

REFERENCE TITLE: **commissions; appellate; trial court; appointments**

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SCR 1042

Introduced by
Senator Gould

A CONCURRENT RESOLUTION

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE VI, SECTIONS 36 AND 41, 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, is
4 proposed to be amended as follows if approved by the voters and on
5 proclamation of the Governor:

6 36. Commission on appellate court appointments and
7 terms, appointments and vacancies on commission

8 Section 36. A. ~~There shall be~~ A nonpartisan commission
9 on appellate court appointments ~~which shall be composed of~~ IS
10 ESTABLISHED CONSISTING OF THE FOLLOWING MEMBERS:

11 1. The chief justice of the supreme court, who shall be
12 chairman, ~~IN THE EVENT OF THE ABSENCE OR INCAPACITY OF THE~~
13 ~~CHAIRMAN, THE SUPREME COURT SHALL APPOINT A JUSTICE OF THE~~
14 ~~SUPREME COURT TO SERVE IN THE CHAIRMAN'S PLACE AND STEAD.~~

15 2. Five attorney members, who shall be nominated by the
16 board of governors of the state bar of Arizona and appointed IN
17 THE MANNER PRESCRIBED by LAW AND AS FOLLOWS:

18 (a) The governor ~~with the advice and consent of the~~
19 ~~senate in the manner prescribed by law, and~~ SHALL APPOINT ONE
20 ATTORNEY MEMBER.

21 (b) THE PRESIDENT OF THE SENATE SHALL APPOINT TWO
22 ATTORNEY MEMBERS.

23 (c) THE SPEAKER OF THE HOUSE OF REPRESENTATIVES SHALL
24 APPOINT TWO ATTORNEY MEMBERS.

25 3. Ten nonattorney members who shall be appointed IN THE
26 MANNER PRESCRIBED by LAW AND AS FOLLOWS:

27 (a) The governor ~~with the advice and consent of the~~
28 ~~senate in the manner prescribed by law~~ SHALL APPOINT FOUR
29 NONATTORNEY MEMBERS.

30 (b) THE PRESIDENT OF THE SENATE SHALL APPOINT THREE
31 NONATTORNEY MEMBERS.

32 (c) THE SPEAKER OF THE HOUSE OF REPRESENTATIVES SHALL
33 APPOINT THREE NONATTORNEY MEMBERS.

34 B. At least ninety days ~~prior to~~ BEFORE a term expiring
35 or within twenty-one days of a vacancy occurring for a
36 nonattorney member on the commission for appellate court
37 appointments, the governor shall appoint a nominating committee
38 of nine members, not more than five of whom may be from the same
39 political party. The makeup of the committee ~~shall~~, to the
40 extent feasible, SHALL reflect the diversity of the population
41 of the state. Members shall not be attorneys and shall not hold
42 any governmental office, elective or appointive, for
43 profit. The committee shall provide public notice that a
44 vacancy exists and shall solicit, review and forward to the
45 governor, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE

1 HOUSE OF REPRESENTATIVES all applications along with the
2 committee's recommendations for appointment.

3 C. Attorney members of the commission shall have resided
4 in the state and shall have been admitted to practice before the
5 supreme court for not less than five years. Not more than three
6 attorney members shall be members of the same political party
7 and not more than two attorney members shall be residents of any
8 one county. Nonattorney members shall have resided in the state
9 for not less than five years and shall not be judges, retired
10 judges or admitted to practice before the supreme court. Not
11 more than five nonattorney members shall be members of the same
12 political party. Not more than two nonattorney members shall be
13 residents of any one county. None of the attorney or
14 nonattorney members of the commission shall hold any
15 governmental office, elective or appointive, for profit, and no
16 attorney member shall be eligible for appointment to any
17 judicial office of the state until one year after he ceases to
18 be a member. Attorney ~~members of the commission shall serve~~
19 ~~staggered four-year terms~~ and nonattorney members shall serve
20 staggered four-year terms. Vacancies shall be filled for the
21 unexpired terms in the same manner as the original appointments.

22 ~~B.~~ D. No person other than the chief justice shall serve
23 at the same time as a member of more than one judicial
24 appointment commission.

25 ~~C.~~ E. In making ~~or confirming~~ appointments to the
26 appellate court commission, the governor, the PRESIDENT OF THE
27 senate, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES and the
28 state bar shall endeavor to see that the commission reflects the
29 diversity of Arizona's population.

