

ASSEMBLY JOINT RESOLUTION NO. 12—COMMITTEE
ON CONSTITUTIONAL AMENDMENTS

(ON BEHALF OF ADMINISTRATIVE OFFICE OF THE COURTS)

MARCH 26, 2001

Referred to Committee on Constitutional Amendments

SUMMARY—Proposes to amend Nevada Constitution to establish intermediate appellate court and revise term of person appointed to fill vacancy in office for supreme court justice, court of appeals judge or district judge. (BDR C-523)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

ASSEMBLY JOINT RESOLUTION—Proposing to amend the Constitution of the State of Nevada to establish an intermediate appellate court and revise the term of a person appointed to fill a vacancy in an office for supreme court justice, court of appeals judge or district judge.

1 RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA,
2 JOINTLY, That a new section be added to article 6 and sections 1, 4, 7, 8,
3 11, 15, 20 and 21 of article 6 of the Constitution of the State of Nevada be
4 amended to read respectively as follows:
5 ***Sec. 3A. 1. The court of appeals must consist of three judges or***
6 ***such greater number as the legislature may provide by law. If the number***
7 ***of judges is so increased, the supreme court may provide by rule for the***
8 ***assignment of each appeal to a panel of not less than three judges for***
9 ***decision.***
10 ***2. After the initial terms, each judge of the court of appeals must be***
11 ***elected by the qualified electors of this state at the general election for a***
12 ***term of 6 years beginning on the first Monday of January next after the***
13 ***election. The initial judges must be elected by the qualified electors of***
14 ***this state at the first general election following the enactment of this***
15 ***section. The initial terms of the judges must be staggered so that at least***
16 ***one judge serves for an initial term of 2 years, at least one serves for an***
17 ***initial term of 4 years and at least one serves for an initial term of 6***
18 ***years. The initial judges shall meet as soon as practicable after their***
19 ***election to determine by lot the term of office that each judge will fill. If***
20 ***there is an increase in the number of judges, each additional judge must***



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1 *be elected by the qualified electors of this state at the first general*
2 *election following the increase for a term beginning on the first Monday*
3 *of January next after the election. The legislature shall provide for an*
4 *initial term of 6 or fewer years for each additional judge so that one-third*
5 *of the total number of judges, as nearly as may be, is elected every 2*
6 *years. If the number of judges is increased by more than one, the*
7 *additional judges shall meet as soon as practicable after their election to*
8 *determine by lot the term of office that each judge will fill.*

9 3. *The supreme court shall appoint one of the judges of the court of*
10 *appeals to be chief judge. The chief judge serves a term of 4 years and*
11 *may succeed himself. The chief judge may resign his position as chief*
12 *judge without resigning from the court of appeals.*

13 4. *The supreme court may provide by rule for the assignment of one*
14 *or more judges of the court of appeals to devote a part of their time to*
15 *serve as supplemental district judges, where needed.*

16 Section 1. The Judicial power of this State ~~shall be~~ *is* vested in a
17 court system, comprising a Supreme Court, *a Court of Appeals*, District
18 Courts ~~and~~ and Justices of the Peace. The Legislature may also establish, as
19 part of the system, Courts for municipal purposes only in incorporated
20 cities and towns.

21 Sec. 4. 1. The supreme court ~~shall~~ *and the court of appeals* have
22 appellate jurisdiction in all civil cases arising in district courts, and also on
23 questions of law alone in all criminal cases in which the offense charged is
24 within the original jurisdiction of the district courts. *The legislature shall*
25 *fix the jurisdiction of the court of appeals and, where appropriate,*
26 *provide for the review by the supreme court of appeals decided by the*
27 *court of appeals.* The supreme court ~~shall~~ *and court of appeals* also have
28 power to issue writs of mandamus, certiorari, prohibition, quo warranto ~~and~~
29 and habeas corpus and also all writs necessary or proper to the complete
30 exercise of ~~its appellate~~ *their* jurisdiction. Each ~~of the justices shall have~~
31 ~~power to~~ *justice of the supreme court and each judge of the court of*
32 *appeals may* issue writs of habeas corpus to any part of the state, upon
33 petition by, or on behalf of, any person held in actual custody ~~in~~ *in this*
34 *state* and may make such writs returnable, before ~~himself~~ *the issuing*
35 *justice or judge* or the ~~supreme court,~~ *court of which the justice or judge*
36 *is a member,* or before any district court in the state or ~~before~~ any judge
37 of ~~said courts,~~ *a district court.*

38 2. In case of the disability or disqualification, for any cause, of ~~the~~
39 ~~chief justice or one of the associate justices~~ *a justice* of the supreme court,
40 ~~for any two of them,~~ the governor ~~is authorized and empowered to~~
41 ~~designate any~~ *may designate a* district judge ~~or judges~~ *or a judge of the*
42 *court of appeals* to sit in the place ~~for places of such~~ *of the* disqualified or
43 disabled justice. ~~for justices, and said judge or judges so designated shall~~
44 ~~receive their~~ *The judge designated by the governor is entitled to receive*
45 *his* actual expense of travel and otherwise while sitting in the supreme
46 court.

