

1999 SENATE JOINT RESOLUTION 38

March 8, 2000 – Introduced by Senators HUELSMAN, DRZEWIECKI, FITZGERALD, BRESKE, A. LASEE, ROESSLER, FARROW and DARLING, cosponsored by Representatives DUFF, MUSSER, PORTER, PETTIS, HUTCHISON, LADWIG, HANDRICK, M. LEHMAN, WALKER, URBAN, RYBA, ALBERS, OWENS, SYKORA, VRAKAS, GOETSCH, F. LASEE, JESKEWITZ, OLSEN and SERATTI. Referred to Committee on Economic Development, Housing and Government Operations.

1 **To amend** so as in effect **to repeal** section 4 (3) (a) and (c) of article VI; **to renumber**
2 section 4 (3) (b) of article VI; **to renumber and amend** section 4 (1) of article
3 VI and section 12 of article VII; **to amend** section 4 (4) and (5) of article VI; and
4 **to create** section 4 (1) (b) and (c) and (8) of article VI and section 12 (2) and (6)
5 of article VII of the constitution; **relating to:** 4-year terms of office for,
6 appointment of, and the restriction on holding any other office by, certain
7 county officers (first consideration).

Analysis by the Legislative Reference Bureau

Currently, the constitution provides for the election every 2 years of 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 1999 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 district attorneys, coroners, elected surveyors, registers of deeds, treasurers, county clerks and clerks of circuit court. For 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 county 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 supervisors or 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 the proposal.

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

Instead, the proposal permits a person who holds the office of sheriff, coroner, register of deeds, district attorney, county clerk, treasurer, surveyor or clerk of circuit court to become a candidate for a partisan elective 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 that 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, county 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 senate, the assembly concurring, That:***

2 **SECTION 1.** Section 4 (1) of article VI of the constitution is renumbered section
3 4 (1) (a) of article VI and amended to read:

4 [Article VI] Section 4 (1) (a) Except as provided in pars. (b) and (c) and sub. (2),
5 ~~coroners, registers of deeds, district attorneys, and all other elected county officers,~~

1 except ~~judicial officers, sheriffs and~~ chief executive officers, shall be chosen by the
2 electors of the respective counties once in every 2 years.

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

5 [Article VI] Section 4 (1) (b) Beginning with the first general election at which
6 the governor is elected which occurs after the ratification of this paragraph, sheriffs
7 and district attorneys shall be chosen by the electors of the respective counties, or by
8 the electors of all of the respective counties comprising each combination of counties
9 combined by the legislature for that purpose, for the term of 4 years.

10 (c) Beginning with the first general election at which the president is elected
11 which occurs after the ratification of this paragraph, registers of deeds, clerks and
12 treasurers shall be chosen by the electors of the respective counties, or by the electors
13 of all of the respective counties comprising each combination of counties combined
14 by the legislature for that purpose, for the term of 4 years and surveyors in counties
15 in which the office of surveyor is filled by election and coroners in counties in which
16 there is a coroner shall be chosen by the electors of the respective counties, or by the
17 electors of all of the respective counties comprising each combination of counties
18 combined by the legislature for that purpose, for the term of 4 years.

19 **SECTION 3.** Section 4 (3) (a) of article VI of the constitution is amended so as
20 in effect to repeal said paragraph:

21 [Article VI] Section 4 (3) (a) ~~Sheriffs may not hold any other partisan office.~~

22 **SECTION 4.** Section 4 (3) (b) of article VI of the constitution is renumbered
23 Section 4 (3) of article VI.

