

Senate Engrossed  
judicial retention elections

State of Arizona  
Senate  
Fifty-sixth Legislature  
Second Regular Session  
2024

## **SENATE CONCURRENT RESOLUTION 1044**

A CONCURRENT RESOLUTION

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE VI, SECTIONS 4, 9, 12, 37, 38, 39, 41 AND 42, 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 4, Constitution of Arizona, is proposed to  
4 be amended as follows if approved by the voters and on proclamation of the  
5 Governor:

6 4. Supreme court; term of office

7 Section 4. Justices of the supreme court shall hold  
8 office ~~for a regular term of six years~~ DURING GOOD BEHAVIOR,  
9 except as provided by this article.

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

13 9. Intermediate appellate courts

14 Section 9. The jurisdiction, powers, duties and  
15 composition of any intermediate appellate court shall be as  
16 provided by law. JUDGES OF INTERMEDIATE APPELLATE COURTS  
17 SHALL HOLD OFFICE DURING GOOD BEHAVIOR, EXCEPT AS PROVIDED BY  
18 THIS ARTICLE.

19 3. Article VI, section 12, Constitution of Arizona, is proposed to  
20 be amended as follows if approved by the voters and on proclamation of the  
21 Governor:

22 12. Superior court; term of office

23 Section 12. A. Judges of the superior court in  
24 counties having a population of less than two hundred fifty  
25 thousand persons according to the most recent United States  
26 census shall be elected by the qualified electors of their  
27 counties at the general election. They shall hold office for  
28 a regular term of four years except as provided by this  
29 section from and after the first Monday in January next  
30 succeeding their election, and until their successors are  
31 elected and qualify. The names of all candidates for judge of  
32 the superior court in such counties shall be placed on the  
33 regular ballot without partisan or other designation except  
34 the division and title of the office.

35 B. The governor shall fill any vacancy in such counties  
36 by appointing a person to serve until the election and  
37 qualification of a successor. At the next succeeding general  
38 election following the appointment of a person to fill a  
39 vacancy, a judge shall be elected to serve for the remainder  
40 of the unexpired term.

41 Judges of the superior court in counties having a  
42 population of two hundred fifty thousand persons or more  
43 according to the most recent United States census shall hold  
44 office ~~for a regular term of four years~~ DURING GOOD BEHAVIOR,  
45 except as provided by this article.

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

4           37. Judicial vacancies and appointments; residence;  
5           age

6           Section 37. A. Within sixty days from the occurrence of  
7 a vacancy in the office of a justice or judge of any court of  
8 record, except for vacancies occurring in the office of a  
9 judge of the superior court or a judge of a court of record  
10 inferior to the superior court, the commission on appellate  
11 court appointments, if the vacancy is in the supreme court or  
12 an intermediate appellate court of record, shall submit to the  
13 governor the names of not less than three persons nominated by  
14 it to fill such vacancy, ~~no~~ NOT more than two of whom shall be  
15 members of the same political party unless there are more than  
16 four such nominees, in which event not more than sixty  
17 ~~percentum~~ PERCENT of such nominees shall be members of the  
18 same political party.

19           B. Within sixty days from the occurrence of a vacancy  
20 in the office of a judge of the superior court or a judge of a  
21 court of record inferior to the superior court except for  
22 vacancies occurring in the office of a judge of the superior  
23 court or a judge of a court of record inferior to the superior  
24 court in a county having a population of less than two hundred  
25 fifty thousand persons according to the most recent United  
26 States census, the commission on trial court appointments for  
27 the county in which the vacancy occurs shall submit to the  
28 governor the names of not less than three persons nominated by  
29 it to fill such vacancy, ~~no~~ NOT more than two of whom shall be  
30 members of the same political party unless there are more than  
31 four such nominees, in which event ~~no~~ NOT more than sixty ~~per~~  
32 ~~centum~~ PERCENT of such nominees shall be members of the same  
33 political party. A nominee shall be under sixty-five years of  
34 age at the time ~~his~~ THE NOMINEE'S name is submitted to the  
35 governor. Judges of the superior court shall be subject to  
36 retention or rejection by a vote of the qualified electors of  
37 the county from which they were appointed at the general  
38 election UNDER THE CONDITIONS AND in the manner provided by  
39 section 38 of this article.

