

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.C.R. 1001

(Reference to Senate engrossed bill)

1 Strike everything after the resolving clause and insert:

2 "1. Article VI, sections 4, 12, 36, 37, 41 and 42, Constitution of
3 Arizona, are proposed to be amended as follows if approved by the voters and
4 on proclamation of the Governor:

5 4. Supreme court; appellate court; term of office

6 Section 4. A. THROUGH DECEMBER 31, 2012, justices of the
7 supreme court shall hold office for a regular term of six years except
8 as provided by this article.

9 B. FOR ANY TERM BEGINNING ON OR AFTER JANUARY 1, 2013, JUSTICES
10 OF THE SUPREME COURT AND JUDGES OF ANY INTERMEDIATE APPELLATE COURT
11 SHALL HOLD OFFICE FOR A REGULAR TERM OF EIGHT YEARS EXCEPT AS PROVIDED
12 BY THIS ARTICLE.

13 12. Superior court; term of office

14 Section 12. A. Judges of the superior court in counties having
15 a population of less than two hundred fifty thousand persons according
16 to the most recent United States census shall be elected by the
17 qualified electors of their counties at the general election. THROUGH
18 DECEMBER 31, 2012, they shall hold office for a regular term of four
19 years except as provided by this section from and after the first
20 Monday in January next succeeding their election, and until their
21 successors are elected and qualify. FOR ANY TERM BEGINNING ON OR AFTER
22 JANUARY 1, 2013, THEY SHALL HOLD OFFICE FOR A REGULAR TERM OF EIGHT
23 YEARS EXCEPT AS PROVIDED BY THIS SECTION FROM AND AFTER THE FIRST
24 MONDAY IN JANUARY NEXT SUCCEEDING THEIR ELECTION, AND UNTIL THEIR

1 **SUCCESSORS ARE ELECTED AND QUALIFY.** The names of all candidates for
2 judge of the superior court in such counties shall be placed on the
3 regular ballot without partisan or other designation except the
4 division and title of the office.

5 B. The governor shall fill any vacancy in such counties by
6 appointing a person to serve until the election and qualification of a
7 successor. At the next succeeding general election following the
8 appointment of a person to fill a vacancy, a judge shall be elected to
9 serve for the remainder of the unexpired term.

10 C. **THROUGH DECEMBER 31, 2012,** judges of the superior court in
11 counties having a population of two hundred fifty thousand persons or
12 more according to the most recent United States census shall hold
13 office for a regular term of four years except as provided by this
14 article. **FOR ANY TERM BEGINNING ON OR AFTER JANUARY 1, 2013, JUDGES OF**
15 **THE SUPERIOR COURT IN COUNTIES HAVING A POPULATION OF TWO HUNDRED FIFTY**
16 **THOUSAND PERSONS OR MORE ACCORDING TO THE MOST RECENT UNITED STATES**
17 **CENSUS SHALL HOLD OFFICE FOR A REGULAR TERM OF EIGHT YEARS EXCEPT AS**
18 **PROVIDED BY THIS ARTICLE.**

19 36. Commission on appellate court appointments and terms.
20 appointments and vacancies on commission

21 Section 36. A. ~~There shall be~~ A nonpartisan commission on
22 appellate court appointments ~~which shall be composed of~~ **IS**
23 **ESTABLISHED AND CONSISTS OF THE FOLLOWING MEMBERS:**

24 1. The chief justice of the supreme court, who shall be
25 chairman. ~~;~~ **IN THE EVENT OF THE ABSENCE OR INCAPACITY OF THE**
26 **CHAIRMAN, THE SUPREME COURT SHALL APPOINT A JUSTICE OF THE SUPREME**
27 **COURT TO SERVE IN THE CHIEF JUSTICE'S PLACE AND STEAD.**

28 2. Five attorney members, who shall be ~~nominated by the~~
29 ~~board of governors of the state bar of Arizona and~~ appointed by the
30 governor with the advice and consent of the senate in the manner
31 prescribed by law. ~~;~~ **and**