47 3. *In case of the disability or disqualification, for any cause, of a*
48 *judge of the court of appeals, the governor may designate a district judge*



1 *to sit in the place of the disabled or disqualified judge. The judge that the*
2 *governor designates is entitled to receive his actual expense of travel and*
3 *otherwise while sitting in the court of appeals.*

4 4. *The supreme court may provide by rule for the assignment of one*
5 *or more justices of the supreme court to devote a part of their time to*
6 *serve as supplemental judges of the court of appeals or district judges,*
7 *where needed.*

8 Sec. 7. The times of holding the Supreme Court , *the Court of*
9 *Appeals* and *the* District Courts ~~shall~~ *must* be as fixed by law. The terms
10 of the Supreme Court ~~shall~~ *must* be held at the seat of Government unless
11 the Legislature otherwise provides by law, except that the Supreme Court
12 may hear oral argument at other places in the state. *The terms of the Court*
13 *of Appeals must be held at the place provided by law.* The terms of the
14 District Courts ~~shall~~ *must* be held at the County seats of their respective
15 counties unless the Legislature otherwise provides by law.

16 Sec. 8. 1. The Legislature shall determine the number of Justices of
17 the Peace to be elected in each city and township of the State ~~it~~ and shall
18 fix by law their qualifications, their terms of office and the limits of their
19 civil and criminal jurisdiction, according to the amount in controversy, the
20 nature of the case, the penalty provided ~~it~~ or any combination of these.

21 2. The provisions of this section affecting the number, qualifications,
22 terms of office and jurisdiction of Justices of the Peace become effective
23 on the first Monday of January, 1979.

24 3. The Legislature shall also prescribe by law the manner, and
25 determine the cases in which appeals may be taken from Justices and other
26 courts. The Supreme Court, *the Court of Appeals*, the District Courts ~~it~~
27 and such other Courts ~~it~~ as the Legislature ~~shall designate, shall be~~
28 *designates are* Courts of Record.

29 Sec. 11. The justices of the supreme court , *the judges of the court of*
30 *appeals* and the district judges ~~shall be~~ *are* ineligible to any office, other
31 than a judicial office, during the term for which they ~~shall~~ have been
32 elected or appointed ~~it~~ , and all elections or appointments of any such
33 judges by the people, legislature ~~it~~ or otherwise ~~it~~ during said period ~~it~~ to
34 any office other than judicial ~~it shall be~~ *are* void.

35 ~~See:~~ Sec. 15. The Justices of the Supreme Court , *the Judges of the*
36 *Court of Appeals* and District Judges ~~shall~~ *are* each *entitled to* receive for
37 their services a compensation to be fixed by law and paid in the manner
38 provided by law, which ~~shall~~ *must* not be increased or diminished during
39 the term for which they ~~shall~~ have been elected, unless a Vacancy occurs,
40 in which case the successor of the former incumbent ~~shall~~ *is entitled to*
41 receive only such salary as may be provided by law at the time of his
42 election or appointment; and provision ~~shall~~ *must* be made by law for
43 setting apart from each year's revenue a sufficient amount of Money, to
44 pay such compensation.

45 Sec. 20. 1. When a vacancy occurs before the expiration of any term
46 of office in the supreme court , *the court of appeals* or among the district
47 judges, the governor shall appoint a justice or judge from among three
48 nominees selected for such individual vacancy by the commission on
49 judicial selection.



1 ~~12. The~~ *Except as otherwise provided in subsection 2, the* term of
2 office of any justice or judge so appointed expires on the first Monday of
3 January following the ~~next~~ *first* general election ~~that is held at least 12~~
4 *calendar months after the date on which the appointment was made. At*
5 *that general election, a justice or judge must be elected to fill the*
6 *remainder of the term.*

7 *2. If the date on which the appointment was made is within the 12*
8 *calendar months immediately preceding the expiration of the term of the*
9 *vacated office, the term of office of the justice or judge appointed*
10 *pursuant to subsection 1 is the remainder of the unexpired term of office.*

11 3. Each nomination for the supreme court ~~shall~~ *or the court of*
12 *appeals must* be made by the permanent commission, composed of:

- 13 (a) The chief justice or an associate justice designated by him;
14 (b) Three members of the State Bar of Nevada, a public corporation
15 created by statute, appointed by its board of governors; and
16 (c) Three persons, not members of the legal profession, appointed by
17 the governor.