40           C. A vacancy in the office of a justice or a judge of  
41 such courts of record shall be filled by appointment by the  
42 governor without regard to political affiliation from one of  
43 the nominees whose names ~~shall be~~ ARE submitted to ~~him~~ THE  
44 GOVERNOR as hereinabove provided. In making the appointment,  
45 the governor shall consider the diversity of the state's

1 population for an appellate court appointment and the  
 2 diversity of the county's population for a trial court  
 3 appointment, however the primary consideration shall be  
 4 merit. If the governor does not appoint one of such nominees  
 5 to fill such vacancy within sixty days after their names are  
 6 submitted to the governor by such commission, the chief  
 7 justice of the supreme court forthwith shall appoint on the  
 8 basis of merit alone without regard to political affiliation  
 9 one of such nominees to fill such vacancy. If such commission  
 10 does not, within sixty days after such vacancy occurs, submit  
 11 the names of nominees as hereinabove provided, the governor  
 12 shall have the power to appoint any qualified person to fill  
 13 such vacancy at any time thereafter prior to the time the  
 14 names of the nominees to fill such vacancy are submitted to  
 15 the governor as hereinabove provided. ~~Each justice or judge~~  
 16 ~~so appointed shall initially hold office for a term ending~~  
 17 ~~sixty days following the next regular general election after~~  
 18 ~~the expiration of a term of two years in office. Thereafter,~~  
 19 ~~the terms of justices or judges of the supreme court and the~~  
 20 ~~superior court shall be as provided by this article.~~

21 D. A person appointed to fill a vacancy on an  
 22 intermediate appellate court or another court of record now  
 23 existing or hereafter established by law shall have been a  
 24 resident of the counties or county in which that vacancy  
 25 exists for at least one year ~~prior to his~~ BEFORE THE PERSON'S  
 26 appointment, in addition to possessing the other required  
 27 qualifications. A nominee shall be under sixty-five years of  
 28 age at the time ~~his~~ THE NOMINEE'S name is submitted to the  
 29 governor.

30 5. Article VI, section 38, Constitution of Arizona, is proposed to  
 31 be amended as follows if approved by the voters and on proclamation of the  
 32 Governor:

33 38. Declaration of candidacy; form of judicial  
 34 ballot, rejection and retention; failure to  
 35 file declaration

36 Section 38. A. ~~ANY~~ ANY justice or judge of the supreme  
 37 court or an intermediate appellate court ~~shall file in the~~  
 38 ~~office of the secretary of state~~, and ~~a~~ ANY judge of the  
 39 superior court or other court of record including such  
 40 justices or judges who are holding office as such by election  
 41 or appointment at the time of the adoption of this section OR  
 42 ANY AMENDMENT TO THIS SECTION except for judges of the  
 43 superior court and other courts of record inferior to the  
 44 superior court in counties having a population of less than  
 45 two hundred fifty thousand persons, according to the United

1 States census, shall BE SUBJECT TO A VOTE OF RETENTION ON THE  
2 OCCURRENCE OF ANY OF THE FOLLOWING:

3 1. A CONVICTION OF A FELONY OFFENSE.

4 2. A CONVICTION OF ANY CRIME INVOLVING FRAUD OR  
5 DISHONESTY.

6 3. AN INITIATION OF PERSONAL BANKRUPTCY PROCEEDINGS IN  
7 WHICH THE JUSTICE OR JUDGE IS A DEBTOR.

8 4. A FORECLOSURE OF ANY MORTGAGE FOR WHICH THE JUSTICE  
9 OR JUDGE IS A MORTGAGOR.

10 5. A DETERMINATION PURSUANT TO SECTION 42 OF THIS  
11 ARTICLE THAT THE JUSTICE OR JUDGE DOES NOT MEET JUDICIAL  
12 PERFORMANCE STANDARDS.