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

4 B. At least ninety days ~~prior to~~ BEFORE a term expiring or
5 within twenty-one days of a vacancy occurring for a nonattorney OR
6 AN ATTORNEY member on the commission ~~for~~ ON appellate court
7 appointments, the governor shall appoint a nominating committee of
8 nine members, not more than five of whom may be from the same
9 political party. The makeup of the committee shall, to the extent
10 feasible, reflect the diversity of the population of the state.
11 Members shall not be attorneys and shall not hold any governmental
12 office, elective or appointive, for profit. The committee shall
13 provide public notice that a vacancy exists and shall solicit,
14 review and forward to the governor all RECOMMENDATIONS MADE BY THE
15 STATE BAR OF ARIZONA FOR ATTORNEY MEMBERS AND ALL applications FOR
16 ATTORNEY AND NONATTORNEY MEMBERS along with the committee's
17 recommendations for appointment.

18 C. Attorney members of the commission shall have resided in
19 the state and shall have been admitted to practice before the
20 supreme court for not less than ~~five~~ TEN years, SHALL BE MEMBERS IN
21 GOOD STANDING OF THE STATE BAR OF ARIZONA, SHALL HAVE NO FORMAL
22 DISCIPLINARY CHARGES PENDING AND SHALL NOT HAVE EVER BEEN
23 SANCTIONED BY THE STATE BAR OF ARIZONA. Not more than three
24 attorney members shall be members of the same political party and
25 not more than two attorney members shall be residents of any one
26 county.

27 D. ~~Nonattorney~~ Members WHO ARE NOMINATED PURSUANT TO
28 SUBSECTION A, PARAGRAPH 3 shall have resided in the state for not
29 less than five years and shall not be judges, retired judges or
30 admitted to practice before the supreme court. Not more than five
31 nonattorney members shall be members of the same political party.

1 Not more than two nonattorney members shall be residents of any one
2 county.

3 ~~E. None of~~ The attorney ~~or~~ AND nonattorney members of the
4 commission shall NOT hold any governmental office, elective or
5 appointive, for profit, and ~~no~~ AN attorney member OF THE COMMISSION
6 shall NOT be eligible for appointment to any judicial office of the
7 state until one year after ~~he~~ THE ATTORNEY MEMBER ceases to be a
8 member OF THE COMMISSION.

9 ~~F. Attorney~~ Members of the commission shall serve staggered
10 four-year terms ~~and nonattorney members shall serve staggered~~
11 ~~four-year terms~~. Vacancies shall be filled for the unexpired terms
12 in the same manner as the original appointments.

13 ~~B.~~ G. No person other than the chief justice shall serve at
14 the same time as a member of more than one judicial appointment
15 commission.

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

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

23 ~~D.~~ I. ~~Prior to~~ BEFORE making recommendations to the
24 governor ~~as hereinafter provided~~, the commission shall conduct
25 investigations, hold public hearings and take public testimony. An
26 executive session as prescribed by rule may be held ~~upon~~ ON a
27 two-thirds vote of the members of the commission in a public
28 hearing. Final decisions as to recommendations shall be made
29 without regard to political affiliation in an impartial and
30 objective manner. The commission shall consider the diversity of
31 the state's population, however the primary consideration shall be
32 merit. Voting shall be in a public hearing. The expenses of

1 meetings of the commission and the attendance of members ~~thereof~~
2 for travel and subsistence shall be paid from the general fund of
3 the state as state officers are paid, ~~upon~~ ON claims approved by
4 the chairman.