18 4. Each nomination for the district court ~~shall~~ *must* be made by a
19 temporary commission composed of:

- 20 (a) The permanent commission;
21 (b) A member of the State Bar of Nevada resident in the judicial district
22 in which the vacancy occurs, appointed by the board of governors of the
23 State Bar of Nevada; and
24 (c) A resident of such judicial district, not a member of the legal
25 profession, appointed by the governor.

26 5. If at any time the State Bar of Nevada ceases to exist as a public
27 corporation or ceases to include all attorneys admitted to practice before
28 the courts of this state, the legislature shall provide by law, or, if it fails to
29 do so, the *supreme* court shall provide by rule, for the appointment of
30 attorneys at law to the positions designated in this section to be occupied
31 by members of the State Bar of Nevada.

32 6. The term of office of each appointive member of the permanent
33 commission, except the first members, is 4 years. Each appointing
34 authority shall appoint one of the members first appointed for a term of 2
35 years. If a vacancy occurs, the appointing authority shall fill the vacancy
36 for the unexpired term. The additional members of a temporary
37 commission ~~shall~~ *must* be appointed when a vacancy occurs, and their
38 terms ~~shall~~ expire when the nominations for such vacancy have been
39 transmitted to the governor.

40 7. An appointing authority shall not appoint to the permanent
41 commission more than:

- 42 (a) One resident of any county.
43 (b) Two members of the same political party.

44 No member of the permanent commission may be a member of a
45 commission on judicial discipline.

46 8. After the expiration of 30 days from the date on which the
47 commission on judicial selection has delivered to him its list of nominees
48 for any vacancy, if the governor has not made the appointment required by



1 this section, he shall make no other appointment to any public office until
2 he has appointed a justice or judge from the list submitted.

3 ~~[[If a commission on judicial selection is established by another section of
4 this constitution to nominate persons to fill vacancies on the supreme court,
5 such commission shall serve as the permanent commission established by
6 subsection 3 of this section.]~~

7 Sec. 21. 1. A justice of the supreme court, *a judge of the court of*
8 *appeals*, a district judge, a justice of the peace or a municipal judge may, in
9 addition to the provision of article 7 for impeachment, be censured, retired,
10 removed or otherwise disciplined by the commission on judicial discipline.
11 Pursuant to rules governing appeals adopted by the supreme court, a justice
12 or judge may appeal from the action of the commission to the supreme
13 court, which may reverse such action or take any alternative action
14 provided in this subsection.

15 2. The commission is composed of:

- 16 (a) Two justices or judges appointed by the supreme court;
17 (b) Two members of the State Bar of Nevada, a public corporation
18 created by statute, appointed by its board of governors; and
19 (c) Three persons, not members of the legal profession, appointed by
20 the governor.

21 The commission shall elect a chairman from among its three lay members.

22 3. If at any time the State Bar of Nevada ceases to exist as a public
23 corporation or ceases to include all attorneys admitted to practice before
24 the courts of this state, the legislature shall provide by law, or , if it fails to
25 do so , the *supreme* court shall provide by rule, for the appointment of
26 attorneys at law to the positions designated in this section to be occupied
27 by members of the State Bar of Nevada.

28 4. The term of office of each appointive member of the commission,
29 except the first members, is 4 years. Each appointing authority shall
30 appoint one of the members first appointed for a term of 2 years. If a
31 vacancy occurs, the appointing authority shall fill the vacancy for the
32 unexpired term. An appointing authority shall not appoint more than one
33 resident of any county. The governor shall not appoint more than two
34 members of the same political party. No member may be a member of a
35 commission on judicial selection.

36 5. The legislature shall establish:

37 (a) In addition to censure, retirement and removal, the other forms of
38 disciplinary action that the commission may impose;

39 (b) The grounds for censure and other disciplinary action that the
40 commission may impose, including, but not limited to, violations of the
41 provisions of the code of judicial conduct;

42 (c) The standards for the investigation of matters relating to the fitness
43 of a justice or judge; and

44 (d) The confidentiality or nonconfidentiality, as appropriate, of
45 proceedings before the commission, except that, in any event, a decision to
46 censure, retire or remove a justice or judge must be made public.