30 ~~In the event of the absence or incapacity of the chairman~~
31 ~~the supreme court shall appoint a justice thereof to serve in~~
32 ~~his place and stead.~~

33 ~~D.~~ F. ~~Prior to~~ BEFORE making recommendations to the
34 governor, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE
35 HOUSE OF REPRESENTATIVES as hereinafter provided, the commission
36 shall conduct investigations, hold public hearings and take
37 public testimony. An executive session as prescribed by rule
38 may be held upon a two-thirds vote of the members of the
39 commission in a public hearing. Final decisions as to
40 recommendations shall be made without regard to political
41 affiliation in an impartial and objective manner. The
42 commission shall consider the diversity of the state's
43 population, however the primary consideration shall be
44 merit. Voting shall be in a public hearing. The expenses of
45 meetings of the commission and the attendance of members thereof

1 for travel and subsistence shall be paid from the general fund
2 of the state as state officers are paid, upon claims approved by
3 the chairman.

4 ~~E.~~ G. After public hearings the supreme court shall
5 adopt rules of procedure for the commission on appellate court
6 appointments.

7 ~~F. Notwithstanding the provisions of subsection A, the~~
8 ~~initial appointments for the five additional nonattorney members~~
9 ~~and the two additional attorney members of the commission shall~~
10 ~~be designated by the governor for staggered terms as follows:~~

11 ~~1. One appointment for a nonattorney member shall be for~~
12 ~~a one-year term.~~

13 ~~2. Two appointments for nonattorney members shall be for~~
14 ~~a two-year term.~~

15 ~~3. Two appointments for nonattorney members shall be for~~
16 ~~a three-year term.~~

17 ~~4. One appointment for an attorney member shall be for a~~
18 ~~one-year term.~~

19 ~~5. One appointments for an attorney member shall be for a~~
20 ~~two-year term.~~

21 ~~G.~~ H. The members ~~currently~~ WHO ARE serving on the
22 commission ON THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS
23 SECTION may continue to serve until the expiration of their
24 normal terms. All subsequent appointments shall be made as
25 prescribed by this section.

26 41. Superior court divisions; commission on trial
27 court appointments; membership; terms;
28 nominating committee

29 A. Except as otherwise provided, judges of the superior
30 court in counties having a population of two hundred fifty
31 thousand persons or more according to the most recent United
32 States census shall hold office for a regular term of four
33 years.

34 B. ~~There shall be~~ A nonpartisan commission on trial court
35 appointments for each county having a population of two hundred
36 fifty thousand persons or more according to the most recent
37 United States census ~~which shall be composed~~ IS ESTABLISHED
38 CONSISTING of the following members:

39 1. The chief justice of the supreme court, who shall be
40 the chairman of the commission. In the event of the absence or
41 incapacity of the chairman the supreme court shall appoint a
42 justice OF THE SUPREME COURT to serve in ~~his~~ THE CHAIRMAN'S
43 place and stead.

1 2. Five attorney members, none of whom shall reside in
2 the same supervisorial district and not more than three of whom
3 shall be members of the same political party, who are nominated
4 by the board of governors of the state bar of Arizona and who
5 are appointed IN A MANNER PRESCRIBED BY LAW AND AS FOLLOWS:

6 (a) The governor ~~subject to confirmation by the senate in~~
7 ~~the manner prescribed by law~~ SHALL APPOINT ONE ATTORNEY MEMBER.

8 (b) THE PRESIDENT OF THE SENATE SHALL APPOINT TWO
9 ATTORNEY MEMBERS.

10 (c) THE SPEAKER OF THE HOUSE OF REPRESENTATIVES SHALL
11 APPOINT TWO ATTORNEY MEMBERS.

12 3. Ten nonattorney members, no more than two of whom
13 shall reside in the same supervisorial district, WHO ARE
14 APPOINTED IN THE MANNER PRESCRIBED BY LAW AND AS FOLLOWS:

15 (a) THE GOVERNOR SHALL APPOINT FOUR NONATTORNEY MEMBERS.

16 (b) THE PRESIDENT OF THE SENATE SHALL APPOINT THREE
17 NONATTORNEY MEMBERS.

18 (c) THE SPEAKER OF THE HOUSE OF REPRESENTATIVES SHALL
19 APPOINT THREE NONATTORNEY MEMBERS.

