



1995 ASSEMBLY JOINT RESOLUTION 12

January 26, 1995 - Introduced by Representatives JOHNSRUD, BALDWIN, ALBERS, OTT, DUFF, KRUG, R. YOUNG, BLACK, HANSON, FREESE, HAHN, BELL, R. POTTER, BALDUS, LA FAVE, MUSSER, BOCK, SCHNEIDERS, HUBER, SPRINGER, RILEY, WILDER, GOETSCH, BOYLE, NOTESTEIN, LORGE, OLSEN and LEHMAN, cosponsored by Senators RUDE, COWLES, CLAUSING and C. POTTER. Referred to Committee on Elections and Constitutional Law.

1 **To amend** sections 3, 7, 9, 19 and 21 (2) of article I, sections 6, 12, 13 and 23a of article
2 IV, sections 4 and 6 of article V, section 2 of article VI, sections 1 and 12 of article
3 VII, section 3a of article XI and sections 4, 11 and 12 (6) of article XIII of the
4 constitution; **relating to:** removing from the constitution unnecessary
5 references to the masculine gender (2nd consideration).

Analysis by the Legislative Reference Bureau

This constitutional amendment, to be given 2nd consideration by the 1995 legislature for submittal to the voters in April 1995, was considered by the 1993 legislature as 1993 Assembly Joint Resolution 121 (1993 Enrolled Joint Resolution 21).

EXPLANATION OF PROPOSAL

Gender-neutral text. This constitutional amendment removes from the constitution any remaining unnecessary masculine gender pronouns (“he”, “his”, “him”, “himself”) and substitutes references to the specific officer or other appropriate gender-neutral text.

Paragraphing. In addition to the text changes, this joint resolution also breaks some constitutional provisions into subsections to facilitate future amendment and to avoid conflict with other proposed constitutional amendments to such provisions, which may be considered by this legislature.

Reconciliation with other amendments. SECTION 8 of 1993 Assembly Joint Resolution 121 expresses the legislature’s “intent to limit the effect of the present joint resolution to nonsubstantive changes removing from the constitution of this state any remaining unnecessary references to the masculine gender”. In case of a conflict with a substantive change enacted by a different constitutional amendment intended to be substantive, the substantive-change amendment controls.

PROCEDURE FOR 2ND CONSIDERATION

When a constitutional amendment is before the current legislature on 2nd consideration, any change in the text approved by the preceding legislature reverts the proposal to first consideration status so that 2nd consideration approval would have to be given by the next legislature before the proposal could be submitted to the people for ratification [see joint rule 57 (2) (b)].

The decision of whether to approve a proposed constitutional amendment on 2nd consideration is up to the legislature. If the legislature approves a proposed constitutional amendment on 2nd consideration, it must also set the date for submitting the constitutional amendment to the people for ratification and must determine the question or questions to be printed on the ballot.

1995 SPRING ELECTION

Because of the time required for publication of election notices and distribution of election supplies, the elections board estimates that this joint resolution would have to pass both houses no later than February 21, 1995, to be placed on the ballot for the April 4, 1995, spring election.

1 Whereas, the 1993 legislature in regular session proposed an amendment to
2 the constitution by 1993 Assembly Joint Resolution 121 (Enrolled Joint Resolution
3 21) and agreed to it by a majority of the members elected to each of the 2 houses,
4 which amendment reads as follows:

SECTION 1. Sections 3, 7, 9, 19 and 21 (2) of article I of the constitution are amended to read:

[Article I] Section 3. ~~Every person~~ All persons may freely speak, write and publish ~~his~~ their sentiments on all subjects, being responsible for the abuse of that right, and no laws shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions or indictments for libel, the truth may be given in evidence, and if it ~~shall appear~~ appears to the jury that the matter charged as libelous be true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

Section 7. In all criminal prosecutions the accused and counsel for the accused shall enjoy the right to be heard ~~by himself and counsel~~; to demand the nature and cause of the accusation against ~~him~~ the accused; to meet the witnesses face to face; to have compulsory process to compel the attendance of witnesses ~~in his~~ on behalf of the accused; and in prosecutions by indictment, or information, to a speedy public trial by an impartial jury of the county or district wherein the offense ~~shall have been~~ was committed; which county or district shall have been previously ascertained by law.

