

REFERENCE TITLE: election of judges; terms

State of Arizona  
House of Representatives  
Fifty-second Legislature  
Second Regular Session  
2016

## HCR 2028

Introduced by  
Representatives Finchem: Cobb, Mitchell, Thorpe, Townsend

### A CONCURRENT RESOLUTION

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE IV, PART 2, SECTION 1, CONSTITUTION OF ARIZONA; AMENDING ARTICLE VI, SECTIONS 3, 4, 12, 28, 30 AND 35, CONSTITUTION OF ARIZONA; REPEALING ARTICLE VI, SECTIONS 36, 37 AND 38, CONSTITUTION OF ARIZONA; AMENDING ARTICLE VI, SECTION 39, CONSTITUTION OF ARIZONA; REPEALING ARTICLE VI, SECTIONS 40, 41 AND 42, CONSTITUTION OF ARIZONA; RELATING TO THE JUDICIAL DEPARTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

3 1. Article IV, part 2, section 1, Constitution of Arizona, is proposed  
4 to be amended as follows if approved by the voters and on proclamation of the  
5 Governor:

6 1. Senate; house of representatives; members; special  
7 session on petition of members; congressional and  
8 legislative boundaries; citizen commissions

9 Section 1. ~~(1)~~ A. The senate shall be composed of one  
10 member elected from each of the thirty legislative districts  
11 established pursuant to this section.

12 B. The house of representatives shall be composed of two  
13 members elected from each of the thirty legislative districts  
14 established pursuant to this section.

15 ~~(2)~~ C. ~~Upon~~ ON the presentation to the governor of a  
16 petition bearing the signatures of not less than two-thirds of  
17 the members of each house, ~~requesting a special session of the~~  
18 legislature and designating the date of convening, the governor  
19 shall promptly call a special session to assemble on the date  
20 specified. At a special session so called the subjects which  
21 may be considered by the legislature shall not be limited.

22 ~~(3)~~ D. By February 28 of each year that ends in one, an  
23 independent redistricting commission shall be established to  
24 provide for the redistricting of congressional and state  
25 legislative districts. The independent redistricting commission  
26 shall consist of five members. No more than two members of the  
27 independent redistricting commission shall be members of the  
28 same political party. Of the first four members appointed, no  
29 more than two shall reside in the same county. Each member  
30 shall be a registered Arizona voter who has been continuously  
31 registered with the same political party or registered as  
32 unaffiliated with a political party for three or more years  
33 immediately preceding appointment, ~~AND~~ who is committed to  
34 applying the provisions of this section in an honest,  
35 independent and impartial fashion and to upholding public  
36 confidence in the integrity of the redistricting process.  
37 Within the three years previous to appointment, members shall  
38 not have been appointed to, elected to, ~~or a candidate for any~~  
39 other public office, including precinct committeeman or  
40 committeewoman but not including school board member or officer,  
41 and shall not have served as an officer of a political party, ~~or~~  
42 or served as a registered paid lobbyist or as an officer of a  
43 candidate's campaign committee.

44 ~~(4)~~ E. The ~~commission on appellate court appointments~~  
45 LEGISLATURE BY JOINT RESOLUTION shall nominate candidates for

1 appointment to the independent redistricting commission, except  
2 that, if a politically balanced commission exists whose members  
3 are nominated by the ~~commission on appellate court appointments~~  
4 LEGISLATURE and whose regular duties relate to the elective  
5 process, the ~~commission on appellate court appointments~~  
6 LEGISLATURE BY JOINT RESOLUTION may delegate to such existing  
7 commission (hereinafter called the ~~commission on appellate court~~  
8 ~~appointments'~~ LEGISLATURE'S designee) the duty of nominating  
9 members for the independent redistricting commission, and all  
10 other duties assigned to the ~~commission on appellate court~~  
11 ~~appointments~~ LEGISLATURE in this section.

12 ~~(5)~~ F. By January 8 of years ending in one, the  
13 ~~commission on appellate court appointments~~ LEGISLATURE or ~~its~~  
14 THE LEGISLATURE'S designee shall establish a pool of persons who  
15 are willing to serve on and are qualified for appointment to the  
16 independent redistricting commission. The pool of candidates  
17 shall consist of twenty-five nominees, with ten nominees from  
18 each of the two largest political parties in Arizona based on  
19 party registration, and five who are not registered with either  
20 of the two largest political parties in Arizona.