24 **SECTION 5.** Section 4 (3) (c) of article VI of the constitution is amended so as in
25 effect to repeal said paragraph:

1 [Article VI] Section 4 (3) (c) ~~Beginning with the first general election at which~~
2 ~~the governor is elected which occurs after the ratification of this paragraph, sheriffs~~
3 ~~shall be chosen by the electors of the respective counties once in every 4 years.~~

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

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

8 **SECTION 7.** Section 4 (5) of article VI of the constitution is amended to read:

9 [Article VI] Section 4 (5) All vacancies in the offices of coroner, register of deeds
10 or district attorney shall be filled by appointment. ~~The, except a vacancy caused by~~
11 ~~an irrevocable resignation which under sub. (8) permits the person resigning the~~
12 ~~office to hold another office. A person appointed to fill a vacancy occurring on or~~
13 ~~before June 1 of the 2nd year of the term for which the person's predecessor was~~
14 ~~elected shall hold office only until the first Monday in January occurring after the~~
15 ~~2nd year of the term for which the person's predecessor was elected and until a~~
16 ~~successor is elected and qualified. A person appointed to fill a vacancy occurring after~~
17 ~~June 1 of the 2nd year of the term for which the person's predecessor was elected shall~~
18 hold office only for the unexpired portion of the term to which appointed and until
19 a successor ~~shall be~~ is elected and qualified. A vacancy caused by an irrevocable
20 resignation which under sub. (8) permits the person resigning the office to hold
21 another office shall be filled by special election held concurrently with the election
22 for the office for which the person is a candidate.

23 **SECTION 8.** Section 4 (8) of article VI of the constitution is created to read:

24 [Article VI] Section 4 (8) (a) A person who holds the office of sheriff, coroner,
25 register of deeds, district attorney, clerk, treasurer or surveyor may not hold any

1 other partisan elected office of public trust during the term for which the person is
2 elected or appointed, unless the person irrevocably resigns the office, effective no
3 later than the beginning of the term of the office for which the person becomes a
4 candidate, before the person becomes a candidate for the other office.

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

8 **SECTION 9.** Section 12 of article VII of the constitution is renumbered section
9 12 (1) of article VII and amended to read:

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

14 (3) In case of a vacancy, except a vacancy caused by an irrevocable resignation
15 which under sub. (6) permits the person resigning the office to hold another office,
16 the judge of the circuit court shall have power to or, if there is more than one judge,
17 the chief judge of the judicial administrative district as designated by the chief
18 justice, unless the legislature provides otherwise, may appoint a clerk until the
19 vacancy shall be is filled by an election; the. The person appointed to fill a vacancy
20 occurring on or before June 1 of the 2nd year of the term for which the person's
21 predecessor was elected shall hold office only until the first Monday in January
22 occurring after the 2nd year of the term for which the person's predecessor was
23 elected and until a successor is elected and qualified. The person appointed to fill a
24 vacancy occurring after June 1 of the 2nd year of the term for which the person's
25 predecessor was elected shall hold office only for the unexpired portion of the term

1 to which the person is appointed and until a successor is elected and qualified. A
2 vacancy caused by an irrevocable resignation which under sub. (6) permits the
3 person resigning the office to hold another office shall be filled by special election held
4 concurrently with the election for the office for which the person is a candidate.

5 ~~(4) The clerk thus elected or appointed of circuit court shall give such security~~
6 as the legislature ~~may require~~ requires by law.

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

9 **SECTION 10.** Section 12 (2) of article VII of the constitution is created to read:

10 [Article VII] Section 12 (2) Beginning with the first general election at which
11 the governor is elected which occurs after the ratification of this subsection, a clerk
12 of circuit court shall be chosen by the electors of all of the respective counties
13 comprising each circuit for the term of 4 years, subject to removal as provided by law.

14 **SECTION 11.** Section 12 (6) of article VII of the constitution is created to read:

15 [Article VII] Section 12 (6) (a) A person who holds the office of clerk of circuit
16 court may not hold any other partisan elected office of public trust during the term
17 for which the person is elected or appointed, unless the person irrevocably resigns
18 the office to become a candidate for another office, effective no later than the
19 beginning of the term of the office for which the person becomes a candidate, before
20 the person becomes a candidate for the other office.