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

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

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

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

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

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

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

22 ~~G. The members currently serving on the commission may~~
23 ~~continue to serve until the expiration of their normal terms. All~~
24 ~~subsequent appointments shall be made as prescribed by this~~
25 ~~section.~~

26 37. Judicial vacancies and appointments; initial terms;
27 residence; age

28 Section 37. A. Within sixty days from the occurrence of a
29 ANY vacancy in the office of a justice or judge of ~~any court of~~
30 ~~record, except for vacancies occurring in the office of a judge of~~
31 ~~the superior court or a judge of a court of record inferior to the~~
32 ~~superior court~~ THE SUPREME COURT OR AN INTERMEDIATE APPELLATE COURT

1 OF RECORD, the commission on appellate court appointments, ~~if the~~
2 ~~vacancy is in the supreme court or an intermediate appellate court~~
3 ~~of record~~, shall submit to the governor the names of not less than
4 ~~three~~ EIGHT persons nominated by it to fill ~~such~~ EACH vacancy, ~~no~~
5 ~~more than two of whom shall be members of the same political party~~
6 ~~unless there are more than four such nominees, in which event not~~
7 ~~more than sixty percentum of such nominees shall be members of the~~
8 ~~same political party~~, EXCEPT THAT ON A TWO-THIRDS VOTE, THE
9 COMMISSION MAY REJECT AN APPLICANT AND SUBMIT LESS THAN EIGHT
10 NAMES. ANY APPLICANT WHO RECEIVES A MAJORITY VOTE OF THE VOTING
11 MEMBERS FOR NOMINATION SHALL BE NOMINATED FOR THE VACANCY. IF MORE
12 THAN ONE VACANCY EXISTS IN THE SAME COURT AT THE SAME TIME, THE
13 COMMISSION SHALL NOT SUBMIT THE NAME OF A PERSON FOR MORE THAN ONE
14 VACANCY.

15 B. Within sixty days from the occurrence of ~~a~~ ANY vacancy
16 in the office of a judge of the superior court or a judge of a
17 court of record inferior to the superior court except for vacancies
18 occurring in the office of a judge of the superior court or a judge
19 of a court of record inferior to the superior court in a county
20 having a population of less than two hundred fifty thousand persons
21 according to the most recent United States census, the commission
22 on trial court appointments for the county in which the vacancy
23 occurs shall submit to the governor the names of not less than
24 ~~three~~ EIGHT persons nominated by it to fill such vacancy, ~~no more~~
25 ~~than two of whom shall be members of the same political party~~
26 ~~unless there are more than four such nominees, in which event no~~
27 ~~more than sixty per centum of such nominees shall be members of the~~
28 ~~same political party~~, EXCEPT THAT ON A TWO-THIRDS VOTE, THE
29 COMMISSION MAY REJECT AN APPLICANT AND SUBMIT LESS THAN EIGHT
30 NAMES. ANY APPLICANT WHO RECEIVES A MAJORITY VOTE OF THE VOTING
31 MEMBERS FOR NOMINATION SHALL BE NOMINATED FOR THE VACANCY. IF MORE
32 THAN ONE VACANCY EXISTS IN THE SAME COURT AT THE SAME TIME, THE

1 COMMISSION SHALL NOT SUBMIT THE NAME OF A PERSON FOR MORE THAN ONE
2 VACANCY. A nominee shall be under sixty-five years of age at the
3 time ~~his~~ THE NOMINEE'S name is submitted to the governor. Judges
4 of the superior court shall be subject to retention or rejection by
5 a vote of the qualified electors of the county from which they were
6 appointed at the general election in the manner provided by section
7 38 of this article.