21 ~~(6)~~ G. Appointments to the independent redistricting  
22 commission shall be made in the order set forth below. No later  
23 than January 31 of years ending in one, the highest ranking  
24 officer elected by the Arizona house of representatives shall  
25 make one appointment to the independent redistricting commission  
26 from the pool of nominees, followed by one appointment from the  
27 pool made in turn by each of the following: the minority party  
28 leader of the Arizona house of representatives, the highest  
29 ranking officer elected by the Arizona senate, and the minority  
30 party leader of the Arizona senate. Each such official shall  
31 have a seven-day period in which to make an appointment. Any  
32 official who fails to make an appointment within the specified  
33 time period will forfeit the appointment privilege. In the  
34 event that there are two or more minority parties within the  
35 house or the senate, the leader of the largest minority party by  
36 statewide party registration shall make the appointment.

37 ~~(7)~~ H. Any vacancy in the above four independent  
38 redistricting commission positions remaining as of March 1 of a  
39 year ending in one shall be filled from the pool of nominees by  
40 the ~~commission on appellate court appointments~~ LEGISLATURE BY  
41 JOINT RESOLUTION or ~~its~~ THE LEGISLATURE'S designee. The  
42 appointing body shall strive for political balance and fairness.

43 ~~(8)~~ I. At a meeting called by the secretary of state,  
44 the four independent redistricting commission members shall  
45 select by majority vote from the nomination pool a fifth member

1 who shall not be registered with any party already represented  
2 on the independent redistricting commission and who shall serve  
3 as chair. If the four commissioners fail to appoint a fifth  
4 member within fifteen days, the ~~commission on appellate court~~  
5 ~~appointments~~ LEGISLATURE or ~~its~~ THE LEGISLATURE'S designee,  
6 striving for political balance and fairness, shall appoint a  
7 fifth member from the nomination pool, who shall serve as chair.

8 ~~(9)~~ J. The five commissioners shall then select by  
9 majority vote one of their members to serve as vice-chair.

10 ~~(10)~~ K. After having been served written notice and  
11 provided with an opportunity for a response, a member of the  
12 independent redistricting commission may be removed by the  
13 governor, with the concurrence of two-thirds of the senate, for  
14 substantial neglect of duty, gross misconduct in office, or  
15 inability to discharge the duties of office.

16 ~~(11)~~ L. If a commissioner or chair does not complete the  
17 term of office for any reason, the ~~commission on appellate court~~  
18 ~~appointments~~ LEGISLATURE or ~~its~~ THE LEGISLATURE'S designee shall  
19 nominate a pool of three candidates within the first thirty days  
20 after the vacancy occurs. The nominees shall be of the same  
21 political party or status as was the member who vacated the  
22 office at the time of his or her appointment, and the  
23 appointment other than the chair shall be made by the current  
24 holder of the office designated to make the original  
25 appointment. The appointment of a new chair shall be made by  
26 the remaining commissioners. If the appointment of a  
27 replacement commissioner or chair is not made within fourteen  
28 days following the presentation of the nominees, the ~~commission~~  
29 ~~on appellate court appointments~~ LEGISLATURE or ~~its~~ THE  
30 LEGISLATURE'S designee shall make the appointment, striving for  
31 political balance and fairness. The newly appointed  
32 commissioner shall serve out the remainder of the original term.

33 ~~(12)~~ M. Three commissioners, including the chair or  
34 vice-chair, constitute a quorum. Three or more affirmative  
35 votes are required for any official action. Where a quorum is  
36 present, the independent redistricting commission shall conduct  
37 business in meetings open to the public, with ~~48~~ FORTY-EIGHT or  
38 more hours public notice provided.

39 ~~(13)~~ N. A commissioner, during the commissioner's term  
40 of office and for three years thereafter, shall be ineligible  
41 for Arizona public office or for registration as a paid  
42 lobbyist.

