Assembly Joint Resolution

Received	: 09/16/2009		Received By: smiller Identical to LRB:						
Wanted:	As time permi	its							
For: Mar	k Gottlieb (60	08) 267-2369			By/Representing: denise solie Drafter: smiller Addl. Drafters:				
This file	may be shown	to any legislato	r: NO						
May Con	itact:								
Subject:	Constitu	ıtional Amend	Extra Copies:						
Submit v	ia email: YES								
Requeste	er's email:	Rep.Gottlie	eb@legis.w	isconsin.gov					
Carbon c	copy (CC:) to:								
Pre Top	ic:								
No speci	fic pre topic gi	ven			,				
Topic:			•				· · · · · · · · · · · · · · · · · · ·		
Appoint	nent and retent	ion of supreme	court justic	es					
Instruct	ions:						-		
See attac	hed								
Drafting	g History:		Lancon con control co						
Vers.	<u>Drafted</u>	Reviewed	<u>Typed</u>	Proofed	Submitted	Jacketed	Required		
/?	smiller 09/24/2009 smiller 10/05/2009	csicilia 10/05/2009 csicilia 10/07/2009							
/1		csicilia 10/13/2009	phenry 10/07/200	09	lparisi 10/07/2009				
/2			jfrantze 10/13/200	09	lparisi 10/13/2009	cduerst 11/16/2009			

LRB-3453 11/16/2009 01:53:55 PM Page 2

<u>Vers.</u> <u>Drafted</u> <u>Reviewed</u> <u>Typed</u> <u>Proofed</u> <u>Submitted</u> <u>Jacketed</u> <u>Required</u>

FE Sent For:

NON END>

Assembly Joint Resolution Received: 09/16/2009 Received By: smiller Wanted: As time permits Identical to LRB: For: Mark Gottlieb (608) 267-2369 By/Representing: denise solie This file may be shown to any legislator: NO Drafter: smiller May Contact: Addl. Drafters: Subject: **Constitutional Amendments** Extra Copies: charged sheet. Email attached Submit via email: YES Requester's email: Rep.Gottlieb@legis.wisconsin.gov Carbon copy (CC:) to: Pre Topic: No specific pre topic given Topic: Appointment and retention of supreme court justices **Instructions:** See attached **Drafting History:** Vers. Drafted Reviewed **Typed** Proofed Submitted Jacketed Required /? smiller csicilia 09/24/2009 10/05/2009 smiller csicilia 10/05/2009 10/07/2009 /1 csicilia phenry lparisi

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jfrantze

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LRB-3453 11/16/2009 12:19:17 PM Page 2

<u>Vers.</u> <u>Drafted</u> <u>Reviewed</u> <u>Typed</u> <u>Proofed</u> <u>Submitted</u> <u>Jacketed</u> <u>Required</u>

FE Sent For:

<END>

Assembly Joint Resolution

Received: 09/16/2009					Received By: smiller				
Wanted: As time permits					Identical to LRB:				
For: Marl	k Gottlieb (60	08) 267-2369			By/Representing: denise solie				
This file may be shown to any legislator: NO					Drafter: smiller				
May Contact:					Addl. Drafters:				
Subject: Constitutional Amendments					Extra Copies:				
Submit vi	a email: YES								
Requester	's email:	Rep.Gottlie	b@legis.wis	sconsin.gov					
Carbon co	opy (CC:) to:								
Pre Topi	c:					·			
No specif	ic pre topic giv	ven							
Topic:									
Merit sele	ection of supre	me court justice	es						
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/1		csicilia 10/13/2009	phenry 10/07/200	9	lparisi 10/07/2009				
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LRB-3453 10/13/2009 11:17:23 AM Page 2

<u>Vers.</u> <u>Drafted</u> <u>Reviewed</u> <u>Typed</u> <u>Proofed</u> <u>Submitted</u> <u>Jacketed</u> <u>Required</u>

FE Sent For:

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Assembl	y Joi	nt Res	olution
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Received: 09/16/2009					Received By: smiller			
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May Cont	act:			Addl. Drafters:				
Subject: Constitutional Amendments					Extra Copies:	CJS] JLD	4.	CM
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Topic:								· · · · · · · · · · · · · · · · · · ·
Merit sele	ction of supre	me court justice	s					
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FE Sent For:

