

1999 DRAFTING REQUEST

Assembly Joint Resolution

Received: **07/13/1999**

Received By: **dykmapj**

Wanted: **Soon**

Identical to LRB:

For: **Gregory Huber (608) 266-0654**

By/Representing: **aide**

This file may be shown to any legislator: **NO**

Drafter: **dykmapj**

May Contact:

Alt. Drafters:

Subject: **Constitutional Amendments
Courts - courts/judges**

Extra Copies: **RPN
JEO**

Pre Topic:

No specific pre topic given

Topic:

Temporary justices for supreme court-appointed under procedures prescribed by the legislature

Instructions:

See Attached The legislature may prescribe a procedure that if less than 7 supreme court justices are hearing a case, one or more court of appeals judges elected to and serving on the court of appeals may be added to the remaining justices as temporary justices to decide the case.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	dykmapj 07/15/1999	gilfokm 07/16/1999	mclark 07/16/1999	_____	lrb_docadmin 07/16/1999		
/1	dykmapj 09/30/1999	gilfokm 09/30/1999	mclark 09/30/1999	_____	lrb_docadmin 09/30/1999	lrb_docadmin 12/13/1999	

FE Sent For:

<END>

1999 DRAFTING REQUEST

Assembly Joint Resolution

Received: **07/13/1999**

Received By: **dykmapj**

Wanted: **Soon**

Identical to LRB:

For: **Gregory Huber (608) 266-0654**

By/Representing: **aide**

This file may be shown to any legislator: **NO**

Drafter: **dykmapj**

May Contact:

Alt. Drafters:

Subject: **Constitutional Amendments
Courts - courts/judges**

Extra Copies: **RPN
JEO**

Pre Topic:

No specific pre topic given

Topic:

Temporary justices for supreme court-appointed under procedures prescribed by the legislature

Instructions:

See Attached The legislature may prescribe a procedure that if less than 7 supreme court justices are hearing a case, one or more court of appeals judges elected to and serving on the court of appeals may be added to the remaining justices as temporary justices to decide the case.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	dykmapj 07/15/1999	gilfokm 07/16/1999	mclark 07/16/1999	_____	lrb_docadmin 07/16/1999		
/1	dykmapj 09/30/1999	gilfokm 09/30/1999	mclark 09/30/1999	_____	lrb_docadmin 09/30/1999		

FE Sent For:

<END>

1999 DRAFTING REQUEST

Assembly Joint Resolution

Received: 07/13/99

Received By: dykmapj

Wanted: Soon

Identical to LRB:

For: Gregory Huber (608) 266-0654

By/Representing: aide

This file may be shown to any legislator: NO

Drafter: dykmapj

May Contact:

Alt. Drafters:

Subject: Constitutional Amendments
Courts - courts/judges

Extra Copies: RPN
JEO

Pre Topic:

No specific pre topic given

Topic:

Temporary justices for supreme court-appointed under procedures prescribed by the legislature

Instructions:

See Attached The legislature may prescribe a procedure that if less than 7 supreme court justices are hearing a case, one or more court of appeals judges elected to and serving on the court of appeals may be added to the remaining justices as temporary justices to decide the case.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	dykmapj 07/15/99	gilfokm 07/16/99	mclark 07/16/99	_____	lrb_docadmin 07/16/99		

FE Sent For:

1-9-30-99
kmj

MRC
9/30

MRC/JF
9/30
<END>

1999 DRAFTING REQUEST

Assembly Joint Resolution

Received: 07/13/99

Received By: dykmapj

Wanted: **Soon**

Identical to LRB:

For: **Gregory Huber (608) 266-0654**

By/Representing: **aide**

This file may be shown to any legislator: **NO**

Drafter: **dykmapj**

May Contact:

Alt. Drafters:

Subject: **Constitutional Amendments
Courts - courts/judges**

Extra Copies: **RPN
JEO**

Pre Topic:

No specific pre topic given

Topic:

Temporary justices for supreme court-appointed under procedures prescribed by the legislature

Instructions:

See Attached The legislature may prescribe a procedure that if less than 7 supreme court justices are hearing a case, one or more court of appeals judges elected to and serving on the court of appeals may be added to the remaining justices as temporary justices to decide the case.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1/?	dykmapj	1-7-16-99 kmg	MRC 7/16	MRC/KM 7/16			

FE Sent For:

<END>



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
1999 ASSEMBLY JOINT RESOLUTION

soon

1 **To renumber** section 4 (3) of article VII; and **to create** section 4 (3) (b) of article VII ✓ ✓ ✓ ✓ ✓ ✓ ✓
2 of the constitution; **relating to:** service as a justice of the supreme court on a
3 temporary basis (first consideration).

Analysis by the Legislative Reference Bureau

This proposed constitutional amendment, proposed to the 1999 legislature on first consideration, authorizes the legislature to prescribe by law when, and the procedure under which, a person who has been elected to and is serving as a judge of the court of appeals may serve as a justice of the supreme court on a temporary basis when it is necessary to provide 7 justices for the consideration of a particular case.

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

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

5 **SECTION 1.** Section 4 (3) of article VII of the constitution is renumbered section
6 4 (3) (a) of article VII.

7 **SECTION 2.** Section 4 (3) (b) of article VII of the constitution is created to read:

1 [Article VII] Section 4 (3) (b) The legislature may prescribe by law when, and
2 the procedure under which, a person who has been elected to and is serving as a judge
3 of the court of appeals may serve as a justice of the supreme court on a temporary
4 basis when it is necessary to provide 7 justices for the consideration of a particular
5 case.

6 **SECTION 3. Numbering of new provision.** The new paragraph (b) of
7 subsection (3) of section 4 of article VII of the constitution created in this joint
8 resolution shall be designated by the next higher open whole paragraph letter in that
9 subsection in that section in that article if, before the ratification by the people of the
10 amendment proposed in this joint resolution, any other ratified amendment has
11 created a paragraph (b) of subsection (3) of section 4 of article VII of the constitution
12 of this state. If one or more joint resolutions create a paragraph (b) of subsection (3)
13 of section 4 of article VII simultaneously with the ratification by the people of the
14 amendment proposed in this joint resolution, the paragraphs created shall be
15 lettered and placed in a sequence so that the paragraphs created by the joint
16 resolution having the lowest enrolled joint resolution number have the letters
17 designated in that joint resolution and the paragraphs created by the other joint
18 resolutions have letters that are in the same ascending order as are the letters of the
19 enrolled joint resolutions creating the paragraphs.

