2011 SENATE JOINT RESOLUTION 42


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

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, for 10-year terms of office commencing with the August 1 next succeeding the election. Only one justice may be elected in any year. 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.

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 other than the court of appeals, 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.

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 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.

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

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

SECTION 6. Numbering of new provisions. If another constitutional
amendment 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 the provisions whose numbers conflict.

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 three
months previous to the time of holding such election.