

REFERENCE TITLE: justices and judges; senate confirmation

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

SCR 1004

Introduced by
Senator Harper

A CONCURRENT RESOLUTION

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; REPEALING ARTICLE VI, SECTIONS 36 AND 41, CONSTITUTION OF ARIZONA; AMENDING ARTICLE VI, SECTIONS 37 AND 40, CONSTITUTION OF ARIZONA; RELATING TO THE JUDICIAL DEPARTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it resolved by the Senate of the State of Arizona, the House of
2 Representatives concurring:

3 1. Article VI, sections 36 and 41, Constitution of Arizona, are
4 proposed to be repealed as follows if approved by the voters and on
5 proclamation of the Governor:

6 (a) Article VI, section 36, Constitution of Arizona,
7 relating to the commission on appellate court appointments, is
8 repealed.

9 (b) Article VI, section 41, Constitution of Arizona,
10 relating to the commission on trial court appointments, is
11 repealed.

12 2. Article VI, sections 37 and 40, Constitution of Arizona, are
13 proposed to be amended as follows if approved by the voters and on
14 proclamation of the Governor:

15 37. Judicial vacancies and appointments; initial
16 terms; residence; age

17 Section 37. A. Within sixty days from the occurrence of
18 a vacancy in the office of a justice or judge of any court of
19 record, except for vacancies occurring in the office of a judge
20 of the superior court or a judge of a court of record inferior
21 to the superior court, the ~~commission on appellate court~~
22 ~~appointments, if the vacancy is in the supreme court or an~~
23 ~~intermediate appellate court of record, shall submit to the~~
24 ~~governor the names of not less than three persons nominated by~~
25 ~~it to fill such vacancy, no more than two of whom shall be~~
26 ~~members of the same political party unless there are more than~~
27 ~~four such nominees, in which event not more than sixty percentum~~
28 ~~of such nominees shall be members of the same political party~~
29 **GOVERNOR SHALL APPOINT ANY PERSON OF THE GOVERNOR'S OWN CHOOSING**
30 **TO FILL THE VACANCY.**

31 B. Within sixty days from the occurrence of a vacancy in
32 the office of a judge of the superior court or a judge of a
33 court of record inferior to the superior court except for
34 vacancies occurring in the office of a judge of the superior
35 court or a judge of a court of record inferior to the superior
36 court in a county having a population of less than two hundred
37 fifty thousand persons according to the most recent United
38 States census, the ~~commission on trial court appointments for~~
39 ~~the county in which the vacancy occurs shall submit to the~~
40 ~~governor the names of not less than three persons nominated by~~
41 ~~it to fill such vacancy, no more than two of whom shall be~~
42 ~~members of the same political party unless there are more than~~
43 ~~four such nominees, in which event no more than sixty per centum~~
44 ~~of such nominees shall be members of the same political~~
45 ~~party. A nominee shall be under sixty five years of age at the~~

1 ~~time his name is submitted to the governor. Judges of the~~
 2 ~~superior court shall be subject to retention or rejection by a~~
 3 ~~vote of the qualified electors of the county from which they~~
 4 ~~were appointed at the general election in the manner provided by~~
 5 ~~section 38 of this article~~ GOVERNOR SHALL APPOINT ANY PERSON OF
 6 THE GOVERNOR'S OWN CHOOSING TO FILL THE VACANCY.

7 C. A vacancy in the office of a justice or a judge of
 8 such courts of record shall be filled by appointment by the
 9 governor without regard to political affiliation ~~from one of the~~
 10 ~~nominees whose names shall be submitted to him as hereinabove~~
 11 ~~provided.~~ THE GOVERNOR SHALL SUBMIT TO THE SENATE FOR THE
 12 CONSENT OF THE SENATE THE NAME OF THE NOMINEE FOR JUSTICE OR
 13 JUDGE. IF THE SENATE CONSENTS TO THE NOMINATION, THE GOVERNOR
 14 SHALL APPOINT THE NOMINEE TO SERVE FOR THE TERM, OR IN THE CASE
 15 OF A VACANCY, FOR THE UNEXPIRED TERM IN WHICH THE VACANCY
 16 OCCURRED. IF THE SENATE REJECTS THE NOMINATION, THE GOVERNOR
 17 SHALL PROMPTLY NOMINATE ANOTHER PERSON WHO MEETS THE
 18 REQUIREMENTS FOR THE OFFICE OF JUSTICE OR JUDGE. EACH JUSTICE
 19 OR JUDGE WHO IS CONFIRMED BY THE SENATE PURSUANT TO THIS SECTION
 20 MAY STAND FOR RETENTION ON THE EXPIRATION OF THE TERM. In
 21 making the appointment FOR A JUSTICE OR JUDGE OF A COURT OF
 22 RECORD, the governor shall consider the diversity of the state's
 23 population for an appellate court appointment and the diversity
 24 of the county's population for a trial court appointment,
 25 however, the primary consideration shall be merit. ~~If the~~
 26 ~~governor does not appoint one of such nominees to fill such~~
 27 ~~vacancy within sixty days after their names are submitted to the~~
 28 ~~governor by such commission, the chief justice of the supreme~~
 29 ~~court forthwith shall appoint on the basis of merit alone~~
 30 ~~without regard to political affiliation one of such nominees to~~
 31 ~~fill such vacancy. If such commission does not, within sixty~~
 32 ~~days after such vacancy occurs, submit the names of nominees as~~
 33 ~~hereinabove provided, the governor shall have the power to~~
 34 ~~appoint any qualified person to fill such vacancy at any time~~
 35 ~~thereafter prior to the time the names of the nominees to fill~~
 36 ~~such vacancy are submitted to the governor as hereinabove~~
 37 ~~provided.~~ Each justice or judge so appointed shall initially
 38 hold office for a term ending sixty days following the next
 39 regular general election after the expiration of a term of two
 40 years in office. Thereafter, the terms of justices or judges of
 41 the supreme court and the superior court shall be as provided by
 42 this article.

43 D. A person appointed to fill a vacancy on an
 44 intermediate appellate court or another court of record now
 45 existing or hereafter established by law shall have been a

1 resident of the counties or county in which that vacancy exists
2 for at least one year ~~prior to his~~ BEFORE THE PERSON'S
3 appointment, in addition to possessing the other required
4 qualifications. A nominee shall be under sixty-five years of age
5 at the time ~~his~~ THE NOMINEE'S name is submitted to the ~~governor~~
6 SENATE.

7 40. Option for counties with less than two hundred fifty
8 thousand persons

9 Section 40. Notwithstanding any provision of this article
10 to the contrary, any county having a population of less than two
11 hundred fifty thousand persons, according to the most recent
12 United States census, may choose to select its judges of the
13 superior court or of courts of record inferior to the superior
14 court as if it had a population of two hundred fifty thousand or
15 more persons. Such choice shall be determined by vote of the
16 qualified electors of such county voting on the question at an
17 election called for such purpose by resolution of the board of
18 supervisors of such county. If such qualified electors approve,
19 ~~the provisions of~~ sections 12, 28, 30, 35, ~~through 37, 38, 39,~~
20 ~~41~~ and 42 shall apply as if such county had a population of two
21 hundred fifty thousand persons or more.

22 3. The Secretary of State shall submit this proposition to the voters
23 at the next general election as provided by article XXI, Constitution of
24 Arizona.