



1997 ASSEMBLY JOINT RESOLUTION 74

October 17, 1997 - Introduced by Representatives KRUSICK, BOYLE, DOBYNS, GOETSCH, GUNDERSON, HANDRICK, HARS DORF, HASENOHRL, HUTCHISON, JOHNSRUD, LADWIG, F. LASEE, J. LEHMAN, LINTON, MURAT, MUSSER, OTT, OWENS, PORTER, RYBA and ZUKOWSKI, cosponsored by Senators GROBSCHMIDT, ROESSLER, DRZEWIECKI, FARROW, C. POTTER, ROSENZWEIG and SCHULTZ. Referred to Committee on Elections and Constitutional Law.

1 **To amend** section 4 (1), (3), (4) and (5) of article VI and section 12 of article VII; and
2 **to create** section 4 (1) (b) and (c) and (6) of article VI and section 12 (6) of article
3 VII of the constitution; **relating to:** 4-year terms of office for, appointment of,
4 and the restriction on holding any other office by, certain county officers (first
5 consideration).

Analysis by the Legislative Reference Bureau

Currently, the constitution provides for the election every 2 years of county sheriffs, clerks of circuit court, registers of deeds and district attorneys, and, unless a county appoints a medical examiner, coroners. Under current law, county clerks and treasurers, and surveyors unless a county appoints a surveyor, are also elected every 2 years, except that under the constitution counties having a population of 500,000 or more do not elect a coroner or surveyor.

This proposed constitutional amendment, proposed to the 1997 legislature on first consideration, requires counties to elect county clerks and treasurers every 4 years, and changes the terms of office from 2 years to 4 years for sheriffs, district attorneys, coroners, elected surveyors, registers of deeds, treasurers, clerks and clerks of circuit court. For sheriffs, district attorneys and clerks of circuit court, the first elections to 4-year terms will be held concurrently with the first gubernatorial election following ratification. For coroners, elected surveyors, registers of deeds, treasurers and clerks, the first elections to 4-year terms will be held concurrently with the first presidential election following ratification.

The proposal does not change the times for holding regular elections for any county offices, and does not affect the terms of office of elected county chief executive officers (they already serve 4-year terms expiring on the 2nd Monday after the spring election) or the terms of office of county board members.

The proposal deletes the current prohibition on the holding of other nonpartisan offices by sheriffs.

The proposal also requires a vacancy in the term of office of a sheriff, coroner, register of deeds, district attorney or clerk of circuit court occurring on or before June 1 of the 2nd year of the officer's term to be filled by appointment only until the end of the 2nd year of the officer's term, and to be filled for the remainder of the officer's term at the general election which is held in the 2nd year of the officer's term, except as otherwise provided.

In addition, the proposal permits a person who holds the office of sheriff, coroner, register of deeds, district attorney, clerk, treasurer, surveyor or clerk of circuit court to become a candidate for a partisan office during his or her term only by submitting an irrevocable resignation, effective no later than the beginning of the term of office for which the person becomes a candidate, before the person becomes a candidate for the other office, unless the office which the person seeks is to be filled at a special election. The proposal requires any vacancy that is caused by such an irrevocable resignation submitted by a person who becomes a candidate for a partisan office to be filled at a special election held concurrently with the election for the office for which the person becomes a candidate. Currently, a vacancy in the office of sheriff, coroner, register of deeds or district attorney is filled by appointment under the constitution (which is made by the governor under current law); a vacancy in the office of surveyor, clerk or treasurer is filled by appointment of the county board under current law; and a vacancy in the office of clerk of circuit court is filled under the constitution by "the judge of the circuit court".

A constitutional amendment requires adoption by 2 successive legislatures, and ratification by the people, before it can become effective.

1 ***Resolved by the assembly, the senate concurring, That:***

2 **SECTION 1.** Section 4 (1) of article VI of the constitution is amended to read:

3 [Article VI] Section 4 (1) ~~Sheriffs~~ (a) Except as provided in par. (b) and (c) and
4 sub. (2), sheriffs, coroners, registers of deeds, district attorneys, and all other elected
5 county officers, except judicial officers and chief executive officers, shall be chosen
6 by the electors of the respective counties once in every 2 years.

7 **SECTION 2.** Section 4 (1) (b) and (c) of article VI of the constitution are created
8 to read:

1 [Article VI] Section 4 (1) (b) Beginning with the first general election at which
2 the governor is elected which occurs after the ratification of this paragraph, sheriffs
3 and district attorneys shall be chosen by the electors of the respective counties for
4 the term of 4 years.