Received: 09/16/2009	Received By: smiller			
Wanted: As time permits	Identical to LRB:			
For: Mark Gottlieb (608) 267-2369	By/Representing: denise solie			
This file may be shown to any legislator: NO	Drafter: smiller			
May Contact:	Addl. Drafters:			
Subject: Constitutional Amendments	Extra Copies: CJS			
Submit via email: YES Requester's email: Rep.Gottlieb@legis.wisconsin.gov Carbon copy (CC:) to:	JLD WLJ all the NWN editors KJF BJK RCT			
Pre Topic:				
No specific pre topic given				
Topic:				
Merit selection of supreme court justices				
Instructions:				
See attached				
Drafting History:				
<u>Vers.</u> <u>Drafted</u> <u>Reviewed</u> <u>Typed</u> <u>Proofed</u>	Submitted Jacketed Required			
/? smiller / 1 28 10 12				

Miller, Steve

From: Solie, Denise

Sent: Wednesday, September 16, 2009 7:21 AM

* To: Miller, Steve; Nelson, Robert P.

Subject: FW: drafting instructions

Hello.

I checked bills from prior sessions, but I'm not certain to whom I should send this drafting request.

Would you please draft this for Rep. Gottlieb, or re-direct the request to the appropriate person?

We'd appreciate knowing to whom this is assigned.

This is a high priority drafting request.

Please call or email if you have any questions.

denise solie 7-2369

From: Gottlieb, Mark

Sent: Tuesday, September 15, 2009 9:54 PM

To: Solie, Denise

Subject: drafting instructions

Please submit these drafting instructions:

Constitutional Amendment

Merit Selection of Supreme Court Justices

1. Justices shall be appointed by the governor for 10-year terms of office, subject to confirmation by the senate.

2. Confirmation shall require a three-fifths vote of the senate. The senate shall vote on confirmation within 90 days of appointment. If the governor's appointee is not confirmed, the governor shall appoint a different person within 90 days.

3. Except as provided in (5), no person shall be appointed justice of the supreme court who has not served at least

eight years as a judge of the circuit court or court of appeals.

4. Each justice's name shall be placed on the ballot for retention in office at the non-partisan election preceding the end of their term, unless they notify the clerk of the supreme court at least 120 days prior to election day that they decline retention. The voters shall be given the option to vote "for" or "against" retention. If a majority of the votes cast are marked "against retention", or the justice declines retention, the justice's appointment shall cease at the end of the term, and the governor shall appoint a different person within 90 days, who shall assume office upon confirmation, otherwise, the justice shall continue to serve for another 10-year term.

5. Justices elected or appointed prior to the enactment of this amendment shall continue to serve until the end of

their term, at which time they shall be eligible for appointment as specified above.

Miller, Steve

From:

Solie, Denise

Sent:

Thursday, October 01, 2009 11:54 AM

To:

Miller, Steve

Subject:

Drafting request - Merit Selection - Modification

Importance:

High

Steve,

Mark has been thinking about the draft, and wants to modify his original drafting request, as follows:

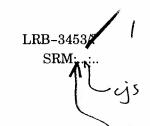
Regarding justices who are already on the Court at the time the constitutional amendment would take effect: They would be subject to a retention election. They would NOT have to get a governor's appointment.

Please call if you have any questions. Thanks.

Denise Solie
Office of Rep. Mark Gottlieb
(608) 267-2370
Good government starts here!



State of Wisconsin 2009 - 2010 **LEGISLATURE**



INS#1

1

2009 ASSEMBLY JOINT RESOLUTION

Currently, the Constitution prohibits any elected justice or judge from holding any public office. This amendment extends the prohibition to appointed (first consideration in 9-24 judges and justices

retained

fifths

Relating to: appointment of supreme court justice

Analysis by the Legislative Reference Bureau

Under current law, supreme court justices are elected by the people. This proposed constitutional amendment proposed to the 2009 legislature on first consideration, requires the governor to appoint, with the advice and consent of three-fifths of the senate, justices of the supreme court for ten-year terms. Once appointed, justices may be confirmed for additional ten-year terms by a vote of the people. Justices serving on the supreme court at the time of radification would be eligible to stand for election for retention. If a justice declines retention, the governor shall appoint a new justice with the advice and consent of three-fiths of the senate. When vacancies occur on the supreme court, the governor shall appoint a new justice for a ten-year term with the advice and consent of the senate. Appointees to the supreme court will be required to have served at least eight years as a judge of the west circuit court or the court of appeals. #1 three-fifths of