13 B. A JUSTICE OR JUDGE OF THE SUPREME COURT OR AN  
14 INTERMEDIATE APPELLATE COURT WHO IS SUBJECT TO A VOTE OF  
15 RETENTION PURSUANT TO SUBSECTION A OF THIS SECTION SHALL FILE  
16 IN THE OFFICE OF THE SECRETARY OF STATE, AND A JUDGE OF THE  
17 SUPERIOR COURT WHO IS SUBJECT TO A VOTE OF RETENTION PURSUANT  
18 TO SUBSECTION A OF THIS SECTION SHALL file in the office of  
19 the clerk of the board of supervisors of the county in which  
20 ~~he~~ THE JUSTICE OR JUDGE regularly sits and resides, not less  
21 than sixty nor more than ninety days ~~prior to~~ BEFORE the  
22 regular general election ~~next preceding the expiration of his~~  
23 ~~term of office~~ SUBSEQUENT TO THE EVENT REQUIRING A VOTE OF  
24 RETENTION, a declaration of ~~his~~ THE JUSTICE'S OR JUDGE'S  
25 desire to be retained in office, and the secretary of state  
26 shall certify to the several boards of supervisors the  
27 appropriate names of the candidate or candidates appearing on  
28 such declarations filed in ~~his~~ THE JUSTICE'S OR JUDGE'S  
29 office, EXCEPT THAT IF THE EVENT REQUIRING A VOTE OF RETENTION  
30 OCCURS LESS THAN ONE HUNDRED TWENTY DAYS BEFORE A REGULAR  
31 GENERAL ELECTION, THE DECLARATION SHALL BE FILED NOT LESS THAN  
32 SIXTY NOR MORE THAN NINETY DAYS BEFORE THE NEXT ENSUING  
33 REGULAR GENERAL ELECTION. NOT LATER THAN ONE HUNDRED TWENTY  
34 DAYS BEFORE A REGULAR GENERAL ELECTION, THE CHIEF JUSTICE OF  
35 THE SUPREME COURT SHALL PROVIDE TO THE SECRETARY OF STATE A  
36 LIST OF ALL JUSTICES OR JUDGES WHO ARE SUBJECT TO A VOTE OF  
37 RETENTION AT SUCH ELECTION PURSUANT TO SUBSECTION A OF THIS  
38 SECTION. THE DETERMINATION OF WHETHER A JUSTICE OR JUDGE IS  
39 SUBJECT TO RETENTION SHALL BE MADE BY THE CHIEF JUSTICE OF THE  
40 SUPREME COURT, EXCEPT THAT, WITH RESPECT TO ANY EVENT  
41 REQUIRING A VOTE OF RETENTION INVOLVING THE CHIEF JUSTICE OF  
42 THE SUPREME COURT, THE DETERMINATION SHALL BE MADE BY THE VICE  
43 CHIEF JUSTICE OF THE SUPREME COURT.

1           ~~B.~~ C. The name of any justice or judge whose  
2 declaration is filed as provided in this section shall be  
3 placed on the appropriate official ballot at the next regular  
4 general election under a nonpartisan designation and in  
5 substantially the following form:

6           Shall \_\_\_\_\_, (Name of justice or judge) of the  
7 \_\_\_\_\_ court be retained in office? Yes \_\_\_ No \_\_\_ (Mark X  
8 after one).

9           ~~C.~~ D. If a majority of those voting on the question  
10 votes "No," ~~then, upon the expiration of the term for which~~  
11 ~~such justice or judge was serving~~ ON JANUARY 1 OF THE YEAR  
12 FOLLOWING THE GENERAL ELECTION, a vacancy shall exist, which  
13 shall be filled as provided by this article. If a majority of  
14 those voting on the question votes "Yes," such justice or  
15 judge shall remain in office ~~for another term~~, subject to  
16 removal as provided by this constitution.

17           ~~D.~~ E. The votes shall be counted and canvassed and the  
18 result declared as in the case of state and county elections,  
19 whereupon a certificate of retention or rejection of the  
20 incumbent justice or judge shall be delivered to ~~him~~ THE  
21 INCUMBENT by the secretary of state or the clerk of the board  
22 of supervisors, as the case may be.

23           ~~E.~~ F. If a justice or JUDGE WHO IS SUBJECT TO  
24 RETENTION PURSUANT TO SUBSECTION A OF THIS SECTION fails to  
25 file a declaration of ~~his~~ THE JUSTICE'S OR JUDGE'S desire to  
26 be retained in office, as required by ~~this section~~  
27 SUBSECTION B OF THIS SECTION, ~~then his~~ THE JUSTICE'S OR  
28 JUDGE'S office shall become vacant ~~upon expiration of the term~~  
29 ~~for which such justice or judge was serving~~ ON JANUARY 1 OF  
30 THE YEAR FOLLOWING THE GENERAL ELECTION IN WHICH THE JUSTICE  
31 OR JUDGE WOULD HAVE BEEN A CANDIDATE FOR RETENTION.

