor and the~~
13 ~~Governor shall thereafter be entitled to appoint three persons~~
14 ~~who are not lawyers, subject to Senate confirmation.~~ Upon the
15 date of ratification of this amendment, the term of the
16 existing members shall end and appointments shall be made as
17 provided in this amendment for an initial term as follows: (1)
18 The appellate judge, the two circuit court judges, and the
19 district court judge, shall serve for a term of four years;
20 (2) The probate judge and the two members of the state bar
21 shall serve a term of three years; and (3) The two members
22 appointed by the Governor shall serve a term of two years.
23 Initial appointees shall immediately begin service until
24 confirmation or rejection by the Senate. After service of the
25 initial term, the terms of the members shall be four years,
26 and a member may not serve more than three terms including the

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

10 " (b) (1) Except as provided in subdivision (2), a
11 judge aggrieved by a decision of the Court of the Judiciary
12 may appeal to the Supreme Court. The Supreme Court shall
13 review the record of the proceedings on the law and the facts.

14 "(2) a. In the event the Court of the Judiciary
15 decides to remove a Justice of the Supreme Court or judge of
16 an appellate court from office, the question of removal shall
17 be transmitted automatically to the Legislature for final
18 determination. Upon the third legislative day after submission
19 during a regular session, a final determination of the
20 Legislature under this subdivision shall commence and
21 thereafter continue as the first order of business, from
22 day-to-day, until all voting on the matter is completed.

23 "b. If two-thirds of the members elected to each
24 house of the Legislature vote to affirm the decision of the
25 Court of the Judiciary to remove the Justice or judge from

1 office, the Justice or judge shall then be removed from
2 office.

3 "c. If the Legislature is not in session when the
4 decision of the Court of the Judiciary is made, consideration
5 of the decision of the Court of the Judiciary shall commence
6 on the third legislative day of the succeeding Regular or
7 Special Session and thereafter continue as the first order of
8 business, from day-to-day, until all voting on the matter is
9 completed.

10 "d. The Legislature may adopt rules of procedure to
11 implement this section.

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

14 "(d) The Court of the Judiciary shall have power to
15 issue subpoenas. The Legislature shall provide by law for the
16 expenses of the court.

17 "Section 159.

18 "A judge shall be disqualified from acting as a
19 judge, without loss of salary, while there is pending ~~(1)~~ an
20 indictment or an information charging him or her in the United
21 States with a crime punishable as a felony under a state or
22 federal law, ~~or (2) a complaint against him filed by the~~
23 ~~judicial inquiry commission with the court of the judiciary.~~
24 If, in the opinion of the Judicial Inquiry Commission, a
25 judge, who is not under indictment or information for a felony
26 under state or federal law, has committed a violation of the

1 Canons of Judicial Ethics rising to the level of threatening,
2 unwarranted harm to the person or property of a person or
3 persons, the Judicial Inquiry Commission, may disqualify the
4 judge without loss of pay for 30 days and file a motion to
5 extend the disqualification until the Court of the Judiciary
6 has ruled on the charges against the judge. The Court of the
7 Judiciary shall review the basis for the motion and either
8 grant or deny the motion within 30 days."

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

15 Section 3. The appropriate election official shall
16 assign a ballot number for the proposed constitutional
17 amendment on the election ballot and shall set forth the
18 following description of the substance or subject matter of
19 the proposed constitutional amendment:

20 "Proposing an amendment to the Constitution of
21 Alabama of 1901, to revise the membership of the Judicial
22 Inquiry Commission and the Court of the Judiciary; to subject
23 all Judicial Inquiry Commission and Court of the Judiciary
24 appointees to confirmation by the Senate; to limit and stagger
25 the terms served by the appointees; to require legislative
26 approval of decisions by the Court of the Judiciary removing

1 Justices of the Supreme Court and judges of the appellate
2 courts from office; and to delete the provision disqualifying
3 a judge from acting as judge upon the filing of a complaint
4 against him or her by the Judicial Inquiry Commission with the
5 Court of the Judiciary.

6 "Proposed by Act _____."

7 This description shall be followed by the following
8 language:

9 "Yes () No ()."