

State of Arizona  
Senate  
Fiftieth Legislature  
First Regular Session  
2011

## **SENATE CONCURRENT RESOLUTION 1045**

### **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 AND CONSISTS 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 THEREOF TO~~  
14 ~~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 by  
17 the governor with the advice and consent of the senate in the  
18 manner prescribed by law. ~~, and~~

19 3. Ten nonattorney members who shall be appointed by the  
20 governor with the advice and consent of the senate in the manner  
21 prescribed by law.

22 B. At least ninety days prior to a term expiring or  
23 within twenty-one days of a vacancy occurring for a nonattorney  
24 member on the commission for appellate court appointments, the  
25 governor shall appoint a nominating committee of nine members,  
26 not more than five of whom may be from the same political  
27 party. The makeup of the committee shall, to the extent  
28 feasible, reflect the diversity of the population of the  
29 state. Members shall not be attorneys and shall not hold any  
30 governmental office, elective or appointive, for profit. The  
31 committee shall provide public notice that a vacancy exists and  
32 shall solicit, review and forward to the governor all  
33 applications along with the committee's recommendations for  
34 appointment.

35 C. Attorney members of the commission shall have resided  
36 in the state and shall have been admitted to practice before the  
37 supreme court for not less than five years. Not more than three  
38 attorney members shall be members of the same political party  
39 and not more than two attorney members shall be residents of any  
40 one county. Nonattorney members shall have resided in the state  
41 for not less than five years and shall not be judges, retired  
42 judges or admitted to practice before the supreme court. Not  
43 more than five nonattorney members shall be members of the same  
44 political party. Not more than two nonattorney members shall be  
45 residents of any one county. ~~None of~~ The attorney ~~or~~ AND

1 nonattorney members of the commission shall NOT hold any  
2 governmental office, elective or appointive, for profit, and ~~no~~  
3 AN attorney member OF THE COMMISSION shall NOT be eligible for  
4 appointment to any judicial office of the state until one year  
5 after ~~he~~ THE ATTORNEY MEMBER ceases to be a member OF THE  
6 COMMISSION. ~~Attorney~~ Members of the commission shall serve  
7 staggered four-year terms ~~and nonattorney members shall serve~~  
8 ~~staggered four-year terms~~. Vacancies shall be filled for the  
9 unexpired terms in the same manner as the original appointments.

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

13 ~~C.~~ E. In making or confirming appointments to the  
14 appellate court commission, the governor, ~~AND~~ the senate ~~and~~  
15 ~~the state bar~~ shall endeavor to see that the commission reflects  
16 the diversity of Arizona's population.

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

20 ~~D.~~ F. ~~Prior to~~ BEFORE making recommendations to the  
21 governor as hereinafter provided, the commission shall conduct  
22 investigations, hold public hearings and take public  
23 testimony. An executive session as prescribed by rule may be  
24 held upon a two-thirds vote of the members of the commission in  
25 a public hearing. Final decisions as to recommendations shall  
26 be made without regard to political affiliation in an impartial  
27 and objective manner. The commission shall consider the  
28 diversity of the state's population, however the primary  
29 consideration shall be merit. Voting shall be in a public  
30 hearing. The expenses of meetings of the commission and the  
31 attendance of members thereof for travel and subsistence shall  
32 be paid from the general fund of the state as state officers are  
33 paid, upon claims approved by the chairman.

34 ~~E.~~ G. After public hearings the supreme court shall  
35 adopt rules of procedure for the commission on appellate court  
36 appointments.

37 ~~F. Notwithstanding the provisions of subsection A, the~~  
38 ~~initial appointments for the five additional nonattorney members~~  
39 ~~and the two additional attorney members of the commission shall~~  
40 ~~be designated by the governor for staggered terms as follows:~~

41 ~~1. One appointment for a nonattorney member shall be for~~  
42 ~~a one-year term.~~

43 ~~2. Two appointments for nonattorney members shall be for~~  
44 ~~a two-year term.~~

1           ~~3. Two appointments for nonattorney members shall be for~~  
2           ~~a three year term.~~

3           ~~4. One appointment for an attorney member shall be for a~~  
4           ~~one year term.~~

5           ~~5. One appointments for an attorney member shall be for a~~  
6           ~~two year term.~~

7           ~~6. The members currently serving on the commission may~~  
8           ~~continue to serve until the expiration of their normal~~  
9           ~~terms. All subsequent appointments shall be made as prescribed~~  
10          ~~by this section.~~

11          41. Commission on trial court appointments;  
12             membership; terms; nominating committee

13          ~~A. Except as otherwise provided, judges of the superior~~  
14          ~~court in counties having a population of two hundred fifty~~  
15          ~~thousand persons or more according to the most recent United~~  
16          ~~States census shall hold office for a regular term of four~~  
17          ~~years.~~

18          ~~B.~~ A. There shall be A nonpartisan commission on trial  
19          court appointments for each county having a population of two  
20          hundred fifty thousand persons or more according to the most  
21          recent United States census ~~which shall be composed of~~ IS  
22          ESTABLISHED CONSISTING OF the following members:

23             1. The chief justice of the supreme court, who shall be  
24             the chairman of the commission. In the event of the absence or  
25             incapacity of the chairman the supreme court shall appoint a  
26             justice thereof to serve in ~~his~~ THE CHAIRMAN'S place and stead.

