ARIZONA HOUSE OF REPRESENTATIVES

Fifty-sixth Legislature
First Regular Session

HB 2757: court of appeals; retention election
Sponsor: Representative Toma, LD 27
Senate Engrossed

Overview
Replaces the current county-based retention election process for judges on the Arizona Court of Appeals with a statewide retention election process.

History
The Arizona Court of Appeals is the state's intermediate appellate court of record, established by Laws 1964, Chapter 102, § 1 as the first level of appeal from the superior court. It is comprised of two divisions, designated as Division 1, which is based in Phoenix, and Division 2, which is based in Tucson.

Division 1 has 19 judges and consists of Maricopa, Yuma, La Paz, Mohave, Coconino, Yavapai, Navajo and Apache counties. Division 2 has 9 judges and consists of Pima, Pinal, Cochise, Santa Cruz, Greenlee, Graham and Gila counties. Both divisions hear and decide cases in three-judge panels, referred to as departments, and a majority of two out the three judges is sufficient to render a decision (A.R.S. § 12-120).

Court of Appeals judges are appointed by the Governor to initial terms of at least two years pursuant to Ariz. Const. art. VI, § 37 before being subject to a retention election. The voters then consider the judges for retention every six years (A.R.S. § 12-120.01).

Current law provides for county-based residency and retention election requirements for the judges on each division. Of the 19 judges on Division 1, 10 must be residents of and elected for retention by the voters of Maricopa county; 5 must be residents of and elected for retention by the voters of the counties in the division besides Maricopa; and 4 must be at-large judges, which may be residents of any county in the division. If an at-large judge is a resident of Maricopa county, the judge must be elected for retention by the voters of Maricopa county. Otherwise, the judge must be elected for retention by the voters of the other counties in the division besides Maricopa.

Statute outlines a similar process for Division 2. Of its 9 judges, 4 must be residents of and elected for retention by the voters of Pima county; 2 must be residents of and elected for retention by the voters of the counties in the division besides Pima; and 3 must be at-large judges, which may be residents of any county in the division. If an at-large judge is a resident of Pima county, the judge must be elected for retention by the voters of Pima county. Otherwise, the at-large judge must be elected for retention by the voters of the other counties in the division besides Pima (A.R.S. § 12-120.02).

The designated post of duty for judges on Division 1 elected other than in Maricopa county, and similarly for the judges on Division 2 elected other than in Pima county, is deemed to be the judge's place of physical residence (A.R.S. § 12-120.10).

Provisions

1. Removes the county-based retention election requirements for judges on both divisions of the Court of Appeals. (Sec. 1)

2. Requires that each Court of Appeals judge be elected for retention on a statewide basis at the general election next preceding the expiration of the judge's term in office and states that all otherwise eligible registered voters in Arizona are eligible to vote in these races. (Sec. 1)

3. Deems the designated post of duty for Court of Appeals judges in Division 1, excluding Maricopa county, and in Division 2, excluding Pima county, to be the judge's place of physical residence. (Sec. 2)

4. Makes a technical change. (Sec. 2)

Senate Amendments

1. Makes a technical correction.

☐ Prop 105 (45 votes) ☐ Prop 108 (40 votes) ☐ Emergency (40 votes) ☐ Fiscal Note