

Senate Engrossed

appointment commissions; membership

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

## **SENATE CONCURRENT RESOLUTION 1026**

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~~ **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 ~~पर~~ 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 ~~पर~~ 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, ~~पर~~ 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.