

2009 ASSEMBLY JOINT RESOLUTION 6

February 5, 2009 – Introduced by Representatives KESSLER and A. WILLIAMS.
Referred to Committee on Elections and Campaign Reform.

1 **To amend** section 2 of article IV, section 4 (1) of article VII, section 9 of article VII,
2 section 10 (1) of article VII and section 1 of article X; and **to create** section 4 (1)
3 (c) of article VII of the constitution; **relating to:** fixing the size of the legislature
4 and gubernatorial appointment of supreme court justices (first consideration).

Analysis by the Legislative Reference Bureau

This proposed constitutional amendment, proposed to the 2009 legislature on first consideration, fixes the size of the legislature at 99 members of the assembly and 33 senators. It also requires the governor to appoint, with the advice and consent of the senate, justices of the supreme court for ten-year terms. At the conclusion of their terms, the terms of justices would be automatically renewed unless they are rejected in a reaffirmation vote by a vote of at least 13 of the members of the senate. If the senate does not reaffirm, the governor would be required to appoint a new justice. Previously elected justices whose terms expire two or more years after ratification will serve out the terms for which they were elected and may be reaffirmed for additional terms by the senate. Previously elected justices whose terms expire less than two years after ratification may stand for reelection in the final year of their terms. This proposed amendment changes a reference to the election of the state superintendent of public instruction as being held in the same manner as the election of justices, but does not affect the manner of the superintendent's election.

A proposed constitutional amendment requires adoption by two 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 2 of article IV of the constitution is amended to read:

3 [Article IV] Section 2. ~~The number of the members of the assembly shall never~~
4 ~~be less than fifty-four nor more than one hundred~~ consist of ninety-nine members.
5 The senate shall consist of ~~a number not more than one-third nor less than~~
6 ~~one-fourth of the number of the~~ thirty-three members of the assembly.

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

8 [Article VII] Section 4 (1) (a) The supreme court shall have 7 members who
9 shall be known as justices of the supreme court.

10 (b) Justices shall be elected for 10-year terms of office commencing with the
11 August 1 next succeeding the election. Only one justice may be elected in any year.
12 This paragraph does not apply on or after the day that is 2 years after the date of
13 ratification of par. (c).

14 (d) Any 4 justices shall constitute a quorum for the conduct of the court's
15 business.

16 **SECTION 3.** Section 4 (1) (c) of article VII of the constitution is created to read:

17 [Article VII] Section 4 (1) (c) 1. Beginning on the day that is 2 years after the
18 date of ratification of this paragraph, and subject to subd. 2., justices shall be
19 appointed by the governor, with the advice and consent of the senate, for 10-year
20 terms of office commencing on August 1, except as provided in section 9 and except
21 that a justice who is serving on the day that is 2 years after the date of ratification
22 of this paragraph shall continue in office until the expiration of the term of office for
23 which the justice was elected or appointed.

1 2. If a justice's term of office expires on or after the day that is 2 years after the
2 date of ratification of this paragraph, it shall be automatically renewed upon its
3 expiration if, no later than one year before that expiration, the justice files with the
4 secretary of state notice of his or her intention to accept an additional term, and if,
5 during the year preceding that expiration, the senate does not reject the justice by
6 a vote of at least 13 of the members of the senate.

7 **SECTION 4.** Section 9 of article VII of the constitution is amended to read:

8 [Article VII] Section 9. When a vacancy occurs in the office of ~~justice of the~~
9 ~~supreme court or~~ judge of any court of record, the vacancy shall be filled by
10 appointment by the governor, which shall continue until a successor is elected and
11 qualified. There shall be no election for a ~~justice or~~ judge at the partisan general
12 election for state or county officers, nor within 30 days either before or after such
13 election. When a vacancy occurs in the office of justice of the supreme court, the
14 governor shall appoint a new justice, with the advice and consent of the senate, to
15 serve the unexpired term.

16 **SECTION 5.** Section 10 (1) of article VII of the constitution is amended to read:

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

22 **SECTION 6.** Section 1 of article X of the constitution is amended to read:

23 [Article X] Section 1. The supervision of public instruction shall be vested in
24 a state superintendent and such other officers as the legislature shall direct; and
25 their qualifications, powers, duties and compensation shall be prescribed by law. The

1 state superintendent shall be chosen by the qualified electors of the state ~~at the same~~
2 ~~time and in the same manner as members of the supreme court, but not at the~~
3 ~~partisan general election for state or county officers, nor within 30 days either before~~
4 ~~or after such election~~, and shall hold office for 4 years from the succeeding first
5 Monday in July. The term of office, time and manner of electing or appointing all
6 other officers of supervision of public instruction shall be fixed by law.

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

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

24 (END)