43 ~~(14)~~ O. The independent redistricting commission shall  
44 establish congressional and legislative districts. The  
45 commencement of the mapping process for both the congressional

1 and legislative districts shall be the creation of districts of  
2 equal population in a grid-like pattern across the state.  
3 Adjustments to the grid shall then be made as necessary to  
4 accommodate the goals as set forth below:

5 ~~A.~~ 1. Districts shall comply with the United States  
6 Constitution and the United States voting rights act. ~~;~~

7 ~~B.~~ 2. Congressional districts shall have equal  
8 population to the extent practicable, and state legislative  
9 districts shall have equal population to the extent  
10 practicable. ~~;~~

11 ~~C.~~ 3. Districts shall be geographically compact and  
12 contiguous to the extent practicable. ~~;~~

13 ~~D.~~ 4. District boundaries shall respect communities of  
14 interest to the extent practicable. ~~;~~

15 ~~E.~~ 5. To the extent practicable, district lines shall  
16 use visible geographic features, city, town and county  
17 boundaries, and undivided census tracts. ~~;~~

18 ~~F.~~ 6. To the extent practicable, competitive districts  
19 should be favored where to do so would create no significant  
20 detriment to the other goals.

21 ~~(15)~~ P. Party registration and voting history data shall  
22 be excluded from the initial phase of the mapping process but  
23 may be used to test maps for compliance with the above goals.  
24 The places of residence of incumbents or candidates shall not be  
25 identified or considered.

26 ~~(16)~~ Q. The independent redistricting commission shall  
27 advertise a draft map of congressional districts and a draft map  
28 of legislative districts to the public for comment, which  
29 comment shall be taken for at least thirty days. Either or both  
30 bodies of the legislature may act within this period to make  
31 recommendations to the independent redistricting commission by  
32 memorial or by minority report, which recommendations shall be  
33 considered by the independent redistricting commission. The  
34 independent redistricting commission shall then establish final  
35 district boundaries.

36 ~~(17)~~ R. The provisions regarding this section are  
37 self-executing. The independent redistricting commission shall  
38 certify to the secretary of state the establishment of  
39 congressional and legislative districts.

40 ~~(18)~~ S. ~~Upon~~ ON approval of this amendment, the  
41 department of administration or its successor shall make  
42 adequate office space available for the independent  
43 redistricting commission. The STATE treasurer ~~of the state~~  
44 shall make \$6,000,000 available for the work of the independent  
45 redistricting commission pursuant to the year 2000 census.

1 Unused monies shall be returned to the ~~state's~~ STATE general  
2 fund. In years ending in eight or nine after the year 2001, the  
3 department of administration or its successor shall submit to  
4 the legislature a recommendation for an appropriation for  
5 adequate redistricting expenses and shall make available  
6 adequate office space for the operation of the independent  
7 redistricting commission. The legislature shall make the  
8 necessary appropriations by a majority vote.

9 ~~(19)~~ T. The independent redistricting commission, with  
10 fiscal oversight from the department of administration or its  
11 successor, shall have procurement and contracting authority and  
12 may hire staff and consultants for the purposes of this section,  
13 including legal representation.

14 ~~(20)~~ U. The independent redistricting commission shall  
15 have standing in legal actions regarding the redistricting plan  
16 and the adequacy of resources provided for the operation of the  
17 independent redistricting commission. The independent  
18 redistricting commission shall have sole authority to determine  
19 whether the Arizona attorney general or counsel hired or  
20 selected by the independent redistricting commission shall  
21 represent the people of Arizona in the legal defense of a  
22 redistricting plan.

23 ~~(21)~~ V. Members of the independent redistricting  
24 commission are eligible for reimbursement of expenses pursuant  
25 to law, and a member's residence is deemed to be the member's  
26 post of duty for purposes of reimbursement of expenses.

27 ~~(22)~~ W. Employees of the department of administration or  
28 its successor shall not influence or attempt to influence the  
29 district-mapping decisions of the independent redistricting  
30 commission.

31 ~~(23)~~ X. Each commissioner's duties established by this  
32 section expire ~~upon~~ ON the appointment of the first member of  
33 the next redistricting commission. The independent  
34 redistricting commission shall not meet or incur expenses after  
35 the redistricting plan is completed, except if litigation or any  
36 government approval of the plan is pending, or to revise  
37 districts if required by court decisions or if the number of  
38 congressional or legislative districts is changed.

39 2. Article VI, sections 3, 4, 12, 28, 30 and 35, Constitution of  
40 Arizona, are proposed to be amended as follows if approved by the voters and  
41 on proclamation of the Governor:

42 3. Supreme court; administrative supervision; chief  
43 justice

44 Section 3. A. The supreme court shall have  
45 administrative supervision over all the courts of the state.

1 The chief justice shall be elected by the justices of the  
2 supreme court from one of their number for a term of ~~five~~ FOUR  
3 years, and may be reelected for like terms. The vice chief  
4 justice shall be elected by the justices of the supreme court  
5 from one of their number for a term determined by the court. A  
6 member of the court may resign the office of chief justice or  
7 vice chief justice without resigning from the court.