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

24 **SECTION 12. Reconciliation.** If the amendment of section 4 (1) of article VI
25 and the creation of section 4 (7) of article VI of the constitution as proposed by 1999

1 Assembly Joint Resolution 3 is ratified by the people before the ratification of this
2 amendment, section 4 (1) of article VI of the constitution shall, in lieu of the
3 treatment shown in SECTION 1 of this amendment, be renumbered and amended as
4 follows; section 4 (7) of article VI of the constitution as created by 1999 Assembly
5 Joint Resolution 3 be amended so as in effect to repeal said subsection as follows; and
6 section 4 (1) (b) and (c) of article VI of the constitution shall be created as provided
7 in SECTION 2 of this amendment:

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

12 [Article VI] Section 4 (7) ~~Beginning with the first general election which occurs~~
13 ~~following ratification of this subsection, district attorneys shall be chosen by the~~
14 ~~electors of the respective counties once in every 4 years.”.~~

15 **SECTION 13. Numbering of new provisions.**

16 (1) The new paragraph (b) of subsection (1) of section 4 of article VI of the
17 constitution created in this joint resolution shall be designated by the next higher
18 open paragraph letter in that subsection in that section in that article if, before the
19 ratification by the people of the amendment proposed in this joint resolution, any
20 other ratified amendment has created a paragraph (b) of subsection (1) of section 4
21 of article VI of the constitution of this state. If one or more joint resolutions create
22 a paragraph (b) of subsection (1) of section 4 of article VI simultaneously with the
23 ratification by the people of the amendment proposed in this joint resolution, the
24 paragraphs created shall be numbered and placed in a sequence so that the
25 paragraphs created by the joint resolution having the lowest enrolled joint resolution

1 number have the letters designated in that joint resolution and the paragraphs
2 created by the other joint resolutions have letters that are in the same ascending
3 order as are the numbers of the enrolled joint resolutions creating the paragraphs.

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

17 (3) The new subsection (8) of section 4 of article VI of the constitution created
18 in this joint resolution shall be designated by the next higher open whole subsection
19 number in that section in that article if, before the ratification by the people of the
20 amendment proposed in this joint resolution, any other ratified amendment has
21 created a subsection (8) of section 4 of article VI of the constitution of this state. If
22 one or more joint resolutions create a subsection (8) of section 4 of article VI
23 simultaneously with the ratification by the people of the amendment proposed in this
24 joint resolution, the subsections created shall be numbered and placed in a sequence
25 so that the subsections created by the joint resolution having the lowest enrolled joint

1 resolution number have the numbers designated in that joint resolution and the
2 subsections created by the other joint resolutions have numbers that are in the same
3 ascending order as are the numbers of the enrolled joint resolutions creating the
4 subsections.

5 (4) The new subsection (2) of section 12 of article VII of the constitution created
6 in this joint resolution shall be designated by the next higher open whole subsection
7 number in that section in that article if, before the ratification by the people of the
8 amendment proposed in this joint resolution, any other ratified amendment has
9 created a subsection (2) of section 12 of article VII of the constitution of this state.
10 If one or more joint resolutions create a subsection (2) of section 12 of article VII
11 simultaneously with the ratification by the people of the amendment proposed in this
12 joint resolution, the subsections created shall be numbered and placed in a sequence
13 so that the subsections created by the joint resolution having the lowest enrolled joint
14 resolution number have the numbers designated in that joint resolution and the
15 subsections created by the other joint resolutions have numbers that are in the same
16 ascending order as are the numbers of the enrolled joint resolutions creating the
17 subsections.

18 (5) The new subsection (6) of section 12 of article VII of the constitution created
19 in this joint resolution shall be designated by the next higher open whole subsection
20 number in that section in that article if, before the ratification by the people of the
21 amendment proposed in this joint resolution, any other ratified amendment has
22 created a subsection (6) of section 12 of article VII of the constitution of this state.
23 If one or more joint resolutions create a subsection (6) of section 12 of article VII
24 simultaneously with the ratification by the people of the amendment proposed in this
25 joint resolution, the subsections created shall be numbered and placed in a sequence

1 so that the subsections created by the joint resolution having the lowest enrolled joint
2 resolution number have the numbers designated in that joint resolution and the
3 subsections created by the other joint resolutions have numbers that are in the same
4 ascending order as are the numbers of the enrolled joint resolutions creating the
5 subsections.

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)