Section 9. Every person is entitled to a certain remedy in the laws for all injuries, or wrongs which ~~he~~ the person may receive in ~~his~~ the person's person, property, or character; ~~he~~ every person ought to obtain justice freely, and without being obliged to purchase it, completely and without denial, promptly and without delay, conformably to the laws.

Section 19. No religious tests shall ever be required as a qualification for any office of public trust under the state, and no person shall be rendered incompetent to give evidence in any court of law or equity in consequence of ~~his~~ the person's opinions on the subject of religion.

Section 21 (2) In any court of this state, any suitor may prosecute or defend ~~his~~ the person's suit either in ~~his~~ the person's own proper person or by an attorney of the suitor's choice.

SECTION 2. Sections 6, 12, 13 and 23a of article IV of the constitution are amended to read:

[Article IV] Section 6. No person shall be eligible to the legislature who shall not have resided one year within the state, and be a qualified elector in the district which ~~he~~ the person may be chosen to represent.

Section 12. No member of the legislature shall, during the term for which ~~he~~ the legislator was elected, be appointed or elected to any civil office in the state, which shall have been created, or the emoluments of which shall have been increased, during the term for which ~~he~~ the legislator was elected.

Section 13. No person ~~being~~ who is a member of congress, or ~~holding~~ who holds any military or civil office under the United States, shall be eligible to a seat in the legislature; and if any person shall, after ~~his~~ the person's election as a member of the legislature, be elected to congress, or be appointed to any office, civil or military, under the government of the United States, ~~his~~ the person's acceptance thereof shall vacate ~~his~~ the person's seat. This restriction shall not prohibit a legislator from accepting short periods of active duty as a member of the reserve or from serving in the armed forces during any emergency declared by the executive.

Section 23a (1) Every resolution or ordinance passed by the county board in any county shall, before it becomes effective, be presented to the chief executive officer. If ~~he~~ the chief executive officer approves, ~~he~~ the chief executive officer shall sign it; if not, ~~he~~ the chief executive officer shall return it with ~~his~~ the chief executive officer's objections, which objections shall be entered at large upon the journal and the board shall proceed to reconsider the matter.

(2) Appropriations may be approved in whole or in part by the chief executive officer and the part approved shall become law, and the part objected to shall be returned in the same manner as provided for in other resolutions or ordinances.

(3) If, after such reconsideration, two-thirds of the members-elect of the county board agree to pass the resolution or ordinance or the part of the resolution or ordinance objected to, it shall become effective on the date prescribed but not earlier than the date of passage following reconsideration.

(4) In all such cases, the votes of the members of the county board shall be determined by ayes and noes and the names of the members voting for or against the resolution or ordinance or the part thereof objected to shall be entered on the journal.

(5) If any resolution or ordinance is not returned by the chief executive officer to the county board at its first meeting occurring not less than 6 days, Sundays excepted, after it ~~has been~~ was presented to ~~him~~ the chief executive officer, it shall become effective unless the county board has recessed or adjourned for a period in excess of 60 days, in which case it shall not be effective without ~~his~~ the chief executive officer's approval.

SECTION 3. Sections 4 and 6 of article V of the constitution are amended to read:

[Article V] Section 4 (1) The governor shall be commander in chief of the military and naval forces of the state. ~~He shall have power to~~

(2) ~~The governor may~~ convene the legislature on extraordinary occasions, and in case of invasion, or danger from the prevalence of contagious disease at the seat of government, ~~he~~ the governor may convene ~~them~~ the legislature at any other suitable place within the state. ~~He~~

(3) The governor shall communicate to the legislature, at every session, the condition of the state, and recommend such matters to ~~them~~ the legislature for ~~their~~ its consideration as ~~he may deem~~ the governor deems expedient. ~~He~~

(4) The governor shall transact all necessary business with the officers of the government, civil and military. ~~He~~

(5) The governor shall expedite all such measures as may be resolved upon by the legislature, and shall take care that the laws be faithfully executed.