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

23 (END)



Today

redraft
new

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

1999 ASSEMBLY JOINT RESOLUTION

to aid in the proper disposition of judicial business

Temporary
in

1 To renumber section 4 (3) of article VII; and to create section 4 (3) (b) of article VII
2 of the constitution; relating to: service as a justice of the supreme court on a
3 temporary basis (first consideration).

supreme court to assign on a temporary basis

Analysis by the Legislative Reference Bureau

This proposed constitutional amendment, proposed to the 1999 legislature on first consideration, authorizes the legislature to prescribe by law when, and the procedure under which, a person who has been elected to and is serving as a judge of the court of appeals, may serve as a justice of the supreme court on a temporary basis when it is necessary to provide 7 justices for the consideration of a particular case. The person assigned must be assigned by lot.

that business

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

4 Resolved by the assembly, the senate concurring, That:

5 SECTION 1. Section 4 (3) of article VII of the constitution is renumbered section
6 4 (3) (a) of article VII.

7 SECTION 2. Section 4 (3) (b) of article VII of the constitution is created to read:

on - 2 -
on a temporary basis

supreme court may assign any

to aid in the proper disposition of judicial business

1 [Article VII] Section 4 (3) (b) The legislature may prescribe by law when and
2 the procedure under which a person who has been elected to and is serving as a judge
3 of the court of appeals may serve as a justice of the supreme court on a temporary
4 basis when it is necessary to provide 7 justices for the consideration of particular

5 ~~cases~~ The person must be assigned by lot from all
6 person eligible to be assigned.
7 who are

SECTION 3. Numbering of new provision. The new paragraph (b) of

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

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

(END)

Dykman, Peter

From: Dykman, Peter
Sent: Wednesday, July 14, 1999 5:15 PM
To: Rep.Huber
Cc: Pagel, Matt; Rinehart, Mark
Subject: Temporary service as justice of supreme court

Here are the state constitutional provisions related to service of reserve, substituted, disqualified, or recused justices of the highest state courts. I have not reviewed them carefully, but it is apparent that a majority of state constitutions have some provision addressing this issue and that most of the provisions are quite short, leaving much to elected officials.

CONSTITUTION OF THE STATE OF TENNESSEE

ARTICLE VI. JUDICIAL DEPARTMENT

Tenn. Const. art. VI, § 11 (1999)

Sec. 11. Incompetency of judges -- Special judges

No Judge of the Supreme or Inferior Courts shall preside on the trial of any cause in the event of which he may be interested, or where either of the parties shall be connected with him by affinity or consanguinity, within such degrees as may be prescribed by law, or in which he may have been of counsel, or in which he may have presided in any inferior Court, except by consent of all the parties. In case all or any of the Judges of the Supreme Court shall thus be disqualified from presiding on the trial of any cause or causes, the Court, or the Judges thereof, shall certify the same to the Governor of the State, and he shall forthwith specially commission the requisite number of men, of law knowledge, for the trial and determination thereof. The Legislature may by general laws make provision that special Judges may be appointed, to hold any Courts the Judge of which shall be unable or fail to attend or sit; or to hear any cause in which the Judge may be incompetent.

NOTES:

CROSS-REFERENCES. Disqualification of judge, §§ 17-2-101, 20-4-208.

Filling vacancies, Tenn. Const., art. VII, §§ 4, 5.

Incompetency, § 17-2-101.

Not to practice as attorney, § 17-1-105.

Power to interchange, title 17, ch. 2, part 2.

THE CONSTITUTION OF THE STATE OF MISSISSIPPI

ADOPTED NOVEMBER 1, A.D., 1890

ARTICLE 6. JUDICIARY

Miss. Const. Ann. Art. 6, § 165 (1998)

Section 165. Disqualification of judges.

No judge of any court shall preside on the trial of any cause, where the parties or either of them, shall be connected with him by affinity or consanguinity, or where he may be interested in the same, except by the consent of the judge and of the parties. Whenever any judge of the Supreme Court or the judge or chancellor of any district in this state shall, for any reason, be unable or disqualified to preside at any term of court, or in any case where the attorneys engaged therein shall not agree upon a member of the bar to preside in his place, the governor may commission another, or others, of law knowledge, to preside at such term or during such disability or disqualification in the place of the judge or judges so disqualified.

HISTORY: 1832 art IV § 9; Laws, 1916, ch 155.

CONSTITUTION OF THE STATE OF FLORIDA

AS REVISED IN 1968

ARTICLE V JUDICIARY

Fla. Const., Art. V § 3 (1998)

SECTION 3. Supreme court

(a) ORGANIZATION. -- The supreme court shall consist of seven **justices**. Of the seven **justices**, each appellate district shall have at least one **justice** elected or appointed from the district to the supreme court who is a resident of the district at the time of his original appointment or election. Five **justices** shall constitute a quorum. The concurrence of four **justices** shall be necessary to a decision. When recusals for cause would prohibit the court from convening because of the requirements of this section, judges assigned to temporary duty may be substituted for **justices**.

CONSTITUTION OF ALABAMA OF 1901 AMENDMENTS--CONTINUED

AMENDMENT NO. 328. ARTICLE VI AMENDED

ARTICLE VI. THE JUDICIAL DEPARTMENT

Alabama Const., Amendment No. 328 (1999)

§ 6.10.

The chief **justice** of the supreme court shall be the administrative head of the judicial system. He shall appoint an administrative director of courts and other needed personnel to assist him with his administrative tasks. The chief **justice** may assign appellate **justices** and judges to any appellate court for **temporary** service and trial judges, supernumerary **justices** and judges, and retired trial judges and retired appellate judges for **temporary** service in any court. Adequate and reasonable financing for the entire unified judicial system shall be provided. Adequate and reasonable appropriations shall be made by the legislature for the entire unified judicial system, exclusive of probate courts and municipal courts. The legislature shall receive recommendations for appropriations for the trial courts from the administrative director of courts and for the appellate courts from

each such court.

NOTES:

CROSS REFERENCES. --Administration of courts, generally, § 12-5-1 et seq.

