

REFERENCE TITLE: **appointment commissions; membership**

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SCR 1026

Introduced by
Senator Wadsack

A CONCURRENT RESOLUTION

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE VI, SECTIONS 31, 36 AND 41, CONSTITUTION OF ARIZONA; AMENDING ARTICLE VI.I, SECTION 1, 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, section 31, Constitution of Arizona, is proposed to
4 be amended as follows if approved by the voters and on proclamation of the
5 Governor:

6 31. Judges pro tempore

7 Section 31. A. The legislature may provide for the
8 appointment of ~~members of the bar having~~ ATTORNEYS WHO ARE
9 LICENSED IN THIS STATE AND WHO HAVE the qualifications
10 provided in section 22 of this article as judges pro tempore
11 of courts inferior to the supreme court, except that justices
12 of the peace pro tempore shall have the same qualifications as
13 justices of the peace and do not have to reside in the
14 precinct in which the justice of the peace pro tempore is
15 appointed to serve.

16 B. When serving, any such person shall have all the
17 judicial powers of a regular elected judge of the court to
18 which the person is appointed. A person so appointed shall
19 receive such compensation as may be provided by law. The
20 population limitation of section 10 of this article ~~shall~~ DOES
21 not apply to the appointment of judges pro tempore of the
22 superior court.

23 2. Article VI, section 36, Constitution of Arizona, is proposed to
24 be amended as follows if approved by the voters and on proclamation of the
25 Governor:

26 36. Commission on appellate court appointments and
27 terms, appointments and vacancies on
28 commission

29 Section 36. A. There shall be a nonpartisan commission
30 on appellate court appointments ~~which shall be~~ composed of the
31 chief justice of the supreme court, who shall be chairman,
32 five attorney members, who shall be ~~nominated by the board of~~
33 ~~governors of the state bar of Arizona and~~ appointed by the
34 governor with the advice and consent of the senate in the
35 manner prescribed by law, and ten nonattorney members who
36 shall be appointed by the governor with the advice and consent
37 of the senate in the manner prescribed by law. At least
38 ninety days ~~prior to~~ BEFORE a term expiring or within
39 twenty-one days ~~of~~ AFTER a vacancy occurring for a nonattorney
40 member on the commission for appellate court appointments, the
41 governor shall appoint a nominating committee of nine members,
42 not more than five of whom may be from the same political
43 party. The makeup of the committee ~~shall~~, to the extent
44 feasible, SHALL reflect the diversity of the population of ~~the~~
45 THIS state. Members shall not be attorneys and shall not hold

1 any governmental office, elective or appointive, for profit.
2 The committee shall provide public notice that a vacancy
3 exists and shall solicit, review and forward to the governor
4 all applications along with the committee's recommendations
5 for appointment.

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

27 ~~B.~~ C. No person other than the chief justice shall
28 serve at the same time as a member of more than one judicial
29 appointment commission.

30 ~~C.~~ D. In making or confirming appointments to the
31 appellate court commission, the governor, ~~AND~~ the senate ~~and~~
32 ~~the state bar~~ shall ~~endeavor to see~~ ENSURE that the commission
33 reflects the diversity of ~~Arizona's~~ THIS STATE'S population.

34 E. In the event of the absence or incapacity of the
35 chairman the supreme court shall appoint a justice ~~thereof~~ OF
36 THE SUPREME COURT to serve in ~~his~~ THE CHAIRMAN'S place and
37 stead.

38 ~~D.~~ F. ~~Prior to~~ BEFORE making recommendations to the
39 governor as hereinafter provided, the commission shall conduct
40 investigations, hold public hearings and take public
41 testimony. An executive session as prescribed by rule may be
42 held upon a two-thirds vote of the members of the commission
43 in a public hearing. Final decisions as to recommendations
44 shall be made without regard to political affiliation in an
45 impartial and objective manner. The commission shall consider

1 the diversity of ~~the~~ THIS state's population, however the
2 primary consideration shall be merit. Voting shall be in a
3 public hearing. The expenses of meetings of the commission
4 and the attendance of members ~~thereof~~ for travel and
5 subsistence shall be paid from the ~~general fund of the~~ state
6 GENERAL FUND as state officers are paid, ~~upon~~ ON claims
7 approved by the chairman.

8 ~~F.~~ G. After public hearings the supreme court shall
9 adopt rules of procedure for the commission on appellate court
10 appointments.

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

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

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

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

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

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

26 ~~G.~~ H. The members currently serving on the commission
27 ON THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION may
28 continue to serve until the expiration of their normal
29 terms. All subsequent appointments shall be made as
30 prescribed by this section.

31 3. Article VI, section 41, Constitution of Arizona, is proposed to
32 be amended as follows if approved by the voters and on proclamation of the
33 Governor:

34 41. Superior court divisions; commission on trial
35 court appointments; membership; terms

36 A. Except as otherwise provided, judges of the superior
37 court in counties having a population of two hundred fifty
38 thousand persons or more according to the most recent United
39 States census shall hold office for a regular term of four
40 years.