Section 6 (1) The governor ~~shall have power to~~ may grant reprieves, commutations and pardons, after conviction, for all offenses, except treason and cases of impeachment, upon such conditions and with such restrictions and limitations as ~~he may think~~ the governor thinks proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons.

(2) Upon conviction for treason ~~he shall have the power to,~~ the governor may suspend the execution of the sentence until the case ~~shall~~ is reported to the legislature at its next meeting, when the legislature shall either pardon, or commute the sentence, direct the execution of the sentence, or grant a further reprieve. ~~He~~

(3) The governor shall annually communicate to the legislature each case of reprieve, commutation or pardon granted, stating the name of the convict, the crime of which ~~he~~ that person was convicted, the sentence and its date, and the date of the commutation, pardon or reprieve, with ~~his~~ the governor's reasons for granting the same.

SECTION 4. Section 2 of article VI of the constitution is amended to read:

[Article VI] Section 2. The secretary of state shall keep a fair record of the official acts of the legislature and executive department of the state, and shall, when required, lay the same and all matters relative thereto before either branch of the legislature. ~~He~~ The secretary of state shall perform such other duties as shall be ~~are~~ assigned ~~him to the secretary of state~~ by law. ~~He~~ The secretary of state shall receive as a compensation for ~~his~~ services yearly such sum as shall be ~~is~~ provided by law, and shall keep ~~his~~ the office of the secretary of state at the seat of government.

SECTION 5. Sections 1 and 12 of article VII of the constitution are amended to read:

[Article VII] Section 1 (1) The court for the trial of impeachments shall be composed of the senate. The assembly shall have the power of impeaching all civil officers of this state for corrupt conduct in office, or for crimes and misdemeanors; but a majority of all the members elected shall concur in an impeachment. On the trial of an impeachment against the governor, the lieutenant governor shall not act as a member of the court. No judicial officer shall exercise ~~his~~ that office, after ~~he~~ shall have the judicial officer has been impeached, until ~~his acquittal~~ acquitted.

(2) Before the trial of an impeachment the members of the court shall take an oath or affirmation truly and impartially to try the impeachment according to evidence; and no person shall be convicted without the concurrence of two-thirds of the members present.

(3) Judgment in cases of impeachment shall not extend further than to removal from office, or removal from office and disqualification to hold any office of honor, profit or trust under the state; but the party impeached shall be liable to indictment, trial and punishment according to law.

Section 12 (1) There shall be a clerk of the circuit court chosen in each county organized for judicial purposes by the qualified electors thereof, who shall hold ~~his~~ office for ~~two~~ 2 years, subject to removal as shall be provided by law; ~~in~~.

(2) ~~In~~ case of a vacancy, the judge of the circuit court shall have power to ~~may~~ appoint a clerk until the vacancy shall be ~~is~~ filled by an election; ~~the~~. The clerk of the circuit court thus elected or appointed shall give such security as the legislature may require requires by law.

(3) The supreme court shall appoint its own clerk, and may appoint a clerk of the circuit court ~~may to be appointed a~~ the clerk of the supreme court.

SECTION 6. Section 3a of article XI of the constitution is amended to read:

[Article XI] Section 3a (1) The state or any of its counties, cities, towns or villages may acquire by gift, dedication, purchase, or condemnation lands for establishing, laying out, widening, enlarging, extending, and maintaining memorial grounds, streets, highways, squares, parkways, boulevards, parks, playgrounds, sites for public buildings, and reservations in and about and along and leading to any or all of the same; and after the establishment, layout, and completion of such improvements, may convey any such real estate thus acquired and not necessary for such improvements, with reservations concerning the future use and occupation of such real estate, so as to protect such public works and improvements, and their environs, and to preserve the view, appearance, light, air, and usefulness of such public works.