THE CONSTITUTION OF THE STATE OF ALASKA

ARTICLE IV. THE JUDICIARY

Alaska Const. art. IV, § 16 (1999)

Section 16. Court Administration

The chief **justice** of the supreme court shall be the administrative head of all courts. He may assign judges from one court or division thereof to another for **temporary** service. The chief **justice** shall, with the approval of the supreme court, appoint an administrative director to serve at the pleasure of the supreme court and to supervise the administrative operations of the judicial system.

CONSTITUTION OF THE STATE OF ARKANSAS OF 1874

ARTICLE 7. JUDICIAL DEPARTMENT

Ark. Const. Art. 7, § 9 (1997)

Section 9. Special judges

In case all or any of the judges of the Supreme Court shall be **disqualified** from presiding in any cause or causes the court or the **disqualified** judge shall certify the same to the Governor, who shall immediately commission the requisite number of men learned in the law to sit in the trial and determination of such causes.

CONSTITUTION OF THE STATE OF COLORADO

ARTICLE VI. JUDICIAL DEPARTMENT

SUPREME COURT

Colo. Const. Art. VI, Section 5 (1998)

Section 5. Personnel of court - departments - chief justice

(1) The supreme court shall consist of not less than seven **justices**, who may sit en banc or in departments. In case said court shall sit in departments, each of said departments shall have full power and authority of said court in the determination of causes, the issuing of writs and the exercise of all powers authorized by this constitution, or provided by law, subject to the general control of the court sitting en banc, and such rules and regulations as the court may make, but no decision of any department shall become judgment of the court unless concurred in by at least three **justices**, and no case involving construction of the constitution of this state or of the United States shall be decided except by the court en banc. Upon request of the supreme court, the number of **justices** may be increased to no more than nine members whenever two-thirds of the members of each house

of the general assembly concur therein.

(3) The supreme court shall appoint a court administrator and such other personnel as the court may deem necessary to aid the administration of the courts. Whenever the chief **justice** deems assignment of a judge necessary to the prompt disposition of judicial business, he may: (a) Assign any county judge, or retired county judge who consents, temporarily to perform judicial duties in any county court if otherwise qualified under section 18 of this article, or assign, as hereafter may be authorized by law, said judge to any other court; or (b) assign any district, probate, or juvenile judge, or retired **justice** or district, probate, or juvenile judge who consents, temporarily to perform judicial duties in any court. For each day of such **temporary** service a retired **justice** or judge shall receive compensation in an amount equal to 1/20 of the monthly salary then currently applicable to the judicial position in which the **temporary** service is rendered.

CONSTITUTION OF THE STATE OF DELAWARE

ADOPTED 1897, AS AMENDED

ARTICLE IV. JUDICIARY

Del. Const. art IV, § 12 (1998)

THIS SECTION HAS MORE THAN ONE DOCUMENT WITH VARYING EFFECTIVE DATES.

§ 12. Composition of Supreme Court; designation of **temporary Justices**; quorum; opening and adjourning court

Section 12. A quorum of the Supreme Court shall consist of not less than three **Justices**. The entire Court shall sit in any criminal case in which the accused has been sentenced to death and in such other civil and criminal cases as the Court, by rule, or the General Assembly, upon the concurrence of two-thirds of all the members elected to each house, shall determine. In case of a lack of quorum by reason of vacancies in their number, incapacity, or disqualification to sit by reason of interest, or to constitute a three-member panel of the Court, the Chief **Justice** of the Supreme Court, or in case of his or her absence from the State, disqualification, incapacity, or if there be a vacancy in that office, the next qualified and available **Justice**, who by seniority is next in rank to the Chief **Justice**, shall have the power to designate judges from among the judges of the constitutional courts to sit in the Supreme Court temporarily to satisfy the number of **Justices** required by law. It shall be the duty of the judges of the constitutional courts so designated to sit accordingly. No judge shall be so designated to sit in the Supreme Court in any cause in which he or she sat below. Any one of the **Justices** of the Supreme Court may open and adjourn court.

CONSTITUTION OF THE STATE OF DELAWARE

ADOPTED 1897, AS AMENDED

ARTICLE IV. JUDICIARY

Del. Const. art IV, § 15 (1998)

§ 15. Judges ad litem; limitation and expiration of commission; compensation; persons not **disqualified**

Section 15. The Governor shall have power to commission a judge or judges ad litem to sit in any cause in any of said Courts when by reason of legal exception to the Judges authorized to sit therein, or for other cause, there are not a sufficient number of Judges available to hold such Court. The commission in such case shall confine

the office to the cause and it shall expire on the determination of the cause. The judge so appointed shall receive reasonable compensation to be fixed by the General Assembly. A Member of Congress, or any person holding or exercising an office under the United States, shall not be **disqualified** from being appointed a judge ad litem.

CONSTITUTION OF THE STATE OF DELAWARE

ADOPTED 1897, AS AMENDED

ARTICLE IV. JUDICIARY

Del. Const. art IV, § 38 (1998)

FIRST OF TWO VERSIONS OF THIS SECTION THIS SECTION HAS MORE THAN ONE DOCUMENT WITH VARYING EFFECTIVE DATES.

§ 38. Retired Judges and **Justices**; temporary assignment

Section 38. A former State Judge or a former **Justice** of the Supreme Court, who is retired and is receiving a state judicial pension and who assents to active judicial duty and who is not engaged in the practice of law, upon designation of the Chief **Justice** of the Supreme Court, or in case of his absence from the State, disqualification, incapacity, or if there be a vacancy in that office, upon designation of the next qualified and available **Justice**, who by seniority is next in rank to the Chief **Justice**, shall be authorized to sit temporarily in the court from which he retired or in any other court to which he could be designated under the Constitution and statutes of the State if he still held the judicial position from which he retired. Any person so designated shall receive compensation as the General Assembly shall provide. Nothing herein shall authorize the designation of any former State Judge or a former **Justice** of the Supreme Court to sit in the Supreme Court except temporarily to fill up the number of that Court to the required quorum. The term "State Judge" as used in this section means a Chancellor or Vice-Chancellor of the Chancery Court or a President Judge or Associate Judge of the Superior Court.