8 B. The chief justice, or in his absence or incapacity,  
9 the vice chief justice, shall exercise the court's  
10 administrative supervision over all the courts of the state. He  
11 may assign judges of intermediate appellate courts, superior  
12 courts, ~~or~~ or courts inferior to the superior court to serve in  
13 other courts or counties.

14 4. Supreme court; term of office; vacancies and  
15 appointments

16 Section 4. A. JUSTICES OF THE SUPREME COURT SHALL BE  
17 NOMINATED AND ELECTED BY THE QUALIFIED ELECTORS OF THE STATE AT  
18 LARGE IN THE SAME MANNER AS OTHER NONPARTISAN ELECTIONS.  
19 Justices of the supreme court shall hold office for a regular  
20 term of ~~six~~ FOUR years except as provided by this article, FROM  
21 AND AFTER THE FIRST MONDAY IN JANUARY NEXT SUCCEEDING THEIR  
22 ELECTION, AND UNTIL THEIR SUCCESSORS ARE ELECTED AND QUALIFY.  
23 THE NAMES OF ALL CANDIDATES FOR JUSTICE OF THE SUPREME COURT  
24 SHALL BE PLACED ON THE REGULAR BALLOT WITHOUT PARTISAN OR OTHER  
25 DESIGNATION EXCEPT THE COURT AND THE TITLE OF THE OFFICE. THE  
26 ELECTION FOR JUSTICES OF THE SUPREME COURT SHALL ONLY OCCUR IN  
27 YEARS THAT DO NOT HAVE A PRESIDENTIAL ELECTION.

28 B. THE GOVERNOR SHALL FILL ANY VACANCY IN OFFICE BY  
29 APPOINTING A PERSON TO SERVE UNTIL THE ELECTION AND  
30 QUALIFICATION OF A SUCCESSOR.

31 12. Superior court; term of office; vacancies and  
32 appointments

33 Section 12. A. Judges of the superior court ~~in counties~~  
34 ~~having a population of less than two hundred fifty thousand~~  
35 ~~persons according to the most recent United States census~~ shall  
36 be elected by the qualified electors of their counties at the  
37 general election. They shall hold office for a regular term of  
38 four years except as provided by this section from and after the  
39 first Monday in January next succeeding their election, and  
40 until their successors are elected and qualify. The names of  
41 all candidates for judge of the superior court ~~in such counties~~  
42 shall be placed on the regular ballot without partisan or other  
43 designation except the division and title of the office. THE  
44 ELECTION FOR JUDGES OF THE SUPERIOR COURT SHALL ONLY OCCUR IN  
45 YEARS THAT HAVE A PRESIDENTIAL ELECTION.

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

7           ~~Judges of the superior court in counties having a~~  
 8 ~~population of two hundred fifty thousand persons or more~~  
 9 ~~according to the most recent United States census shall hold~~  
 10 ~~office for a regular term of four years except as provided by~~  
 11 ~~this article.~~

12           28. Justices and judges; dual office holding;  
 13 political activity; practice of law

14           Section 28. Justices and judges of courts of record shall  
 15 not be eligible for any other public office or for any other  
 16 public employment during their term of office, except that they  
 17 may assume another judicial office, and upon qualifying  
 18 therefor, the office formerly held shall become vacant. No  
 19 justice or judge of any court of record shall practice law  
 20 during his continuance in office, nor shall he hold any office  
 21 in a political party or actively take part in any political  
 22 campaign other than his own for his reelection ~~or retention~~ in  
 23 office. Any justice or judge who files nomination papers for an  
 24 elective office, other than for ~~judge of the superior court or a~~  
 25 ~~court of record inferior to the superior court in a county~~  
 26 ~~having a population of less than two hundred fifty thousand~~  
 27 ~~persons according to the most recent United States census~~  
 28 REELECTION, forfeits his judicial office.

29           30. Courts of record

30           Section 30. ~~A.~~ The supreme court, the court of appeals  
 31 and the superior court shall be courts of record. Other courts  
 32 of record may be established by law, but justice courts shall  
 33 not be courts of record.