47 6. The supreme court shall adopt a code of judicial conduct.



1 7. The commission shall adopt rules of procedure for the conduct of its
2 hearings and any other procedural rules it deems necessary to carry out its
3 duties.

4 8. No justice or judge may by virtue of this section be:

5 (a) Removed except for willful misconduct, willful or persistent failure
6 to perform the duties of his office or habitual intemperance; or

7 (b) Retired except for advanced age which interferes with the proper
8 performance of his judicial duties, or for mental or physical disability
9 which prevents the proper performance of his judicial duties and which is
10 likely to be permanent in nature.

11 9. Any matter relating to the fitness of a justice or judge may be
12 brought to the attention of the commission by any person or on the motion
13 of the commission. The commission shall, after preliminary investigation,
14 dismiss the matter or order a hearing to be held before it. If a hearing is
15 ordered, a statement of the matter ~~shall~~ *must* be served upon the justice or
16 judge against whom the proceeding is brought. The commission in its
17 discretion may suspend a justice or judge from the exercise of his office
18 pending the determination of the proceedings before the commission. Any
19 justice or judge whose removal is sought is liable to indictment and
20 punishment according to law. A justice or judge retired for disability in
21 accordance with this section is entitled thereafter to receive such
22 compensation as the legislature may provide.

23 10. If a proceeding is brought against a justice of the supreme court, no
24 justice of the supreme court may sit on the commission for that proceeding.
25 *If a proceeding is brought against a judge of the court of appeals, no*
26 *judge of the court of appeals may sit on the commission for that*
27 *proceeding.* If a proceeding is brought against a district judge, no district
28 judge from the same judicial district may sit on the commission for that
29 proceeding. If a proceeding is brought against a justice of the peace, no
30 justice of the peace from the same township may sit on the commission for
31 that proceeding. If a proceeding is brought against a municipal judge, no
32 municipal judge from the same city may sit on the commission for that
33 proceeding. If an appeal is taken from an action of the commission to the
34 supreme court, any justice who sat on the commission for that proceeding
35 is disqualified from participating in the consideration or decision of the
36 appeal. When any member of the commission is disqualified by this
37 subsection, the supreme court shall appoint a substitute from among the
38 eligible judges.

39 11. The commission may:

40 (a) Designate for each hearing an attorney or attorneys at law to act as
41 counsel to conduct the proceeding;

42 (b) Summon witnesses to appear and testify under oath and compel the
43 production of books, papers, documents and records;

44 (c) Grant immunity from prosecution or punishment when the
45 commission deems it necessary and proper in order to compel the giving of
46 testimony under oath and the production of books, papers, documents and
47 records; and

48 (d) Exercise such further powers as the legislature may from time to
49 time confer upon it.



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1 And be it further

2 RESOLVED, That section 3 of article 7 of the Constitution of the State of
3 Nevada be amended to read as follows:

4 ~~{See:}~~ **Sec. 3.** For any reasonable cause to be entered on the journals
5 of each House ~~{;}~~ which may ~~{;}~~ or may not be sufficient grounds for
6 impeachment, the ~~{Chief Justice and Associate}~~ Justices of the Supreme
7 Court, *the Judges of the Court of Appeals* and *the* Judges of the District
8 Courts ~~{shall}~~ **must** be removed from Office on the vote of two thirds of the
9 Members elected to each branch of the Legislature, and the Justice or
10 Judge complained of ~~{, shall}~~ **must** be served with a copy of the complaint
11 against him ~~{, and shall}~~ **and** have an opportunity of being heard in person
12 or by counsel in his defense ; ~~{;}~~ Provided, that no member of either branch
13 of the Legislature ~~{shall be}~~ **is** eligible to fill the vacancy occasioned by
14 such removal.

15 And be it further

16 RESOLVED, That section 8 of article 15 of the Constitution of the State
17 of Nevada be amended to read as follows:

18 ~~{See:}~~ **Sec. 8.** The Legislature shall provide for the speedy publication
19 of all Statute laws of a general nature, and such decisions of the Supreme
20 Court ~~{;}~~ *and the Court of Appeals*, as it may deem expedient; and all laws
21 and judicial decisions ~~{shall}~~ **must** be free for publication by any person;
22 *Provided*, that no judgment of the Supreme Court *or the Court of Appeals*
23 shall take effect and be operative until the Opinion of the Court in such
24 case ~~{shall be}~~ **is** filed with the Clerk of said Court.