SECOND OF TWO VERSIONS OF THIS SECTION

§ 38. Retired Judges and **Justices**; temporary assignment

Section 38. A former State Judge or a former **Justice** of the Supreme Court, who is retired and is receiving a state judicial pension and who assents to active judicial duty and who is not engaged in the practice of law, upon designation of the Chief **Justice** of the Supreme Court, or in case of his or her absence from the State, disqualification, incapacity, or if there be a vacancy in that office, upon designation of the next qualified and available **Justice**, who by seniority is next in rank to the Chief **Justice**, shall be authorized to sit temporarily in the court from which he or she retired or in any other court to which he could be designated under the Constitution and statutes of the State if he or she still held the judicial position from which he or she retired. Any person so designated shall receive compensation as the General Assembly shall provide. Nothing herein shall authorize the designation of any former State Judge or a former **Justice** of the Supreme Court to sit in the Supreme Court except temporarily to fill up the number of that Court to the required quorum. The term "State Judge" as used in this section means a Chancellor or Vice-Chancellor of the Chancery Court or a President Judge or Associate Judge of the Superior Court.

CONSTITUTION OF THE STATE OF FLORIDA

AS REVISED IN 1968

ARTICLE V JUDICIARY

Fla. Const., Art. V § 3 (1998)

SECTION 3. Supreme court

(a) ORGANIZATION. -- The supreme court shall consist of seven **justices**. Of the seven **justices**, each appellate district shall have at least one **justice** elected or appointed from the district to the supreme court who is a resident of the district at the time of his original appointment or election. Five **justices** shall constitute a quorum. The concurrence of four **justices** shall be necessary to a decision. When recusals for cause would prohibit the court from convening because of the requirements of this section, judges assigned to temporary duty may be **substituted** for **justices**.

CONSTITUTION OF THE STATE OF GEORGIA

ARTICLE VI. JUDICIAL BRANCH

SECTION VI. SUPREME COURT

Ga. Const. Art. VI, § VI, Para. I (1999)

PARAGRAPH I. Composition of Supreme Court; Chief **Justice**; Presiding **Justice**; quorum; substitute judges

The Supreme Court shall consist of not more than nine **Justices** who shall elect from among themselves a Chief **Justice** as the chief presiding and administrative officer of the court and a Presiding **Justice** to serve if the Chief **Justice** is absent or is **disqualified**. A majority shall be necessary to hear and determine cases. If a **Justice** is **disqualified** in any case, a substitute judge may be designated by the remaining **Justices** to serve.

THE CONSTITUTION OF THE STATE OF HAWAII

ARTICLE VI. THE JUDICIARY

SUPREME COURT; INTERMEDIATE APPELLATE COURT; CIRCUIT COURTS

HRS Const. Art. VI, § 2 (1999)

Section 2.

The supreme court shall consist of a chief **justice** and four associate **justices**. The chief **justice** may assign a judge or judges of the intermediate appellate court or a circuit court to serve temporarily on the supreme court, a judge of the circuit court to serve temporarily on the intermediate appellate court and a judge of the district court to serve temporarily on the circuit court. As provided by law, at the request of the chief **justice**, retired **justices** of the supreme court also may serve temporarily on the supreme court, and retired judges of the intermediate appellate court, the circuit courts, the district courts and the district family courts may serve temporarily on the intermediate appellate court, on any circuit court, on any district court and on any district family court, respectively. In case of a vacancy in the office of chief **justice**, or if the chief **justice** is ill, absent or otherwise unable to serve, an associate **justice** designated in accordance with the rules of the supreme court shall serve temporarily in place of the chief **justice**.

THE CONSTITUTION OF THE STATE OF HAWAII

ARTICLE VI. THE JUDICIARY

APPOINTMENT OF JUSTICES AND JUDGES

HRS Const. Art. VI, § 3 (1999)

Section 3.

The governor, with the consent of the senate, shall fill a vacancy in the office of the chief **justice**, supreme court, intermediate appellate court and circuit courts, by appointing a person from a list of not less than four, and not more than six nominees for the vacancy, presented to the governor by the judicial selection commission.

If the governor fails to make any appointment within thirty days of presentation, or within ten days of the senate's rejection of any previous appointment, the appointment shall be made by the judicial selection commission from the list with the consent of the senate. If the senate fails to reject any appointment within thirty days thereof, it shall be deemed to have given its consent to such appointment. If the senate shall reject any appointment, the governor shall make another appointment from the list within ten days thereof. The same appointment and consent procedure shall be followed until a valid appointment has been made, or failing this, the commission shall make the appointment from the list, without senate consent.

The chief **justice**, with the consent of the senate, shall fill a vacancy in the district courts by appointing a person from a list of not less than six nominees for the vacancy presented by the judicial commission. If the chief **justice** fails to make the appointment within thirty days of presentation, or within ten days of the senate's rejection of any previous appointment, the appointment shall be made by the judicial selection commission from the list with the consent of the senate. The senate must hold a public hearing and vote on each appointment within thirty days of any appointment. If the senate fails to do so, the nomination shall be returned to the commission and the commission shall make the appointment from the list without senate consent. The chief **justice** shall appoint per diem district court judges as provided by law.

CONSTITUTION OF THE STATE OF IDAHO

ARTICLE V. JUDICIAL DEPARTMENT

Idaho Const. Art. V, § 6 (1998)

§ 6. Supreme Court -- Number of **justices** -- Term of office -- Calling of district judge to sit with court

The Supreme Court shall consist of five **justices**, a majority of whom shall be necessary to make a quorum or pronounce a decision. If a **justice** of the Supreme Court shall be disqualified from sitting in a cause before said court, or be unable to sit therein, by reason of illness or absence, the said court may call a district judge to sit in said court on the hearing of such cause.

CONSTITUTION OF THE STATE OF IDAHO

ARTICLE V. JUDICIAL DEPARTMENT

Idaho Const. Art. V, § 12 (1998)

§ 12. Residence of judges -- Holding court out of district -- Service by retired **justices** and judges

Every judge of the district court shall reside in the district for which he is elected. A judge of any district court, or any retired **justice** of the Supreme Court or any retired district judge, may hold a district court in any county at the request of the judge of the district court thereof, and upon the request of the governor, or of the chief **justice**, and when any such request is made or approved by the chief **justice** it shall be his duty to do so; but a cause in the district court may be tried by a judge pro tempore, who must be a member of the bar, agreed upon in writing by the parties litigant, or their attorneys of record, and sworn to try the cause. Any retired **justice** or district judge may sit with the Supreme Court and exercise the authority of a member thereof in any cause in which he is requested by that court so to do, and when requested by the chief **justice** shall perform such other duties pertaining to the judicial department of government as directed. Compensation for such service shall be as provided by the legislature.