8 C. A vacancy in the office of a justice or a judge ~~of such~~
9 ~~courts of record~~ shall be filled by appointment by the governor
10 without regard to political affiliation from one of the nominees
11 whose names shall be submitted to ~~him~~ THE GOVERNOR as hereinabove
12 provided. IF MORE THAN ONE VACANCY EXISTS IN THE SAME COURT AT THE
13 SAME TIME, THE GOVERNOR MAY MAKE AN APPOINTMENT FROM ANY OF THE
14 NOMINEES PRESENTED FOR ANY OF THE VACANCIES IN THAT COURT. In
15 making the appointment, the governor shall consider the diversity
16 of the state's population for an appellate court appointment and
17 the diversity of the county's population for a trial court
18 appointment, however the primary consideration shall be merit. If
19 the governor does not appoint one of ~~such~~ THE nominees to fill ~~such~~
20 THE vacancy within sixty days after their names are submitted to
21 the governor by ~~such~~ THE commission, the chief justice of the
22 supreme court forthwith shall appoint on the basis of merit alone
23 without regard to political affiliation one of ~~such~~ THE nominees to
24 fill ~~such~~ THE vacancy. If ~~such~~ THE commission does not, within
25 sixty days after ~~such~~ THE vacancy occurs, submit the names of
26 nominees as hereinabove provided, the governor ~~shall have the power~~
27 ~~to~~ MAY appoint any qualified person to fill ~~such~~ THE vacancy at any
28 time thereafter ~~prior to~~ BEFORE the time the names of the nominees
29 to fill ~~such~~ THE vacancy are submitted to the governor as
30 hereinabove provided.

31 D. Each APPOINTED justice or judge ~~so appointed~~ shall
32 initially hold office for a term ending sixty days following the

1 next regular general election after the expiration of a term of two
2 years in office. Thereafter, the terms of justices or judges of
3 the supreme court and the superior court shall be as provided by
4 this article.

5 ~~D.~~ E. A person appointed to fill a vacancy on an
6 intermediate appellate court or another court of record now
7 existing or hereafter established by law shall have been a resident
8 of the counties or county in which that vacancy exists for at least
9 one year ~~prior to his~~ BEFORE THE PERSON'S appointment, in addition
10 to possessing the other required qualifications. A nominee shall
11 be under sixty-five years of age at the time ~~his~~ THE NOMINEE'S name
12 is submitted to the governor.

13 41. Commission on trial court appointments; membership;
14 terms

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

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

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

28 2. Five attorney members, none of whom shall reside in the
29 same supervisorial district and not more than three of whom shall
30 be members of the same political party, who are ~~nominated by the~~
31 ~~board of governors of the state bar of Arizona and who are~~

1 appointed by the governor subject to confirmation by the senate in
2 the manner prescribed by law.

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

5 ~~E.~~ B. At least ninety days ~~prior to~~ BEFORE a term expiring
6 or within twenty-one days of a vacancy occurring for a nonattorney
7 OR AN ATTORNEY member on the commission for trial court
8 appointments, the member of the board of supervisors from the
9 district in which the vacancy has occurred shall appoint a
10 nominating committee of seven members who reside in the district,
11 not more than four of whom may be from the same political party.
12 The make-up of the committee shall, to the extent feasible, reflect
13 the diversity of the population of the district. Members shall not
14 be attorneys and shall not hold any governmental office, elective
15 or appointive, for profit. The committee shall provide public
16 notice that a vacancy exists and shall solicit, review and forward
17 to the governor all RECOMMENDATIONS MADE BY THE STATE BAR OF
18 ARIZONA FOR ATTORNEY MEMBERS AND ALL applications FOR ATTORNEY AND
19 NONATTORNEY MEMBERS along with the committee's recommendations for
20 appointment. The governor shall appoint two persons from each
21 supervisorial district who shall not be of the same political
22 party, subject to confirmation by the senate in the manner
23 prescribed by law.

24 ~~D.~~ C. In making or confirming appointments to trial court
25 commissions, the governor, the senate and the state bar shall
26 endeavor to see that the commission reflects the diversity of the
27 county's population.