41 B. There shall be a nonpartisan commission on trial
42 court appointments for each county having a population of two
43 hundred fifty thousand persons or more according to the most
44 recent United States census which shall be composed of the
45 following members:

1 1. The chief justice of the supreme court, who shall be
2 the chairman of the commission. In the event of the absence
3 or incapacity of the chairman the supreme court shall appoint
4 a justice ~~thereof~~ OF THE SUPREME COURT to serve in ~~his~~ THE
5 CHAIRMAN'S place and stead.

6 2. Five attorney members, none of whom shall reside in
7 the same supervisorial district and not more than three of
8 whom shall be members of the same political party, who are
9 ~~nominated by the board of governors of the state bar of~~
10 ~~Arizona and who are~~ appointed by the governor subject to
11 confirmation by the senate in the manner prescribed by law.

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

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

32 D. In making or confirming appointments to trial court
33 commissions, the governor, ~~AND~~ the senate ~~and the state bar~~
34 shall endeavor to see that the commission reflects the
35 diversity of the county's population.

36 E. Members of the commission shall serve staggered four
37 year terms. ~~, except that initial appointments for the five~~
38 ~~additional nonattorney members and the two additional attorney~~
39 ~~members of the commission shall be designated by the governor~~
40 ~~as follows:~~

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

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

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

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

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

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

9 G. Attorney members of the commission shall have
10 resided in this state and shall have been admitted to practice
11 in this state by the supreme court for at least five years and
12 shall have resided in the supervisorial district from which
13 they are appointed for at least one year. Nonattorney members
14 shall have resided in this state for at least five years,
15 shall have resided in the supervisorial district for at least
16 one year before being nominated and shall not be judges,
17 retired judges ~~nor~~ OR admitted to practice before the supreme
18 court. None of the attorney or nonattorney members of the
19 commission shall hold any governmental office, elective or
20 appointive, for profit and no attorney member is eligible for
21 appointment to any judicial office of this state until one
22 year after membership in the commission terminates.

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

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

29 J. ~~Prior to~~ BEFORE making recommendations to the
30 governor, the commission shall conduct investigations, hold
31 public hearings and take public testimony. An executive
32 session as prescribed by rule may be held ~~upon~~ ON a two-thirds
33 vote of the members of the commission in a public hearing.
34 Final decisions as to recommendations shall be made without
35 regard to political affiliation in an impartial and objective
36 manner. The commission shall consider the diversity of the
37 county's population and the geographical distribution of the
38 residences of the judges throughout the county, however the
39 primary consideration shall be merit. Voting shall be in a
40 public hearing. The expenses of meetings of the commission
41 and the attendance of members thereof for travel and
42 subsistence shall be paid from the ~~general fund of the~~ state
43 GENERAL FUND as state officers are paid, ~~upon~~ claims approved
44 by the chairman.

1 K. After public hearings the supreme court shall adopt
2 rules of procedure for the commission on trial court
3 appointments.

4 ~~L. The members of the commission who were appointed
5 pursuant to section 36 of this article prior to the effective
6 date of this section may continue to serve until the
7 expiration of their normal terms. All subsequent appointments
8 shall be made as prescribed by this section.~~

9 4. Article VI.I, section 1, Constitution of Arizona, is proposed to
10 be amended as follows if approved by the voters and on proclamation of the
11 Governor:

12 1. Composition; appointment; term; vacancies

13 Section 1. A. A commission on judicial conduct is
14 ~~created to be~~ ESTABLISHED AND composed of eleven persons
15 consisting of two judges of the court of appeals, two judges
16 of the superior court, one justice of the peace and one
17 municipal court judge, who shall be appointed by the supreme
18 court, two members ~~of the~~ WHO ARE LICENSED ATTORNEYS IN THIS
19 state ~~bar of Arizona, who shall be appointed by the governing~~
20 ~~body of such bar association,~~ and three citizens who are not
21 judges, retired judges ~~nor members of the~~ OR ATTORNEYS
22 LICENSED IN THIS state ~~bar of Arizona,~~ who shall be appointed
23 by the governor subject to confirmation by the senate in the
24 manner prescribed by law.

25 B. Terms of members of the commission shall be six
26 years, ~~except that initial terms of two members appointed by~~
27 ~~the supreme court and one member appointed by the state bar of~~
28 ~~Arizona for terms which begin in January, 1991 shall be for~~
29 ~~two years and initial terms of one member appointed by the~~
30 ~~supreme court and one member appointed by the state bar of~~
31 ~~Arizona for terms which begin in January, 1991 shall be for~~
32 ~~four years.~~ If a member ceases to hold the position that
33 qualified ~~him~~ THE PERSON for appointment ~~his~~ THE PERSON'S
34 membership on the commission terminates. An appointment to
35 fill a vacancy for an unexpired term shall be made for the
36 remainder of the term by the appointing power of the original
37 appointment.

38 5. The Secretary of State shall submit this proposition to the
39 voters at the next general election as provided by article XXI,
40 Constitution of Arizona.