CONSTITUTION OF THE STATE OF ILLINOIS

ARTICLE 6. THE JUDICIARY

Illinois Const., Art. 6, § 3 (1999)

SECTION 3. Supreme Court -- Organization

The Supreme Court shall consist of seven Judges. Three shall be selected from the First Judicial District and one from each of the other Judicial Districts. Four judges constitute a quorum and the concurrence of four is necessary for a decision. Supreme Court Judges shall select a Chief **Justice** from their number to serve for a term of three years.

HISTORY:

Source: Illinois Constitution.

CASE NOTES

DEADLOCK

Where the Supreme Court was unable to reach a decision because two judges **recused** themselves and the remaining members of the court were divided so that it was impossible to secure the required concurrence of four judges, the court decided, in cases that came to the Supreme Court upon appeal from the appellate court, to follow substantially the procedure employed by the Supreme Court of the United States in such cases and to affirm the judgment of the court before it for review; such an affirmance would be a conclusive determination and adjudication as between the parties to the immediate case, but not authority for the determination of other cases. The legal effect of such an affirmance would be the same as if the appeal were dismissed. Perlman v. First Nat'l Bank, 60 Ill. 2d 529, 331 N.E.2d 65 (1975).

CONSTITUTION OF THE STATE OF ILLINOIS

ARTICLE 6. THE JUDICIARY

Illinois Const., Art. 6, § 16 (1999)

SECTION 16. Administration

General administrative and supervisory authority over all courts is vested in the Supreme Court and shall be exercised by the Chief **Justice** in accordance with its rules. The Supreme Court shall appoint an administrative director and staff, who shall serve at its pleasure, to assist the Chief **Justice** in his duties. The Supreme Court may assign a Judge temporarily to any court and an Associate Judge to serve temporarily as an Associate Judge on any Circuit Court. The Supreme Court shall provide by rule for expeditious and inexpensive appeals.

CONSTITUTION OF KENTUCKY

THE JUDICIAL DEPARTMENT

THE SUPREME COURT

Ky. Const. § 110 (1998)

§ 110. Composition -- Jurisdiction -- Quorum -- Special **justices** -- Districts -- Chief **justice**

- (1) The Supreme Court shall consist of the Chief **Justice** of the Commonwealth and six associate **Justices**.
- (2) (a) The Supreme Court shall have appellate jurisdiction only, except it shall have the power to issue all writs necessary in aid of its appellate jurisdiction, or the complete determination of any cause, or as may be required to exercise control of the Court of **Justice**.

(b) Appeals from a judgment of the Circuit Court imposing a sentence of death or life imprisonment or imprisonment for twenty years or more shall be taken directly to the Supreme Court. In all other cases, criminal and civil, the Supreme Court shall exercise appellate jurisdiction as provided by its rules.
- (3) A majority of the **Justices** of the Supreme Court shall constitute a quorum for the transaction of business. If as many as two **Justices** decline or are unable to sit in the trial of any cause, the Chief **Justice** shall certify that fact to the Governor, who shall appoint to try the particular cause a sufficient number of **Justices** to constitute a full court for the trial of the cause.

CONSTITUTION OF THE STATE OF MICHIGAN

ARTICLE VI. JUDICIAL BRANCH

MSA Const. 1963, Art. VI, § 23 (1998)

§ 23. Filling of vacancies.

Sec. 23. A vacancy shall occur in the office of judge of any court of record or in the district court by death, removal, resignation or vacating of the office, and such vacancy shall be filled by appointment by the governor. The person appointed by the governor shall hold office until 12 noon of the first day of January next succeeding the first general election held after the vacancy occurs, at which election a successor shall be elected for the remainder of the unexpired term. Whenever a new office of judge in a court of record, or the district court, is

created by law, it shall be filled by election as provided by law. The supreme court may authorize persons who have been elected and served as judges to perform judicial duties for limited periods or specific assignments.

THE CONSTITUTION OF THE STATE OF MISSISSIPPI

ADOPTED NOVEMBER 1, A.D., 1890

ARTICLE 6. JUDICIARY

Miss. Const. Ann. Art. 6, § 165 (1998)

Section 165. Disqualification of judges.

No judge of any court shall preside on the trial of any cause, where the parties or either of them, shall be connected with him by affinity or consanguinity, or where he may be interested in the same, except by the consent of the judge and of the parties. Whenever any judge of the Supreme Court or the judge or chancellor of any district in this state shall, for any reason, be unable or disqualified to preside at any term of court, or in any case where the attorneys engaged therein shall not agree upon a member of the bar to preside in his place, the governor may commission another, or others, of law knowledge, to preside at such term or during such disability or disqualification in the place of the judge or judges so disqualified

CONSTITUTION OF MISSOURI

ADOPTED 1945

ARTICLE V. JUDICIAL DEPARTMENT

Mo. Const. Art. V, § 6 (1999)

§ 6. Assignment of judges--authority of supreme court--eligible judges

The supreme court may make **temporary** transfers of judicial personnel from one court or district to another as the administration of **justice** requires, and may establish rules with respect thereto. Any judge shall be eligible to sit temporarily on any court upon assignment by the supreme court or pursuant to supreme court rule.

THE CONSTITUTION OF THE STATE OF MONTANA

ARTICLE VII THE JUDICIARY

Mont. Const., Art. VII § 3 (1998)

3 Supreme court organization.

(1) The supreme court consists of one chief **justice** and four **justices**, but the legislature may increase the number of **justices** from four to six. A majority shall join in and pronounce decisions, which must be in writing.

(2) A district judge shall be substituted for the chief **justice** or a **justice** in the event of **disqualification** or disability, and the opinion of the district judge sitting with the supreme court shall have the same effect as an opinion of a **justice**.