(2) If the governing body of a county, city, town or village elects to accept a gift or dedication of land made on condition that the land be devoted to a special purpose and the condition subsequently becomes impossible or impracticable, such governing body may by resolution or ordinance enacted by a two-thirds vote of its members elect either to grant the land back to the donor or dedicator or ~~his~~ the donor's or dedicator's heirs or accept from the donor or dedicator or ~~his~~ the donor's or dedicator's heirs a grant relieving the county, city, town or village of the condition; however, if the donor or dedicator or ~~his~~ the donor's or dedicator's heirs are unknown or cannot be found, such resolution or ordinance may provide for the commencement of proceedings in the manner and in the courts as the legislature shall designate by law for the purpose of relieving the county, city, town or village from the condition of the gift or dedication.

SECTION 7. Sections 4, 11 and 12 (6) of article XIII of the constitution are amended to read:

[Article XIII] Section 4. ~~It shall be the duty of the~~ The legislature ~~to shall, by law,~~ provide a great seal for the state, which shall be kept by the secretary of state, and all official acts of the governor, ~~his~~ the governor's approbation of the laws excepted, shall be thereby authenticated.

Section 11 (1) No person, association, copartnership, or corporation, shall promise, offer or give, for any purpose, to any political committee, or any member or employe thereof, to any candidate for, or incumbent of any office or position under the constitution or laws, or under any ordinance of any town or municipality, of this state, or to any person at the request or for the advantage of all or any of them, any free pass or frank, or any privilege withheld from any person, for the traveling accommodation or transportation of any person or property, or the transmission of any message or communication.

(2) No political committee, and no member or employe thereof, no candidate for and no incumbent of any office or position under the

constitution or laws, or under any ordinance of any town or municipality of this state, shall ask for, or accept, from any person, association, copartnership, or corporation, or use, in any manner, or for any purpose, any free pass or frank, or any privilege withheld from any person, for the traveling accommodation or transportation of any person or property, or the transmission of any message or communication.

(3) Any violation of any of the above provisions sub. (1) or (2) shall be bribery and punished as provided by law, and if, if any officer or any member of the legislature be guilty thereof, his of violating sub. (1) or (2), the officer's or member's office shall become vacant.

(4) No person within the purview of this act shall be privileged from testifying in relation to anything therein prohibited; and no person having so testified shall be liable to any prosecution or punishment for any offense concerning which he the person was required to give his any testimony or produce any documentary evidence. Notaries

(5) This section does not apply to notaries public and or to regular employes of a railroad or other public utilities utility who are candidates for or hold public offices for which the annual compensation is not more than three hundred dollars \$300 to whom no passes or privileges are extended beyond those which that are extended to other regular employes of such corporations are excepted from the provisions of this section.

Section 12 (6) After one such petition and recall election, no further recall petition shall be filed against the same officer during the term for which he the officer was elected.

SECTION 8. Reconciliation with other constitutional amendments. In recommending the constitutional amendments contained in the present joint resolution to the 1995 legislature for 2nd consideration approval and to the people for ratification, the 1993 legislature expresses its intent to limit the effect of the present joint resolution to nonsubstantive changes removing from the constitution of this state any remaining unnecessary references to the masculine gender. If, prior to or simultaneously with the ratification of the amendments contained in this resolution, the people of this state ratify any other constitutional amendment making substantive changes in any of the sections of the constitution treated in the present joint resolution, then the wording and structure of such section or sections of the constitution as affected by the substantive-change amendment shall control.

1 ***Now, therefore, be it resolved by the assembly, the Senate concurring,***
2 ***That*** the foregoing amendment to the constitution is agreed to by the 1995
3 legislature; and, be it further

