

**2011 DRAFTING REQUEST**

**Senate Joint Resolution**

Received: **06/29/2011**

Received By: **smiller**

Wanted: **As time permits**

Companion to LRB:

For: **Dale Schultz (608) 266-0703**

By/Representing: **todd allbaugh**

May Contact:

Drafter: **smiller**

Subject: **Constitutional Amendments**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Schultz@legis.wisconsin.gov**

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Appoint supreme court justices and appeals court judges for one ten-year term

---

**Instructions:**

See attached

---

**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>
/?	smiller 06/29/2011	kfollett 06/29/2011		_____			
/1	smiller 06/29/2011	kfollett 06/30/2011	mduchek 06/29/2011	_____	ggodwin 06/29/2011		
/2			rschluet 06/30/2011	_____	sbasford 06/30/2011	lparisi 09/14/2011	

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/?	smiller 06/29/2011	kfollett 06/29/2011		_____			
/1		12/5/11 6/30	mduchek 06/29/2011	_____	ggodwin 06/29/2011		

FE Sent For:

<END>

63011

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**Topic:**

*and appeals court judges*

Appoint supreme court justices for one ten-year term


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**Instructions:**

See attached

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/?	smiller	1/5f 6/29		==			

FE Sent For:

<END>

Miller, Steve

2313

**From:** Allbaugh, Todd  
**Sent:** Tuesday, June 28, 2011 2:58 PM  
**To:** Miller, Steve  
**Subject:** Drafting Request

**Attachments:** CurrentConstitutionAndChanges.doc; Merit Selection Amendment.doc

Steve-

Dale and Senator Cullen would like to have a Constitutional Amendment drafted as soon as possible regarding merit selection of Supreme Court and Appeals Court Judges. I've forwarded the drafting instructions written by Kelley Flury in Sen. Cullen's office and our bullet points to help give you some perspective.

I'll give you a follow up call as well. Thanks very much for your assistance.

All the best,  
Todd

Todd Allbaugh  
Chief of Staff  
Senator Dale Schultz

608.266.0703

---

**From:** Flury, Kelley  
**Sent:** Tuesday, June 28, 2011 2:37 PM  
**To:** Allbaugh, Todd  
**Subject:** Merit Selection documents

Drafting instructions:



CurrentConstitution  
nAndChanges....

Merit Selection bullet points:



Merit Selection  
Amendment.doc ...

Tim would like to get something drafted sooner rather than later, just so we have it drafted when we are ready to go. (And he is pretty much ready to go, I think.)

# Merit Selection

- The resolution will amend the constitution so that instead of election of Supreme Court justices and Court of Appeals judges, an independent Judicial Selection Commission will take applications, conduct interviews, and recommend a list of five candidates to the Governor.
- Right now we are just drafting a constitutional amendment. The Judicial Selection Commission would come about through legislation after the constitution is amended.
- The Judicial Selection Commission would ensure that justices and judges are appointed based on merit, not on political philosophy.
- If the constitution is so amended, legislation would be required to create the Judicial Selection Commission.
- We envision the six-member Judicial Selection Commission being appointed by the Government Accountability Board.
- The six members would serve staggered terms, with one member's term expiring each year.
- When the Commission submits a list of five candidates to the Governor, at least one candidate must be from each of the four Court of Appeals districts. The other two candidates may be from any area of the state.
- Applicants for judge and justice must have a Wisconsin law license.
- The Governor will nominate one candidate.
- The Senate will hold confirmation hearings and vote on the nomination as per all gubernatorial appointments.
- Justices would serve for a single 10-year term. There is a one-term limit.
- The process is the same for Court of Appeals judges, except that they will serve six-year terms.

# CURRENT CONSTITUTION

## SUPREME COURT JUSTICES

Article VII, §4 ¶(1)

The supreme court shall have 7 members who shall be known as justices of the supreme court. 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. Any 4 justices shall constitute a quorum for the conduct of the court's business.

## COURT OF APPEALS JUDGES

Article VII, §5 ¶(2)

(2) For each district of the appeals court there shall be chosen by the qualified electors of the district one or more appeals judges as prescribed by law, who shall sit as prescribed by law. Appeals judges shall be elected for 6-year terms and shall reside in the district from which elected. No alteration of district or circuit boundaries shall have the effect of removing an appeals judge from office during the judge's term. In case of an increase in the number of appeals judges, the first judge or judges shall be elected for full terms unless the legislature prescribes a shorter initial term for staggering of terms.