CONSTITUTION OF THE STATE OF NEBRASKA OF 1875, AND SUBSEQUENT AMENDMENTS

ARTICLE V. JUDICIAL

Ne. Const. Art. 5, § 2 (1998)

§ 2. Supreme Court; number of judges; quorum; jurisdiction; retired judges, **temporary** duty; court divisions; assignments by Chief **Justice**

The Supreme Court shall consist of seven judges, one of whom shall be the Chief **Justice**. A majority of the judges shall be necessary to constitute a quorum. A majority of the members sitting shall have authority to pronounce a decision except in cases involving the constitutionality of an act of the Legislature. No legislative act shall be held unconstitutional except by the concurrence of five judges. The Supreme Court shall have jurisdiction in all cases relating to the revenue, civil cases in which the state is a party, mandamus, quo warranto, habeas corpus, election contests involving state officers other than members of the Legislature, and such appellate jurisdiction as may be provided by law. The Legislature may provide that any judge of the Supreme Court or judge of the appellate court created pursuant to Article V, section 1, of this Constitution who has retired may be called upon for **temporary** duty by the Supreme Court. Whenever necessary for the prompt submission and determination of causes, the Supreme Court may appoint judges of the district court or the appellate court to act as associate judges of the Supreme Court, sufficient in number, with the judges of the Supreme Court, to constitute two divisions of the court of five judges in each division. Whenever judges of the district court or the appellate court are so acting, the court shall sit in two divisions, and four of the judges thereof shall be necessary to constitute a quorum. Judges of the district court or the appellate court so appointed shall serve during the pleasure of the court and shall have all the powers of judges of the Supreme Court. The Chief **Justice** shall make assignments of judges to the divisions of the court, preside over the division of which he or she is a member, and designate the presiding judge of the other division. The judges of the Supreme Court, sitting without division, shall hear and determine all cases involving the constitutionality of a statute and all appeals involving capital cases and may review any decision rendered by a division of the court. In such cases, in the event of the disability or disqualification by interest or otherwise of any of the judges of the Supreme Court, the court may appoint judges of the district court or the appellate court to sit temporarily as judges of the Supreme Court, sufficient to constitute a full court of seven judges. Judges of the district court or the appellate court shall receive no additional salary by virtue of their appointment and service as herein provided, but they shall be reimbursed their necessary traveling and hotel expenses. (Amended, 1908, 1920, 1968, 1970, 1990.)

CONSTITUTION OF NEW MEXICO

ADOPTED JANUARY 21, 1911

ARTICLE VI. JUDICIAL DEPARTMENT

N.M. Const. art. VI, § 6 (1998)

Section 6. [Supreme court; absent or **disqualified justice**.]

When a **justice** of the supreme court shall be interested in any case, or be absent, or incapacitated, the remaining **justices** of the court may, in their discretion, call in any district judge of the state to act as a **justice** of the court.

CONSTITUTION OF THE STATE OF NEVADA

ARTICLE 6. JUDICIAL DEPARTMENT

Nev. Const. art. 6, § 4 (1998)

Section 4. Jurisdiction of supreme court; appointment of district judge to sit for disabled or disqualified **justice**

The supreme court shall have appellate jurisdiction in all civil cases arising in district courts, and also on questions of law alone in all criminal cases in which the offense charged is within the original jurisdiction of the district courts. The court shall also have power to issue writs of *mandamus*, *certiorari*, prohibition, *quo warranto*, and *habeas corpus* and also all writs necessary or proper to the complete exercise of its appellate jurisdiction. Each of the **justices** shall have power to issue writs of *habeas corpus* to any part of the state, upon petition by, or on behalf of, any person held in actual custody, and may make such writs returnable, before himself or the supreme court, or before any district court in the state or before any judge of said courts.

In case of the disability or disqualification, for any cause, of the chief **justice** or one of the associate **justices** of the supreme court, or any two of them, the governor is authorized and empowered to designate any district judge or judges to sit in the place or places of such disqualified or disabled **justice or justices**, and said judge or judges so designated shall receive their actual expense of travel and otherwise while sitting in the supreme court.

CONSTITUTION OF THE STATE OF NEVADA

ARTICLE 6. JUDICIAL DEPARTMENT

Nev. Const. art. 6, § 19 (1998)

Section 19. Administration of court system by chief **justice**

1. The chief **justice** is the administrative head of the court system. Subject to such rules as the supreme court may adopt, the chief **justice** may:
 - (a) Apportion the work of the supreme court among **justices**.
 - (b) Assign district judges to assist in other judicial districts or to specialized functions which may be established by law.
 - (c) Recall to active service any retired **justice** or judge of the court system who consents to such recall and who has not been removed or retired for cause or defeated for retention in office, and may assign him to appropriate **temporary** duty within the court system.
2. In the absence or **temporary** disability of the chief **justice**, the associate **justice** senior in commission shall act as chief **justice**.

CONSTITUTION OF NEW MEXICO

ADOPTED JANUARY 21, 1911

ARTICLE VI. JUDICIAL DEPARTMENT

N.M. Const. art. VI, § 6 (1998)

Section 6. [Supreme court; absent or disqualified **justice**.]

When a **justice** of the supreme court shall be interested in any case, or be absent, or incapacitated, the remaining **justices** of the court may, in their discretion, call in any district judge of the state to act as a **justice** of the court.

CONSTITUTION OF NEW MEXICO

ADOPTED JANUARY 21, 1911

ARTICLE VI. JUDICIAL DEPARTMENT

N.M. Const. art. VI, § 28 (1998)

Section 28. [Court of appeals; number, qualifications, compensation; quorum; majority concurring in judgment; power of chief **justice** to select acting **justices**.]

The court of appeals shall consist of not less than seven judges who shall be chosen as provided in this constitution, whose qualifications shall be the same as those of **justices** of the supreme court and whose compensation shall be as provided by law. The increased qualifications provided by this 1988 amendment shall not apply to court of appeals judges serving at the time this amendment passes or elected at the general election in 1988.

Three judges of the court of appeals shall constitute a quorum for the transaction of business, and a majority of those participating must concur in any judgment of the court.

When necessary, the chief **justice** of the supreme court may designate any **justice** of the supreme court, or any district judge of the state, to act as a judge of the court of appeals, and the chief **justice** may designate any judge of the court of appeals to hold court in any district, or to act as a **justice** of the supreme court. (As added September 28, 1965; as amended November 8, 1988.)