28 ~~E. Members of the commission shall serve staggered four year~~
29 ~~terms, except that initial appointments for the five additional~~
30 ~~nonattorney members and the two additional attorney members of the~~
31 ~~commission shall be designated by the governor as follows:~~

1 ~~1. One appointment for a nonattorney member shall be for a~~
2 ~~one year term.~~

3 ~~2. Two appointments for nonattorney members shall be for a~~
4 ~~two year term.~~

5 ~~3. Two appointments for nonattorney members shall be for a~~
6 ~~three year term.~~

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

9 ~~5. One appointment for an attorney member shall be for a~~
10 ~~two year term.~~

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

13 ~~G.~~ E. Attorney members of the commission shall have resided
14 in this state and shall have been admitted to practice in this
15 state by the supreme court for at least ~~five~~ TEN years, SHALL BE
16 MEMBERS IN GOOD STANDING OF THE STATE BAR OF ARIZONA, SHALL HAVE NO
17 FORMAL DISCIPLINARY CHARGES PENDING, SHALL NOT HAVE EVER BEEN
18 SANCTIONED BY THE STATE BAR OF ARIZONA and shall have resided in
19 the supervisorial district from which they are appointed for at
20 least one year. Nonattorney members shall have resided in this
21 state for at least five years, shall have resided in the
22 supervisorial district for at least one year before being nominated
23 and shall not be judges, retired judges nor admitted to practice
24 before the supreme court. None of the attorney or nonattorney
25 members of the commission shall hold any governmental office,
26 elective or appointive, for profit and no attorney member is
27 eligible for appointment to any judicial office of this state until
28 one year after membership in the commission terminates.

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

1 ~~I.~~ G. The commission shall submit the names of not less
2 than ~~three~~ EIGHT 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 public
6 hearings and take public testimony. An executive session as
7 prescribed by rule may be held upon a two-thirds vote of the
8 members of the commission in a public hearing. Final decisions as
9 to recommendations shall be made without regard to political
10 affiliation in an impartial and objective manner. The commission
11 shall consider the diversity of the county's population and the
12 geographical distribution of the residences of the judges
13 throughout the county, however the primary consideration shall be
14 merit. Voting shall be in a public hearing. The expenses of
15 meetings of the commission and the attendance of members thereof
16 for travel and subsistence shall be paid from the general fund of
17 the state as state officers are paid, upon claims approved by the
18 chairman.

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

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

26 42. Retention evaluation of justices and judges;
27 electronically accessible information; performance
28 review hearings

29 A. The supreme court shall adopt, after public hearings, and
30 administer for all justices and judges who file a declaration to be
31 retained in office, a process, established by court rules for
32 evaluating judicial performance. The rules shall include written

1 performance standards and performance reviews which survey opinions of
2 persons who have knowledge of the justice's or judge's performance.
3 The public shall be afforded a full and fair opportunity for
4 participation in the evaluation process through public hearings,
5 dissemination of evaluation reports to voters and any other methods as
6 the court deems advisable.

7 B. THE SUPREME COURT SHALL MAKE EVERY OPINION OR ORDER THAT IS
8 ISSUED BY A JUDGE OF A COURT OF RECORD AND THAT IS NOT SEALED
9 ELECTRONICALLY ACCESSIBLE TO THE PUBLIC ON THE SUPREME COURT'S WEBSITE.

10 C. NOT LATER THAN SIXTY DAYS PRECEDING THE REGULAR PRIMARY
11 ELECTION THE SUPREME COURT SHALL TRANSMIT A COPY OF THE JUDICIAL
12 PERFORMANCE REVIEW OF EACH JUSTICE AND JUDGE WHO IS UP FOR RETENTION TO
13 THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF
14 REPRESENTATIVES. NOT LATER THAN SIXTY DAYS PRECEDING THE REGULAR
15 GENERAL ELECTION FOR THE RETENTION OF JUSTICES AND JUDGES, A JOINT
16 LEGISLATIVE COMMITTEE CONSISTING OF THE SENATE JUDICIARY COMMITTEE AND
17 THE HOUSE OF REPRESENTATIVES JUDICIARY COMMITTEE, OR THEIR SUCCESSOR
18 COMMITTEES, SHALL MEET AND TAKE TESTIMONY ON THE JUSTICES AND JUDGES
19 WHO ARE UP FOR RETENTION.

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

23 Amend title to conform

EDWIN W. FARNSWORTH

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