20 C. At least ninety days ~~prior to~~ BEFORE a term expiring
21 or within twenty-one days of a vacancy occurring for a
22 nonattorney member on the commission ~~for~~ ON trial court
23 appointments, the member of the board of supervisors from the
24 district in which the vacancy has occurred shall appoint a
25 nominating committee of seven members who reside in the
26 district, not more than four of whom may be from the same
27 political party. The ~~make-up~~ MAKEUP of the committee ~~shall~~, to
28 the extent feasible, SHALL reflect the diversity of the
29 population of the district. Members shall not be attorneys and
30 shall not hold any governmental office, elective or appointive,
31 for profit. The committee shall provide public notice that a
32 vacancy exists and shall solicit, review and forward to the
33 governor, THE PRESIDENT OF THE SENATE OR THE SPEAKER OF THE
34 HOUSE OF REPRESENTATIVES all applications along with the
35 committee's recommendations for appointment. The governor, THE
36 PRESIDENT OF THE SENATE OR THE SPEAKER OF THE HOUSE OF
37 REPRESENTATIVES shall appoint two persons from each
38 supervisorial district who shall not be of the same political
39 party, ~~subject to confirmation by the senate in the manner~~
40 ~~prescribed by law~~.

41 D. In making ~~or confirming~~ appointments to trial court
42 commissions, the governor, the PRESIDENT OF THE senate, THE
43 SPEAKER OF THE HOUSE OF REPRESENTATIVES and the state bar shall
44 endeavor to see that the commission reflects the diversity of
45 the county's population.

1 E. Members of the commission shall serve staggered four
2 year terms. ~~, except that initial appointments for the five~~
3 ~~additional nonattorney members and the two additional attorney~~
4 ~~members of the commission shall be designated by the governor as~~
5 ~~follows:~~

6 ~~1. One appointment for a nonattorney member shall be for~~
7 ~~a one-year term.~~

8 ~~2. Two appointments for nonattorney members shall be for~~
9 ~~a two-year term.~~

10 ~~3. Two appointments for nonattorney members shall be for~~
11 ~~a three-year term.~~

12 ~~4. One appointment for an attorney member shall be for a~~
13 ~~one-year term.~~

14 ~~5. One appointment for an attorney member shall be for a~~
15 ~~two-year term.~~

16 F. Vacancies shall be filled for the unexpired terms in
17 the same manner as the original appointments.

18 G. Attorney members of the commission shall have resided
19 in this state and shall have been admitted to practice in this
20 state by the supreme court for at least five years and shall
21 have resided in the supervisory district from which they are
22 appointed for at least one year. Nonattorney members shall have
23 resided in this state for at least five years, shall have
24 resided in the supervisory district for at least one year
25 before being nominated and shall not be judges, retired judges
26 nor admitted to practice before the supreme court. None of the
27 attorney or nonattorney members of the commission shall hold any
28 governmental office, elective or appointive, for profit and no
29 attorney member is eligible for appointment to any judicial
30 office of this state until one year after membership in the
31 commission terminates.

32 H. No person other than the chief justice shall serve at
33 the same time as a member of more than one judicial appointment
34 commission.

35 I. The commission shall submit the names of not less than
36 three individuals for nomination for the office of the superior
37 court judge pursuant to section 37 of this article.

38 J. ~~Prior to~~ BEFORE making recommendations to the
39 governor, ~~THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE~~
40 ~~HOUSE OF REPRESENTATIVES,~~ the commission shall conduct
41 investigations, hold public hearings and take public
42 testimony. An executive session as prescribed by rule may be
43 held upon a two-thirds vote of the members of the commission in
44 a public hearing. Final decisions as to recommendations shall
45 be made without regard to political affiliation in an impartial

1 and objective manner. The commission shall consider the
2 diversity of the county's population and the geographical
3 distribution of the residences of the judges throughout the
4 county, however the primary consideration shall be
5 merit. Voting shall be in a public hearing. The expenses of
6 meetings of the commission and the attendance of members thereof
7 for travel and subsistence shall be paid from the general fund
8 of the state as state officers are paid, upon claims approved by
9 the chairman.

10 K. After public hearings the supreme court shall adopt
11 rules of procedure for the commission on trial court
12 appointments.

13 L. The members of the commission who were appointed
14 ~~pursuant to section 36 of this article prior to~~ BEFORE the
15 effective date of this AMENDMENT TO THIS section may continue to
16 serve until the expiration of their normal terms. All
17 subsequent appointments shall be made as prescribed by this
18 section.

19 2. The Secretary of State shall submit this proposition to the voters
20 at the next general election as provided by article XXI, Constitution of
21 Arizona.