



2011 SENATE JOINT RESOLUTION 42

September 29, 2011 – Introduced by Senators SCHULTZ, T. CULLEN, RISSER and JAUCH, cosponsored by Representatives BERNARD SCHABER, MILROY, HINTZ, KESSLER, SINICKI and POPE-ROBERTS. Referred to Committee on Judiciary, Utilities, Commerce, and Government Operations.

1 **To amend** section 4 (1) of article VII, section 5 (2) of article VII, section 9 of article
2 VII and section 10 (1) of article VII; and **to create** section 17 of article XIV of
3 the constitution; **relating to:** the appointment of supreme court justices and
4 appeals court judges (first consideration).

Analysis by the Legislative Reference Bureau

The constitution provides for the election of justices of the supreme court for ten-year terms, and the election of appeals court judges for six-year terms and establishes a method of filling vacancies by appointment.

This constitutional amendment, proposed to the 2011 legislature on first consideration, provides that the governor will appoint, with the advice and consent of the senate, justices of the supreme court for ten-year terms, and appeals judges to the court of appeals for six-year terms. For appointees to each court, the governor will choose from lists of five recommendations created by a nonpartisan judicial selection commission established by the legislature.

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

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

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

1 [Article VII] Section 4 (1) The supreme court shall have 7 members who shall
2 be known as justices of the supreme court. ~~Justices shall be elected~~ The governor
3 shall appoint justices, with the advice and consent of the senate, for 10-year terms
4 of office commencing with the August 1 next succeeding the election. ~~Only one justice~~
5 ~~may be elected in any year.~~ appointment. The governor shall select a nominee from
6 a list of five candidates recommended by an independent judicial selection
7 commission established by the legislature. Any 4 justices shall constitute a quorum
8 for the conduct of the court's business.

9 **SECTION 2.** Section 5 (2) of article VII of the constitution is amended to read:

10 [Article VII] Section 5 (2) For each district of the appeals court there shall be
11 ~~chosen by the qualified electors of the district~~ appointed by the governor, with the
12 advice and consent of the senate, one or more appeals judges as prescribed by law,
13 who shall sit as prescribed by law. The governor shall select a nominee from a list
14 of five candidates recommended by an independent judicial selection commission
15 established by the legislature. Appeals judges shall be elected appointed for 6-year
16 terms and shall reside in the district ~~from~~ for which elected appointed. No alteration
17 of district or circuit boundaries shall have the effect of removing an appeals judge
18 from office during the judge's term. In case of an increase in the number of appeals
19 judges, the first judge or judges shall be elected appointed for full terms unless the
20 legislature prescribes a shorter initial term for staggering of terms.

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

22 [Article VII] Section 9. When a vacancy occurs in the office of ~~justice of the~~
23 ~~supreme court or judge of any court of record~~ other than the court of appeals, the
24 vacancy shall be filled by appointment by the governor, which shall continue until
25 a successor is elected and qualified. There shall be no election for a ~~justice or judge~~

1 at the partisan general election for state or county officers, nor within 30 days either
2 before or after such election.

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

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

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

10 [Article XIV] Section 17. The terms of office of justices of the supreme court and
11 appeals judges elected or appointed before the ratification of this section expire at
12 the end of the term for which elected or appointed.

13 **SECTION 6. Numbering of new provisions.** If another constitutional
14 amendment ratified by the people creates the number of any provision created in this
15 joint resolution, the chief of the legislative reference bureau shall determine the
16 sequencing and the numbering of the provisions whose numbers conflict.

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

20

(END)