5 (c) Beginning with the first general election at which the president is elected
6 which occurs after the ratification of this paragraph, registers of deeds, clerks and
7 treasurers shall be chosen by the electors of the respective counties for the term of
8 4 years and surveyors in counties in which the office of surveyor is filled by election
9 and coroners in counties in which there is a coroner shall be chosen by the electors
10 of the respective counties for the term of 4 years.

11 **SECTION 3.** Section 4 (3) of article VI of the constitution is amended to read:

12 [Article VI] Section 4 (3) ~~Sheriffs shall hold no other office.~~ Sheriffs may be
13 required by law to renew their security from time to time, and in default of giving
14 such new security their office shall be deemed vacant.

15 **SECTION 4.** Section 4 (4) of article VI of the constitution is amended to read:

16 [Article VI] Section 4 (4) The governor may remove any elected county officer
17 mentioned in this section except a clerk or treasurer, giving to the officer a copy of
18 the charges and an opportunity of being heard.

19 **SECTION 5.** Section 4 (5) of article VI of the constitution is amended to read:

20 [Article VI] Section 4 (5) All vacancies in the offices of sheriff, coroner, register
21 of deeds or district attorney shall be filled by appointment. ~~The, except a vacancy~~
22 caused by an irrevocable resignation which under sub. (6) permits the person
23 resigning the office to hold another office. A person appointed to fill a vacancy
24 occurring on or before June 1 of the 2nd year of the term for which the person's
25 predecessor was elected shall hold office only until the first Monday in January

1 occurring after the 2nd year of the term for which the person's predecessor was
2 elected and until a successor shall be elected and qualified. A person appointed to
3 fill a vacancy occurring after June 1 of the 2nd year of the term for which the person's
4 predecessor was elected shall hold office only for the unexpired portion of the term
5 to which appointed and until a successor shall be elected and qualified. A vacancy
6 caused by an irrevocable resignation which under sub. (6) permits the person
7 resigning the office to hold another office shall be filled by special election held
8 concurrently with the election for the office for which the person is a candidate.

9 **SECTION 6.** Section 4 (6) of article VI of the constitution is created to read:

10 [Article VI] Section 4 (6) (a) A person who holds the office of sheriff, coroner,
11 register of deeds, district attorney, clerk, treasurer or surveyor may not hold any
12 other partisan elected office of public trust during the term for which the person is
13 elected or appointed, unless the person irrevocably resigns the office, effective no
14 later than the beginning of the term of the office for which the person becomes a
15 candidate, before the person becomes a candidate for the other office.

16 (b) Notwithstanding par. (a), a person need not resign an office that the person
17 holds before assuming the office for which the person becomes a candidate if the office
18 for which the person becomes a candidate is to be filled at a special election.

19 **SECTION 7.** Section 12 of article VII of the constitution is amended to read:

20 [Article VII] Section 12. There (1) Beginning with the first general election at
21 which the governor is elected which occurs after the ratification of this subsection,
22 there shall be a clerk of the circuit court chosen in each county organized for judicial
23 purposes by the qualified electors thereof, who shall hold his office for two 4 years,
24 subject to removal as,

1 (2) Removal from office of any clerk of circuit court shall be as provided by law;
2 in.

3 (3) In case of a vacancy, except a vacancy caused by an irrevocable resignation
4 which under sub. (6) permits the person resigning the office to hold another office,
5 the judge of the circuit court shall have power to may appoint a clerk until the
6 vacancy shall be is filled by an election; the. The person appointed to fill a vacancy
7 occurring on or before June 1 of the 2nd year of the term for which the person's
8 predecessor was elected shall hold office only until the first Monday in January
9 occurring after the 2nd year of the term for which the person's predecessor was
10 elected and until a successor shall be elected and qualified. The person appointed
11 to fill a vacancy occurring after June 1 of the 2nd year of the term for which the
12 person's predecessor was elected shall hold office only for the unexpired portion of
13 the term to which the person is appointed and until a successor shall be elected and
14 qualified. A vacancy caused by an irrevocable resignation which under sub. (6)
15 permits the person resigning the office to hold another office shall be filled by special
16 election held concurrently with the election for the office for which the person is a
17 candidate.