32           G. ANY JUDGE OF AN INTERMEDIATE APPELLATE COURT WHO IS  
33 SUBJECT TO A VOTE OF RETENTION PURSUANT TO SUBSECTION A OF  
34 THIS SECTION SHALL BE ELECTED FOR RETENTION ON A STATEWIDE  
35 BASIS AND ALL OTHERWISE ELIGIBLE REGISTERED VOTERS IN THIS  
36 STATE ARE ELIGIBLE TO VOTE ON SUCH RETENTION ELECTIONS.

37           6. Article VI, section 39, Constitution of Arizona, is proposed to  
38 be 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~~ THE  
43 JUSTICE'S OR JUDGE'S judicial office shall be vacant, except  
44 as otherwise provided in section 35 of this article. In  
45 addition to becoming vacant as provided in this section, the

1 office of a justice or judge of any court of record becomes  
2 vacant ~~upon his~~ ON THE JUSTICE'S OR JUDGE'S death or ~~his~~ THE  
3 JUSTICE'S OR JUDGE'S voluntary retirement pursuant to statute  
4 or ~~his~~ THE JUSTICE'S OR JUDGE'S voluntary resignation, and  
5 also, IF SUBJECT TO A VOTE OF RETENTION as provided in section  
6 38 of this article, ~~upon the expiration of his term~~ ON JANUARY  
7 1 OF THE YEAR next following a general election at which a  
8 majority of those voting on the question of ~~his~~ THE JUSTICE'S  
9 OR JUDGE'S retention vote in the negative or for which general  
10 election ~~he~~ THE JUSTICE OR JUDGE is required, but fails, to  
11 file a declaration of ~~his~~ THE JUSTICE'S OR JUDGE'S desire to  
12 be retained in office.

13 B. This section is alternative to and cumulative with  
14 the methods of removal of judges and justices provided in  
15 ARTICLE VI.I AND ARTICLE VIII, parts 1 and 2 ~~of article 8 and~~  
16 ~~article 6.1~~ of this Constitution.

17 7. Article VI, section 41, Constitution of Arizona, is  
18 proposed to be amended as follows if approved by the voters and on  
19 proclamation of the Governor:

20 41. Superior court divisions; commission on trial  
21 court appointments; membership; terms

22 Section 41. A. Except as otherwise provided, judges of  
23 the superior court in counties having a population of two  
24 hundred fifty thousand persons or more according to the most  
25 recent United States census shall hold office ~~for a regular~~  
26 ~~term of four years~~ DURING GOOD BEHAVIOR.

27 B. There shall be a nonpartisan commission on trial  
28 court appointments for each county having a population of two  
29 hundred fifty thousand persons or more according to the most  
30 recent United States census which shall be composed of the  
31 following members:

32 1. The chief justice of the supreme court, who shall be  
33 the chairman of the commission. In the event of the absence  
34 or incapacity of the chairman the supreme court shall appoint  
35 a justice thereof to serve in his place and stead.

36 2. Five attorney members, none of whom shall reside in  
37 the same supervisorial district and not more than three of  
38 whom shall be members of the same political party, who are  
39 nominated by the board of governors of the state bar of  
40 Arizona and who are appointed by the governor subject to  
41 confirmation by the senate in the manner prescribed by law.

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

1 C. At least ninety days ~~prior to~~ BEFORE a term expiring  
2 or within twenty-one days of a vacancy occurring for a  
3 nonattorney member on the commission for trial court  
4 appointments, the member of the board of supervisors from the  
5 district in which the vacancy has occurred shall appoint a  
6 nominating committee of seven members who reside in the  
7 district, not more than four of whom may be from the same  
8 political party. The ~~make-up~~ MAKEUP of the committee ~~shall~~,  
9 to the extent feasible, SHALL reflect the diversity of the  
10 population of the district. Members shall not be attorneys  
11 and shall not hold any governmental office, elective or  
12 appointive, for profit. The committee shall provide public  
13 notice that a vacancy exists and shall solicit, review and  
14 forward to the governor all applications along with the  
15 committee's recommendations for appointment. The governor  
16 shall appoint two persons from each supervisorial district who  
17 shall not be of the same political party, subject to  
18 confirmation by the senate in the manner prescribed by law.

19 D. In making or confirming appointments to trial court  
20 commissions, the governor, the senate and the state bar shall  
21 endeavor to see that the commission reflects the diversity of  
22 the county's population.