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

Resolved by the assembly, the senate concurring, That:

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

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

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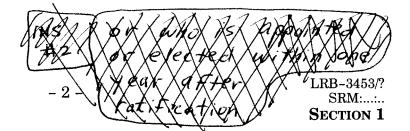
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date

2009 - 2010 Legislature

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

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

SECTION 2. Sections 4(1)(d) and (e) of article VII of the constitution are created to read:

[Article VII] Section 4 (1) (d) Beginning on the day that is one year after the date of ratification of this paragraph, each justice's name shall be placed on the ballot for retention in office at the non-partisan election immediately preceding the end of the justice's and the justice notifies and their term, unless they notify the clerk of the supreme court at least 120 days prior to election day that they decline retention. The voters shall be given the option to vote "for retention" or "against retention." If a majority of the votes cast are "against retention," or the justice declines retention, the justice's appointment shall cease at the end of the term, and the governor shall appoint a different person within 90 days, who shall assume office upon confirmation, otherwise, the justice shall continue to serve for another 10-year term.

(e) Each person who is serving as a justice on the date of ratification of paragraph (c) may continue to serve until the person's term expires, unless the person vacates his or her office before that time.

SECTION 3. Section 9 of article VII of the constitution is amended to read:

[Article VII] Section 9. When a vacancy occurs in the office of justice of the supreme court or judge of any court of record, the vacancy shall be filled by appointment by the governor, which shall continue until a successor is elected and

qualified. There shall be no election for a justice or judge at the partisan general
election for state or county officers, nor within 30 days either before or after such
election. When a vacancy occurs in the office of justice of the supreme court, the
governor shall nominate and, with the advice and consent of the senate upon a vote of three-fifths your appoint a new justice to serve the unexpired term. Within 90 days
of the nomination, the senate shall vote on confirmation. If the nominee is not
confirmed, the governor shall, within 90 days, nominate a different person.

[Article VII] Section 10 (1) No justice of the supreme court or judge of any court of record shall hold any other office of public trust, except a judicial office, during the term for which he or she is elected or appointed. No person shall be eligible to the office of judge who shall not, at the time of election or appointment, be a qualified elector within the jurisdiction for which chosen nor shall any person be eligible to serve as justice of the supreme court who has not served at least eight years as a judge of the circuit court or the court of appeals.

Section 5. Section 1m of article XIII of the constitution is created to read:

[Article XIII] Section 1m. (Norpartisan election.) The legislature shall provide by law for a nonpartisan election to be held in any year when it is required to elect or vote on retention of one or more nonpartisan officers in that year.

SECTION 6. Numbering of new provision. The new paragraph (c) of subsection (1) of section 4 of article VII of the constitution created in this joint resolution shall be designated by the next higher open paragraph letter in that subsection in that section in that article if before the ratification by the people of the amendment proposed in this joint resolution, any other ratified amendment has created a paragraph (c) of subsection (1) of section 4 of article VII of the constitution

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

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

LRB-3453/?ins SRM:...:..

2009-2010 DRAFTING INSERT FROM THE LEGISLATIVE REFERENCE BUREAU

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SECTION 1. Numbering of new provision I another joint resolution ratified by the people creates the number of any Section or subunit created in this joint resolution, the chief of the legislative reference bureau shall determine the sequencing and the numbering of conflicting provisions.



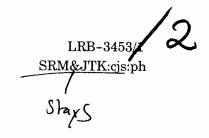


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State of Misconsin 2009 - 2010 LEGISLATURE



2009 ASSEMBLY JOINT RESOLUTION



To amend section 4 (1) of article VII, section 9 of article VII and section 10 (1) of article VII; and to create section 4 (1) (d) and (e) of article VII and section 1m of article XIII of the constitution; relating to: appointment of supreme court justices and elections to consider retention of justices (first consideration).