THE CONSTITUTION OF THE STATE OF NEW YORK

ARTICLE VI. JUDICIARY

NY CLS Const Art VI, § 2 (1999)

§ 2. [Court of appeals]

a. The court of appeals is continued. It shall consist of the chief judge and the six elected associate judges now in office, who shall hold their offices until the expiration of their respective terms, and their successors, and such **justices** of the supreme court as may be designated for service in said court as hereinafter provided. The

official terms of the chief judge and the six associate judges shall be fourteen years.

Five members of the court shall constitute a quorum, and the concurrence of four shall be necessary to a decision; but no more than seven judges shall sit in any case. In case of the **temporary** absence or inability to act of any judge of the court of appeals, the court may designate any **justice** of the supreme court to serve as associate judge of the court during such absence or inability to act. The court shall have power to appoint and to remove its clerk. The powers and jurisdiction of the court shall not be suspended for want of appointment when the number of judges is sufficient to constitute a quorum.

b. Whenever and as often as the court of appeals shall certify to the governor that the court is unable, by reason of the accumulation of causes pending therein, to hear and dispose of the same with reasonable speed, the governor shall designate such number of **justices** of the supreme court as may be so certified to be necessary, but not more than four, to serve as associate judges of the court of appeals. The **justices** so designated shall be relieved, while so serving, from their duties as **justices** of the supreme court, and shall serve as associate judges of the court of appeals until the court shall certify that the need for the services of any such **justices** no longer exists, whereupon they shall return to the supreme court. The governor may fill vacancies among such designated judges. No such **justices** shall serve as associate judge of the court of appeals except while holding the office of **justice** of the supreme court. The designation of a **justice** of the supreme court as an associate judge of the court of appeals shall not be deemed to affect his existing office any longer than until the expiration of his designation as such associate judge, nor to create a vacancy.

CONSTITUTION OF NORTH CAROLINA

ARTICLE IV. JUDICIAL

N.C. Const. art. IV, § 8 (1999)

Sec. 8. Retirement of **Justices** and Judges

The General Assembly shall provide by general law for the retirement of **Justices** and Judges of the General Court of **Justice**, and may provide for the **temporary** recall of any retired **Justice** or Judge to serve on the court or courts of the division from which he was retired. The General Assembly shall also prescribe maximum age limits for service as a **Justice** or Judge.

CONSTITUTION OF NORTH DAKOTA

ARTICLE VI. JUDICIAL BRANCH

N.D. Const. Art. 6, § 3 (1999)

§ 3.

The supreme court shall have authority to promulgate rules of procedure, including appellate procedure, to be followed by all the courts of this state; and, unless otherwise provided by law, to promulgate rules and regulations for the admission to practice, conduct, disciplining, and disbarment of attorneys at law.

The chief **justice** shall be the administrative head of the unified judicial system. He may assign judges, including retired judges, for **temporary** duty in any court or district under such rules and regulations as may be

promulgated by the supreme court. The chief **justice** shall appoint a court administrator for the unified judicial system. Unless otherwise provided by law, the powers, duties, qualifications, and terms of office of the court administrator, and other court officials, shall be as provided by rules of the court.

CONSTITUTION OF NORTH DAKOTA

ARTICLE VI. JUDICIAL BRANCH

N.D. Const. Art. 6, § 11 (1999)

§ 11.

When any **justice** or judge has a conflict of interest in a pending cause or is unable to sit in court because he is physically or mentally incapacitated, the chief **justice**, or a **justice** acting in his stead, shall assign a judge, or retired **justice** or judge, to hear the cause.

CONSTITUTION OF THE STATE OF OHIO

ARTICLE IV: JUDICIAL

OH Const IV § 2 (Anderson 1999)

§ 2 The supreme court.

(A) The supreme court shall, until otherwise provided by law, consist of seven judges, who shall be known as the chief **justice and justices**. In case of the absence or disability of the chief **justice**, the judge having the period of longest total service upon the court shall be the acting chief **justice**. If any member of the court shall be unable, by reason of illness, disability or **disqualification**, to hear, consider and decide a cause or causes, the chief **justice** or the acting chief **justice** may direct any judge of any court of appeals to sit with the judges of the supreme court in the place and stead of the absent judge. A majority of the supreme court shall be necessary to constitute a quorum or to render a judgment.

THE CONSTITUTION OF THE STATE OF SOUTH CAROLINA

ARTICLE V. THE JUDICIAL DEPARTMENT

S.C. Const. Ann. Art. V, § 19 (1998)

§ 19. Disqualification of **Justices** and judges; **temporary** appointments.

The General Assembly shall specify the grounds for disqualification of **Justices** and judges to sit on certain cases. The General Assembly shall also provide for the **temporary** appointment of men learned in the law to sit as special **Justices** and judges when the necessity for such appointment shall arise. (1985 Act No. 9, eff February 26, 1985.)

CONSTITUTION OF SOUTH DAKOTA

ARTICLE V. JUDICIAL DEPARTMENT

S.D. Const. Article V, § 11

(1999)

§ 11. Administration

The chief **justice** is the administrative head of the unified judicial system. The chief **justice** shall submit an annual consolidated budget for the entire unified judicial system, and the total cost of the system shall be paid by the state. The Legislature may provide by law for the reimbursement to the state of appropriate portions of such cost by governmental subdivisions. The Supreme Court shall appoint such court personnel as it deems necessary to serve at its pleasure.

The chief **justice** shall appoint a presiding circuit judge for each judicial circuit to serve at the pleasure of the chief **justice**. Each presiding circuit judge shall have such administrative power as the Supreme Court designates by rule and may, unless it be otherwise provided by law, appoint judicial personnel to courts of limited jurisdiction to serve at his pleasure. Each presiding circuit judge shall appoint clerks and other court personnel for the counties in his circuit who shall serve at his pleasure at a compensation fixed by law. Duties of clerks shall be defined by Supreme Court rule.

The chief **justice** shall have power to assign any circuit judge to sit on another circuit court, or on the Supreme Court in case of a vacancy or in place of a **justice** who is disqualified or unable to act. The chief **justice** may authorize a **justice** to sit as a judge in any circuit court.

The chief **justice** may authorize retired **justices** and judges to perform any judicial duties to the extent provided by law and as directed by the Supreme Court.