# PROPOSED CHANGES TO CONSTITUTION

## SUPREME COURT JUSTICES

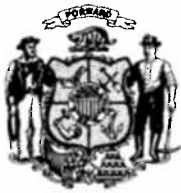
Article VII, §4 ¶(1) is amended to read:

(1) The supreme court shall have 7 members who shall be known as justices of the supreme court. Justices shall be appointed by the Governor, with advice and consent of the Senate, for a single 10-year term of office commencing with the August 1 next succeeding the election. Only one justice may be appointed in any year. Any 4 justices shall constitute a quorum for the conduct of the court's business. The Governor shall select a nominee from a list of five candidates recommended by an independent Judicial Selection Commission.

## COURT OF APPEALS JUDGES

Article VII, §5 ¶(2) is amended to read:

(2) For each district of the appeals court, there shall be appointed by the Governor, with advice and consent of the Senate, one or more appeals judges as prescribed by law, who shall sit as prescribed by law. The Governor shall select a nominee from a list of five candidates recommended by an independent Judicial Selection Commission. Appeals judges shall be appointed for 6-year terms and shall reside in the district for which appointed. No alteration of district or circuit boundaries shall have the effect of removing an appeals judge from office during the judge's term. In case of an increase in the number of appeals judges, the first judge or judges shall be appointed for full terms unless the legislature prescribes a shorter initial term for staggering of terms.



Handwritten initials 'jff'

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

## 2011 SENATE JOINT RESOLUTION

LPS:  
Fix request  
Sheet  
please

in 6-29  
today

Gen

- 1 **Relating to:** the appointment of supreme court justices and appeals court judges
- 2 (first consideration).

### *Analysis by the Legislative Reference Bureau*

X 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. Currently, there is no limit to the number of terms that a justice of the supreme court or a court of appeals judge may serve.

X This constitutional amendment, proposed to the 2011 legislature on first consideration, provides that the governor will appoint, with <sup>the</sup> advice and consent of the senate, justices of the supreme court for a single ten-year term, and appeals judges to the court of appeals for a six-year term with no restriction on reappointment to the court of appeals. 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.

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

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

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



1           [Article VII] Section 4 (1) <sup>the</sup> 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 advice and consent of the senate, each for a single  
 4 10-year terms term of office commencing with the August 1 next succeeding the  
 5 election appointment. ~~Only one justice may be elected in any year.~~ The governor  
 6 shall select a nominee from a list of five candidates recommended by an independent  
 7 judicial selection commission established by the legislature. Any 4 justices shall  
 8 constitute a quorum 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). <sup>(2)</sup> For each district of the appeals court there shall  
 11 be ~~chosen by the qualified electors of the district~~ appointed by the governor, with  
 12 <sup>the</sup> 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)

## Miller, Steve

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**From:** Allbaugh, Todd  
**Sent:** Wednesday, June 29, 2011 5:02 PM  
**To:** Miller, Steve; Godwin, Gigi  
**Subject:** Draft Change

Steve and Gigi-

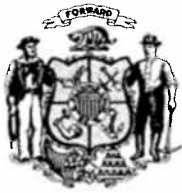
Thanks for the great work! Dale and Sen. Cullen would like one change. They would like to remove the one term only provision for Supreme Court Justices so they would be eligible to be reappointed to multiple terms. Is it possible to have that changed and get a re-draft?

I apologize for any inconvenience, and thank you both for your outstanding work.

All the best,  
Todd

Todd Allbaugh  
Chief of Staff  
State Senator Dale Schultz

Phone: 608.266.0703



12

## 2011 SENATE JOINT RESOLUTION

in 6-30  
Today = morning

Rezen

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. ~~Currently, there is no limit to the number of terms that a justice of the supreme court or a court of appeals judge may serve.~~

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 ~~a single~~ ten-year term, and appeals judges to the court of appeals for ~~a~~ six-year term, ~~with no restriction on reappointment to the court of appeals.~~ 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:**

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

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

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

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

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

21 (END)

**Godwin, Gigi**

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**From:** Louis, Stephanie  
**Sent:** Tuesday, September 13, 2011 2:53 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 11-2313/2 Topic: Appoint supreme court justices and appeals court judges for one ten-year term

Please Jacket LRB 11-2313/2 for the SENATE.