27             2. Five attorney members, none of whom shall reside in  
28             the same supervisorial district and not more than three of whom  
29             shall be members of the same political party, ~~who are nominated~~  
30             ~~by the board of governors of the state bar of Arizona and~~ who  
31             are appointed by the governor subject to confirmation by the  
32             senate in the manner prescribed by law.

33             3. Ten nonattorney members, no more than two of whom  
34             shall reside in the same supervisorial district.

35          ~~C.~~ B. At least ninety days ~~prior to~~ BEFORE a term  
36          expiring or within twenty-one days of a vacancy occurring for a  
37          nonattorney member on the commission ~~for~~ ON trial court  
38          appointments, the member of the board of supervisors from the  
39          district in which the vacancy has occurred shall appoint a  
40          nominating committee of seven members who reside in the  
41          district, not more than four of whom may be from the same  
42          political party. The ~~make-up~~ MAKEUP of the committee ~~shall~~, to  
43          the extent feasible, SHALL reflect the diversity of the  
44          population of the district. Members shall not be attorneys and  
45          shall not hold any governmental office, elective or appointive,

1 for profit. The committee shall provide public notice that a  
2 vacancy exists and shall solicit, review and forward to the  
3 governor all applications along with the committee's  
4 recommendations for appointment. The governor shall appoint two  
5 persons from each supervisorial district who shall not be of the  
6 same political party, subject to confirmation by the senate in  
7 the manner prescribed by law.

8 ~~D.~~ C. In making or confirming appointments to trial  
9 court commissions, the governor, ~~AND~~ the senate ~~and the state~~  
10 ~~bar~~ shall endeavor to see that the commission reflects the  
11 diversity of the county's population.

12 ~~E. Members of the commission shall serve staggered four~~  
13 ~~year terms, except that initial appointments for the five~~  
14 ~~additional nonattorney members and the two additional attorney~~  
15 ~~members of the commission shall be designated by the governor as~~  
16 ~~follows:~~

17 ~~1. One appointment for a nonattorney member shall be for~~  
18 ~~a one-year term.~~

19 ~~2. Two appointments for nonattorney members shall be for~~  
20 ~~a two-year term.~~

21 ~~3. Two appointments for nonattorney members shall be for~~  
22 ~~a three-year term.~~

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

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

27 ~~F.~~ D. Vacancies shall be filled for the unexpired terms  
28 in the same manner as the original appointments.

29 ~~G.~~ E. Attorney members of the commission shall have  
30 resided in this state and shall have been admitted to practice  
31 in this state by the supreme court for at least five years and  
32 shall have resided in the supervisorial district from which they  
33 are appointed for at least one year. Nonattorney members shall  
34 have resided in this state for at least five years, shall have  
35 resided in the supervisorial district for at least one year  
36 before being nominated and shall not be judges, retired judges  
37 nor admitted to practice before the supreme court. None of the  
38 attorney or nonattorney members of the commission shall hold any  
39 governmental office, elective or appointive, for profit and no  
40 attorney member is eligible for appointment to any judicial  
41 office of this state until one year after membership in the  
42 commission terminates.

43 ~~H.~~ F. No person other than the chief justice shall serve  
44 at the same time as a member of more than one judicial  
45 appointment commission.

1           ~~I.~~ G. The commission shall submit the names of not less  
2 than three individuals for nomination for the office of the  
3 superior court judge pursuant to section 37 of this article.

4           ~~J.~~ H. ~~Prior to~~ BEFORE making recommendations to the  
5 governor, the commission shall conduct investigations, hold  
6 public hearings and take public testimony. An executive session  
7 as prescribed by rule may be held upon a two-thirds vote of the  
8 members of the commission in a public hearing. Final decisions  
9 as to recommendations shall be made without regard to political  
10 affiliation in an impartial and objective manner. The  
11 commission shall consider the diversity of the county's  
12 population and the geographical distribution of the residences  
13 of the judges throughout the county, however the primary  
14 consideration shall be merit. Voting shall be in a public  
15 hearing. The expenses of meetings of the commission and the  
16 attendance of members thereof for travel and subsistence shall  
17 be paid from the general fund of the state as state officers are  
18 paid, upon claims approved by the chairman.

19           ~~K.~~ I. After public hearings the supreme court shall  
20 adopt rules of procedure for the commission on trial court  
21 appointments.

22           ~~L. The members of the commission who were appointed~~  
23 ~~pursuant to section 36 of this article prior to the effective~~  
24 ~~date of this section may continue to serve until the expiration~~  
25 ~~of their normal terms. All subsequent appointments shall be~~  
26 ~~made as prescribed by this section.~~

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