

1999 ASSEMBLY JOINT RESOLUTION 63

July 1, 1999 – Introduced by Representatives HUBLER, ZIEGELBAUER, SYKORA, BOYLE, RYBA and STONE, cosponsored by Senators DARLING, HUELSMAN, BAUMGART and SCHULTZ. Referred to Committee on Judiciary and Personal Privacy.

1 ***To renumber and amend*** section 9 of article VII; ***to amend*** sections 4 (1) and 10
2 (1) of article VII; and ***to create*** section 9 (2) of article VII and section 17 of article
3 XIV of the constitution; **relating to:** appointment of justices of the supreme
4 court (first consideration).

Analysis by the Legislative Reference Bureau

This proposed constitutional amendment, proposed to the 1999 legislature on first consideration, changes the method of selection of justices of the supreme court from election to appointment by the governor with the advice and consent of the senate. Under the proposal, the justices currently serving will continue for the remainder of their terms for which elected.

When vacancies occur before expiration of a 10-year term or when a 10-year term ends, a person will be appointed by the governor for a full 10-year term and will take office after confirmation by the senate. However, if the service of an appointive justice of the supreme court for the full 10-year term of office would cause the appointee to serve for a term of office that would expire in the same year that the term of office of another justice of the supreme court expires, the term of office of the appointee shall expire on August 1 in the last year preceding that year in which no term of office of any other justice of the supreme court expires.

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

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

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

2 [Article VII] Section 4 (1) The supreme court shall have 7 members who shall
3 be known as justices of the supreme court. Justices shall be ~~elected~~ nominated by
4 the governor and, with the advice and consent of the senate, appointed for 10-year
5 terms of office commencing with the August 1 next succeeding the ~~election~~
6 appointment, which term of office shall continue until a successor is appointed and
7 qualified. Only one justice may be ~~elected~~ appointed to serve for a full term in any
8 year. Any 4 justices of the supreme court shall constitute a quorum for the conduct
9 of the supreme court's business.

10 **SECTION 2.** Section 9 of article VII of the constitution is renumbered section 9
11 (1) of article VII and amended to read:

12 [Article VII] Section 9 (1) When a vacancy occurs in the office of ~~justice of the~~
13 ~~supreme court or~~ judge of any court of record other than that of justice of the supreme
14 court, the vacancy shall be filled by appointment by the governor, which shall
15 continue until a successor is elected and qualified. There shall be no election for a
16 ~~justice or~~ judge at the partisan general election for state or county officers, nor within
17 30 days either before or after such election.

18 **SECTION 3.** Section 9 (2) of article VII of the constitution is created to read:

19 [Article VII] Section 9 (2) (a) When a vacancy occurs in the office of justice of
20 the supreme court before expiration of the full 10-year term of office, the vacancy
21 shall be filled by nomination and, with the advice and consent of the senate,
22 appointment by the governor. Except as otherwise provided in par. (b), the term of
23 office of a justice appointed to fill a vacancy shall commence upon qualification and
24 expire on August 1 of the 10th year beginning after appointment. An appointee shall
25 serve until a successor is appointed and qualified.

1 (b) If the service for the term prescribed in par. (a) would cause the appointee
2 to serve for a term of office that would expire in the same year that the term of office
3 of another justice of the supreme court expires, the term of office of the appointee
4 shall expire on August 1 of the last year preceding that year in which no term of office
5 of any other justice of the supreme court expires. An appointee shall serve until a
6 successor is appointed and qualified.

7 **SECTION 4.** Section 10 (1) of article VII of the constitution is amended to read:

8 [Article VII] Section 10 (1) No justice of the supreme court or judge of any court
9 of record shall hold any other office of public trust, except a judicial office, during the
10 term for which elected or appointed. No person shall be eligible to the office of judge
11 who shall not, at the time of election or appointment, be a qualified elector within the
12 jurisdiction for which chosen.

13 **SECTION 5.** Section 17 of article XIV of the constitution is created to read:

14 [Article XIV] Section 17 (1) The changes to the constitution made by this
15 1999/2001 amendment first apply to vacancies in the office of justice of the supreme
16 court that occur after the ratification of this subsection.

17 (2) The term of a person elected to the office of supreme court justice before
18 ratification of this subsection expires at the end of the term for which elected.

19 **SECTION 6. Numbering of new provision.** The new section 17 of article XIV
20 of the constitution created in this joint resolution shall be designated by the next
21 higher open whole section number in that article if, before the ratification by the
22 people of the amendment proposed in this joint resolution, any other ratified
23 amendment has created a section 17 of article XIV of the constitution of this state.
24 If one or more joint resolutions create a section 17 of article XIV simultaneously with
25 the ratification by the people of the amendment proposed in this joint resolution, the

1 sections created shall be numbered and placed in a sequence so that the sections
2 created by the joint resolution having the lowest enrolled joint resolution number
3 have the numbers designated in that joint resolution and the sections created by the
4 other joint resolutions have numbers that are in the same ascending order as are the
5 numbers of the enrolled joint resolutions creating the sections.

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

9 (END)