34           ~~B. All justices and judges of courts of record, except~~  
 35 ~~for judges of the superior court and other courts of record~~  
 36 ~~inferior to the superior court in counties having a population~~  
 37 ~~of less than two hundred fifty thousand persons according to the~~  
 38 ~~most recent United States census, shall be appointed in the~~  
 39 ~~manner provided in section 37 of this article.~~

40           35. Continuance in office; continued existence of  
 41 offices; application of prior statute and rules

42           Section 35. ~~A.~~ All justices, judges, justices of the  
 43 peace and officers of any court who are holding office as such  
 44 by election or appointment at the time of the adoption of this  
 45 section OR ANY AMENDMENT TO THIS SECTION shall serve or continue

1 in office for the respective terms for which they are so elected  
2 or for their respective unexpired terms, and until their  
3 successors are elected ~~or appointed~~ and qualify ~~or they are~~  
4 ~~retained in office pursuant to section 38 of this article;~~  
5 ~~provided, however,~~ EXCEPT that any justice or judge elected at  
6 the general election at which this section is adopted shall  
7 serve for the term for which he is so elected. The continued  
8 existence of any office heretofore legally established or held  
9 shall not be abolished or repealed by the adoption of this  
10 article. The statutes and rules relating to the authority,  
11 jurisdiction, practice and procedure of courts, judicial  
12 officers and offices in force at the time of the adoption of  
13 this article and not inconsistent herewith, shall, so far as  
14 applicable, apply to and govern such courts, judicial officers  
15 and offices until amended or repealed.

16 ~~B. All judges of the superior court holding office by~~  
17 ~~appointment or retention in counties with a population of two~~  
18 ~~hundred fifty thousand persons or more according to the most~~  
19 ~~recent United States census at the time of the adoption of this~~  
20 ~~amendment to this section shall serve or continue in office for~~  
21 ~~the respective terms for which they were appointed. Upon an~~  
22 ~~incumbent vacating the office of judge of the superior court,~~  
23 ~~whether by failing to file a declaration for retention, by~~  
24 ~~rejection by the qualified electors of the county or~~  
25 ~~resignation, the appointment shall be pursuant to section 37 of~~  
26 ~~this article.~~

27 3. Article VI, sections 36, 37 and 38, Constitution of Arizona, are  
28 proposed to be repealed as follows if approved by the voters and on  
29 proclamation of the Governor:

30 Article VI, section 36, Constitution of Arizona, relating  
31 to the commission on appellate court appointments, is repealed.

32 Article VI, section 37, Constitution of Arizona, relating  
33 to judicial vacancies and appointments, is repealed.

34 Article VI, section 38, Constitution of Arizona, relating  
35 to the declaration of candidacy to be retained in office, is  
36 repealed.

37 4. Article VI, section 39, Constitution of Arizona, is proposed to be  
38 amended as follows if approved by the voters and on proclamation of the  
39 Governor:

40 39. Retirement of justices and judges; vacancies

41 Section 39. A. On attaining the age of seventy years a  
42 justice or judge of a court of record shall retire and his  
43 judicial office shall be vacant, except as otherwise provided in  
44 section 35 of this article. In addition to becoming vacant as  
45 provided in this section, the office of a justice or judge of

1 any court of record becomes vacant upon his death or his  
2 voluntary retirement pursuant to statute or his voluntary  
3 resignation, ~~and also, as provided in section 38 of this~~  
4 ~~article, upon the expiration of his term next following a~~  
5 ~~general election at which a majority of those voting on the~~  
6 ~~question of his retention vote in the negative or for which~~  
7 ~~general election he is required, but fails, to file a~~  
8 ~~declaration of his desire to be retained in office.~~

9 B. This section is alternative to and cumulative with the  
10 methods of removal of judges and justices provided in **ARTICLE**  
11 **6.1 AND ARTICLE 8**, parts 1 and 2 of ~~article 8 and article 6.1 of~~  
12 this Constitution.

13 5. Article VI, sections 40, 41 and 42, Constitution of Arizona, are  
14 proposed to be repealed as follows if approved by the voters and on  
15 proclamation of the Governor:

16 Article VI, section 40, Constitution of Arizona, relating  
17 to the option of certain counties in selecting judges, is  
18 repealed.

19 Article VI, section 41, Constitution of Arizona, relating  
20 to the commission on trial court appointments, is repealed.

21 Article VI, section 42, Constitution of Arizona, relating  
22 to retention evaluation of justices and judges, is repealed.

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