Analysis by the Legislative Reference Bureau

Under current law, supreme court justices are elected by the people. This proposed constitutional amendment, proposed to the 2009 legislature on first consideration, requires the governor to appoint, with the advice and consent of three-fifths of the senate, justices of the supreme court for ten-year terms. Once appointed, justices may be retained for additional ten-year terms by a vote of the people. Justices serving on the supreme court at the time of ratification would be eligible to stand for election for retention. If a justice declines retention, the governor must appoint a new justice with the advice and consent of three-fifths of the senate. When vacancies occur on the supreme court, the governor must appoint a new justice for a ten-year term with the advice and consent of three-fifths of the senate. Appointees to the supreme court will be required to have served at least eight years as a judge of the circuit court or the court of appeals. Currently, the constitution prohibits any elected justice or judge from holding any other public office. This amendment extends the prohibition to appointed justices and judges.

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

Reso	lved	by	the	assembly,	the	senate	concurrin	ıg. Th	at:
		· · · ·		~~~~,,		oc., c		~~,	

Section 1. Section 4 (1) of article VII of the constitution is amended to read: [Article VII] Section 4 (1) (a) The supreme court shall have 7 members who shall be known as justices of the supreme court.

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

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

SECTION 2. Section 4 (1) (d) and (e) of article VII of the constitution are created to read:

[Article VIII] Section 4 (1) (d) Beginning on the day that is one year after the date of ratification of this paragraph, each justice's name shall be placed on the ballot for retention in office at the nonpartisan election held in the same year the justice's term expires and preceding the end of the justice's term, unless the justice notifies the clerk of the supreme court at least 120 days prior to election day that the justice declines retention. The voters shall be given the option to vote "for retention" or "against retention." If a majority of the votes cast are "against retention," or if the justice declines retention, the justice's appointment shall cease at the end of the justice's term, and the governor shall appoint a different person within 90 days, who shall assume office upon confirmation; otherwise, the justice shall continue to serve for another 10-year term.

(e) Each person who is serving as a justice on the day before the date that is one year after the date of ratification of par. (d) may continue to serve until the person's term expires, unless the person vacates his or her office before that time.

SECTION 3. Section 9 of article VII of the constitution is amended to read:

[Article VII] Section 9. When a vacancy occurs in the office of justice of the supreme court or judge of any court of record, the vacancy shall be filled by appointment by the governor, which shall continue until a successor is elected and qualified. There shall be no election for a justice or judge at the partisan general election for state or county officers, nor within 30 days either before or after such election. When a vacancy occurs in the office of justice of the supreme court, the governor shall nominate and, with the advice and consent of the senate upon a vote of three-fifths of the members present and voting, appoint a new justice to serve the unexpired term. Within 90 days of the nomination, the senate shall vote on confirmation. If the nominee is not confirmed, the governor shall, within 90 days, nominate a different person.

Section 4. Section 10 (1) of article VII of the constitution is amended to read: [Article VII] Section 10 (1) No justice of the supreme court or judge of any court of record shall hold any other office of public trust, except a judicial office, during the term for which he or she is elected or appointed. No person shall be eligible to the office of judge who shall not, at the time of election or appointment, be a qualified elector within the jurisdiction for which chosen, nor shall any person be eligible to serve as justice of the supreme court who has not served at least 8 years as a judge of the circuit court or the court of appeals.

SECTION 5. Section 1m of article XIII of the constitution is created to read:

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[Article XIII] Section 1m. The legislature shall provide by law for a nonpartisan election to be held in any year when it is required to elect or vote on retention of one or more nonpartisan officers in that year.

SECTION 6. Numbering of new provisions. If another joint resolution ratified by the people creates the number of any provision created in this joint resolution, the chief of the legislative reference bureau shall determine the sequencing and the numbering of that provision.

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

(END)

the provisions whose numbers conflict

Miller, Steve

From:

Duerst, Christina

Sent:

Monday, November 16, 2009 11:42 AM

To:

Miller, Steve

Subject:

FW: Draft Review: LRB 09-3453/2 Topic: Merit selection of supreme court justices

Importance: High

From: Handrick, Diane

Sent: Monday, November 16, 2009 11:40 AM

To: LRB.Legal

Subject: Draft Review: LRB 09-3453/2 Topic: Merit selection of supreme court justices

Please change the topic title record to say: Appointment and retention of Supreme Court justices.

(This is not a merit selection proposal.)

Thanks! Please Jacket LRB 09-3453/2 for the ASSEMBLY.