18 (4) The clerk thus elected or appointed of circuit court shall give such security
19 as the legislature may require may be required by law.

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

22 **SECTION 8.** Section 12 (6) of article VII of the constitution is created to read:

23 [Article VII] Section 12 (6) (a) A person who holds the office of clerk of circuit
24 court may not hold any other partisan elected office of public trust during the term
25 for which the person is elected or appointed, unless the person irrevocably resigns

1 the office, effective no later than the beginning of the term of the office for which the
2 person becomes a candidate, before the person becomes a candidate for the other
3 office.

4 (b) Notwithstanding par. (a), a person need not resign an office that the person
5 holds before assuming the office for which the person becomes a candidate if the office
6 for which the person becomes a candidate is to be filled at a special election.

7 **SECTION 9. Numbering of new provisions.** (1) The new paragraph (b) of
8 subsection (1) of section 4 of article VI of the constitution created in this joint
9 resolution shall be designated by the next higher open whole subsection number in
10 that section in that article if, before the ratification by the people of the amendment
11 proposed in this joint resolution, any other ratified amendment has created a
12 paragraph (b) of subsection (1) of section 4 of article VI of the constitution of this
13 state. If one or more joint resolutions create a paragraph (b) of subsection (1) of
14 section 4 of article VI simultaneously with the ratification by the people of the
15 amendment proposed in this joint resolution, the paragraphs created shall be
16 numbered and placed in a sequence so that the subsections created by the joint
17 resolution having the lowest enrolled joint resolution number have the numbers
18 designated in that joint resolution and the paragraphs created by the other joint
19 resolutions have numbers that are in the same ascending order as are the numbers
20 of the enrolled joint resolutions creating the paragraphs.

21 (2) The new paragraph (c) of subsection (1) of section 4 of article VI of the
22 constitution created in this joint resolution shall be designated by the next higher
23 open whole subsection number in that section in that article if, before the ratification
24 by the people of the amendment proposed in this joint resolution, any other ratified
25 amendment has created a paragraph (c) of subsection (1) of section 4 of article VI of

1 the constitution of this state. If one or more joint resolutions create a paragraph (c)
2 of subsection (1) of section 4 of article VI simultaneously with the ratification by the
3 people of the amendment proposed in this joint resolution, the paragraphs created
4 shall be numbered and placed in a sequence so that the paragraphs created by the
5 joint resolution having the lowest enrolled joint resolution number have the numbers
6 designated in that joint resolution and the paragraphs created by the other joint
7 resolutions have numbers that are in the same ascending order as are the numbers
8 of the enrolled joint resolutions creating the paragraphs.

9 (3) The new subsection (6) of section 4 of article VI of the constitution created
10 in this joint resolution shall be designated by the next higher open whole subsection
11 number in that section in that article if, before the ratification by the people of the
12 amendment proposed in this joint resolution, any other ratified amendment has
13 created a subsection (6) of section 4 of article VI of the constitution of this state. If
14 one or more joint resolutions create a subsection (6) of section 4 of article VI
15 simultaneously with the ratification by the people of the amendment proposed in this
16 joint resolution, the subsections created shall be numbered and placed in a sequence
17 so that the subsections created by the joint resolution having the lowest enrolled joint
18 resolution number have the numbers designated in that joint resolution and the
19 subsections created by the other joint resolutions have numbers that are in the same
20 ascending order as are the numbers of the enrolled joint resolutions creating the
21 subsections.

22 (4) The new subsection (6) of section 12 of article VII of the constitution created
23 in this joint resolution shall be designated by the next higher open whole subsection
24 number in that section in that article if, before the ratification by the people of the
25 amendment proposed in this joint resolution, any other ratified amendment has

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1 created a subsection (6) of section 12 of article VII of the constitution of this state.
2 If one or more joint resolutions create a subsection (6) of section 12 of article VII
3 simultaneously with the ratification by the people of the amendment proposed in this
4 joint resolution, the subsections created shall be numbered and placed in a sequence
5 so that the subsections created by the joint resolution having the lowest enrolled joint
6 resolution number have the numbers designated in that joint resolution and the
7 subsections created by the other joint resolutions have numbers that are in the same
8 ascending order as are the numbers of the enrolled joint resolutions creating the
9 subsections.

10 ***Be it further resolved, That*** this proposed amendment be referred to the
11 legislature to be chosen at the next general election and that it be published for 3
12 months previous to the time of holding such election.

13 (END)