23 E. Members of the commission shall serve staggered four  
24 year terms, except that initial appointments for the five  
25 additional nonattorney members and the two additional attorney  
26 members of the commission shall be designated by the governor  
27 as follows:

28 1. One appointment for a nonattorney member shall be  
29 for a one-year term.

30 2. Two appointments for nonattorney members shall be  
31 for a two-year term.

32 3. Two appointments for nonattorney members shall be  
33 for a three-year term.

34 4. One appointment for an attorney member shall be for  
35 a one-year term.

36 5. One appointment for an attorney member shall be for  
37 a two-year term.

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

40 G. Attorney members of the commission shall have  
41 resided in this state and shall have been admitted to practice  
42 in this state by the supreme court for at least five years and  
43 shall have resided in the supervisorial district from which  
44 they are appointed for at least one year. Nonattorney members  
45 shall have resided in this state for at least five years,



1 shall have resided in the supervisory district for at least  
2 one year before being nominated and shall not be judges,  
3 retired judges nor admitted to practice before the supreme  
4 court. None of the attorney or nonattorney members of the  
5 commission shall hold any governmental office, elective or  
6 appointive, for profit and no attorney member is eligible for  
7 appointment to any judicial office of this state until one  
8 year after membership in the commission terminates.

9 H. No person other than the chief justice shall serve  
10 at the same time as a member of more than one judicial  
11 appointment commission.

12 I. The commission shall submit the names of not less  
13 than three individuals for nomination for the office of ~~the~~  
14 superior court judge pursuant to section 37 of this article.

15 J. ~~Prior to~~ BEFORE making recommendations to the  
16 governor, the commission shall conduct investigations, hold  
17 public hearings and take public testimony. An executive  
18 session as prescribed by rule may be held upon a two-thirds  
19 vote of the members of the commission in a public hearing.  
20 Final decisions as to recommendations shall be made without  
21 regard to political affiliation in an impartial and objective  
22 manner. The commission shall consider the diversity of the  
23 county's population and the geographical distribution of the  
24 residences of the judges throughout the county, however the  
25 primary consideration shall be merit. Voting shall be in a  
26 public hearing. The expenses of meetings of the commission  
27 and the attendance of members thereof for travel and  
28 subsistence shall be paid from the general fund of the state  
29 as state officers are paid, upon claims approved by the  
30 chairman.

31 K. After public hearings the supreme court shall adopt  
32 rules of procedure for the commission on trial court  
33 appointments.

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

39 8. Article VI, section 42, Constitution of Arizona, is proposed to  
40 be amended as follows if approved by the voters and on proclamation of the  
41 Governor:

42 42. Retention evaluation of judges

43 Section 42. The supreme court shall adopt, after public  
44 hearings, and administer for all ~~justices and judges who file~~  
45 ~~a declaration to be retained in office,~~ OF THE SUPERIOR COURT

1 IN A COUNTY WITH A POPULATION OF TWO HUNDRED FIFTY THOUSAND  
2 PERSONS OR MORE ACCORDING TO THE MOST RECENT UNITED STATES  
3 CENSUS OR IN A COUNTY WITH A POPULATION OF LESS THAN TWO  
4 HUNDRED FIFTY THOUSAND PERSONS ACCORDING TO THE MOST RECENT  
5 UNITED STATES CENSUS THAT CHOOSES TO SELECT ITS JUDGES OF THE  
6 SUPERIOR COURT AS IF IT HAD A POPULATION OF TWO HUNDRED FIFTY  
7 THOUSAND PERSONS OR MORE a process, established by court rules  
8 for evaluating judicial performance. The rules shall PROVIDE  
9 THAT EACH JUDGE SHALL BE EVALUATED NOT LESS FREQUENTLY THAN  
10 EVERY FOUR YEARS FROM THE YEAR OF FIRST APPOINTMENT, AND SHALL  
11 include written performance standards and performance reviews  
12 which survey opinions of persons who have knowledge of the  
13 ~~justice's~~ or judge's performance. The public shall be  
14 afforded a full and fair opportunity for participation in the  
15 evaluation process through public hearings, dissemination of  
16 evaluation reports to voters and any other methods as the  
17 court deems advisable.

18 Sec. 9. Retroactivity

19 If approved by a majority of the votes cast thereon, this act  
20 applies retroactively to from and after October 31, 2024, and the returns  
21 of any votes of retention or rejection in the general election held on  
22 November 5, 2024 shall not be included in the official canvass or result  
23 in the issuance of any certificate of retention or rejection.

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