CONSTITUTION OF THE STATE OF TENNESSEE

ARTICLE VI. JUDICIAL DEPARTMENT

Tenn. Const. art. VI, § 11 (1999)

Sec. 11. Incompetency of judges -- Special judges

No Judge of the Supreme or Inferior Courts shall preside on the trial of any cause in the event of which he may be interested, or where either of the parties shall be connected with him by affinity or consanguinity, within such degrees as may be prescribed by law, or in which he may have been of counsel, or in which he may have presided in any inferior Court, except by consent of all the parties. In case all or any of the Judges of the Supreme Court shall thus be **disqualified** from presiding on the trial of any cause or causes, the Court, or the Judges thereof, shall certify the same to the Governor of the State, and he shall forthwith specially commission the requisite number of men, of law knowledge, for the trial and determination thereof. The Legislature may by general laws make provision that special Judges may be appointed, to hold any Courts the Judge of which shall be unable or fail to attend or sit; or to hear any cause in which the Judge may be incompetent.

CONSTITUTION OF UTAH

ARTICLE VIII. JUDICIAL DEPARTMENT

Utah Const. Art. VIII, § 2 (1998)

§ 2. [Supreme court -- Chief **justice** -- Declaring law unconstitutional -- **Justice** unable to participate.]

The Supreme Court shall be the highest court and shall consist of at least five **justices**. The number of **justices** may be changed by statute, but no change shall have the effect of removing a **justice** from office. A chief **justice** shall be selected from among the **justices** of the Supreme Court as provided by statute. The chief **justice** may resign as chief **justice** without resigning from the Supreme Court. The Supreme Court by rule may sit and render final judgment either en banc or in divisions. The court shall not declare any law unconstitutional under this constitution or the Constitution of the United States, except on the concurrence of a majority of all **justices** of the Supreme Court. If a **justice** of the Supreme Court is **disqualified** or otherwise unable to participate in a cause before the court, the chief **justice**, or in the event the chief **justice** is **disqualified** or unable to participate, the remaining **justices**, shall call an active judge from an appellate court or the district court to participate in the cause.

CONSTITUTION OF THE STATE OF WASHINGTON

ARTICLE IV. THE JUDICIARY

Wash. Const., Art. IV, § 2a (1999)

§ 2a. **Temporary** performance of judicial duties

When necessary for the prompt and orderly administration of **justice** a majority of the Supreme Court is empowered to authorize judges or retired judges of courts of record of this state, to perform, temporarily, judicial duties in the Supreme Court, and to authorize any superior court judge to perform judicial duties in any superior court of this state.

THE CONSTITUTION OF WEST VIRGINIA

ARTICLE VIII.

W. Va. Const. Art. VIII, § 2 (1999)

§ 2. Supreme Court of Appeals

The supreme court of appeals shall consist of five **justices**. A majority of the **justices** of the court shall constitute a quorum for the transaction of business.

The **justices** shall be elected by the voters of the State for a term of twelve years, unless sooner removed or retired as authorized in this article. The legislature may prescribe by law whether the election of such **justices** is to be on a partisan or nonpartisan basis.

Provision shall be made by rules of the supreme court of appeals for the selection of a member of the court to serve as chief **justice** thereof. If the chief **justice** is temporarily **disqualified** or unable to serve, one of the **justices** of the court designated in accordance with the rules of the court shall serve temporarily in his stead.

When any **justice** is temporarily **disqualified** or unable to serve, the chief **justice** may assign a judge of a circuit court or of an intermediate appellate court to serve from time to time in his stead.

THE CONSTITUTION OF WEST VIRGINIA

ARTICLE VIII.

W. Va. Const. Art. VIII, § 8 (1999)

§ 8. Censure, **Temporary** Suspension and Retirement of **Justices**, Judges and Magistrates; Removal

Under its inherent rule-making power, which is hereby declared, the supreme court of appeals shall, from time to time, prescribe, adopt, promulgate and amend rules prescribing a judicial code of ethics, and a code of regulations and standards of conduct and performances for **justices**, judges and magistrates, along with sanctions and penalties for any violation thereof, and the supreme court of appeals is authorized to censure or temporarily suspend any **justice**, judge or magistrate having the judicial power of the State, including one of its own members, for any violation of any such code of ethics, code of regulations and standards, or to retire any such **justice**, judge or magistrate who is eligible for retirement under the West Virginia judges' retirement system (or any successor or substituted retirement system for **justices**, judges and magistrates of this State) and who, because of advancing years and attendant physical or mental incapacity, should not, in the opinion of the supreme court of appeals, continue to serve as a **justice**, judge or magistrate.

No **justice**, judge or magistrate shall be censured, temporarily suspended or retired under the provisions of this section unless he shall have been afforded the right to have a hearing before the supreme court of appeals, nor unless he shall have received notice of the proceedings, with a statement of the cause or causes alleged for his censure, **temporary** suspension or retirement, at least twenty days before the day on which the proceeding is to commence. No **justice** of the supreme court of appeals may be temporarily suspended or retired unless all of the other **justices** concur in such **temporary** suspension or retirement. When rules herein authorized are prescribed, adopted and promulgated, they shall supersede all laws and parts of laws in conflict therewith, and such laws shall be and become of no further force or effect to the extent of such conflict.

A retired **justice** or judge may, with his permission and with the approval of the supreme court of appeals, be recalled by the chief **justice** of the supreme court of appeals for **temporary** assignment as a **justice** of the supreme court of appeals, or judge of an intermediate appellate court, a circuit court or a magistrate court.

A **justice** or judge may be removed only by impeachment in accordance with the provisions of section nine, article four of this Constitution. A magistrate may be removed from office in the manner provided by law for the removal of county officers.

WISCONSIN CONSTITUTION

ARTICLE VII. JUDICIARY

Wis. Const. Art. VII, § 24

Section 24. **Justices** and judges: eligibility for office; retirement.

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and **sign** on the appropriate line(s) below.

Date: 09/30/1999

To: Representative Huber

Relating to LRB drafting number: LRB-3279

Topic

Temporary justices for supreme court-appointed under procedures prescribed by the legislature

Subject(s)

Constitutional Amendments, Courts - courts/judges

1. **JACKET** the draft for introduction

Grub Huber

in the **Senate** ___ or the **Assembly** (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Attorney Peter J. Dykman, General Counsel
Telephone: (608) 266-7098