

**A.J.R. 12 of the 71st Session**

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ASSEMBLY JOINT RESOLUTION NO. 12—COMMITTEE  
ON CONSTITUTIONAL AMENDMENTS

(ON BEHALF OF ADMINISTRATIVE OFFICE OF THE COURTS)

MARCH 26, 2001

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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.

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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  
2     NEVADA, JOINTLY, That a new section be added to article 6 and  
3     sections 1, 4, 7, 8, 11, 15, 20 and 21 of article 6 of the Constitution  
4     of the State of Nevada be amended to read respectively as follows:  
5         *Sec. 3A. 1. The court of appeals must consist of*  
6         *three judges or such greater number as the legislature may*  
7         *provide by law. If the number of judges is so increased, the*  
8         *supreme court may provide by rule for the assignment of*  
9         *each appeal to a panel of not less than three judges for*  
10        *decision.*  
11        *2. After the initial terms, each judge of the court of*  
12        *appeals must be elected by the qualified electors of this state*  
13        *at the general election for a term of 6 years beginning on*  
14        *the first Monday of January next after the election. The*



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1 *initial judges must be elected by the qualified electors of this*  
2 *state at the first general election following the enactment of*  
3 *this section. The initial terms of the judges must be*  
4 *staggered so that at least one judge serves for an initial term*  
5 *of 2 years, at least one serves for an initial term of 4 years*  
6 *and at least one serves for an initial term of 6 years. The*  
7 *initial judges shall meet as soon as practicable after their*  
8 *election to determine by lot the term of office that each*  
9 *judge will fill. If there is an increase in the number of*  
10 *judges, each additional judge must be elected by the*  
11 *qualified electors of this state at the first general election*  
12 *following the increase for a term beginning on the first*  
13 *Monday of January next after the election. The legislature*  
14 *shall provide for an initial term of 6 or fewer years for each*  
15 *additional judge so that one-third of the total number of*  
16 *judges, as nearly as may be, is elected every 2 years. If the*  
17 *number of judges is increased by more than one, the*  
18 *additional judges shall meet as soon as practicable after*  
19 *their election to determine by lot the term of office that each*  
20 *judge will fill.*

21 3. *The supreme court shall appoint one of the judges of*  
22 *the court of appeals to be chief judge. The chief judge serves*  
23 *a term of 4 years and may succeed himself. The chief judge*  
24 *may resign his position as chief judge without resigning*  
25 *from the court of appeals.*

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

30 Section 1. The Judicial power of this State ~~{shall be}~~ *is*  
31 *vested in a court system, comprising a Supreme Court, a*  
32 *Court of Appeals, District Courts ~~{ }~~ and Justices of the*  
33 *Peace. The Legislature may also establish, as part of the*  
34 *system, Courts for municipal purposes only in incorporated*  
35 *cities and towns.*

36 Sec. 4. 1. The supreme court ~~{shall}~~ *and the court of*  
37 *appeals* have appellate jurisdiction in all civil cases arising in  
38 district courts, and also on questions of law alone in all  
39 criminal cases in which the offense charged is within the  
40 original jurisdiction of the district courts. *The legislature*  
41 *shall fix the jurisdiction of the court of appeals and, where*  
42 *appropriate, provide for the review by the supreme court of*  
43 *appeals decided by the court of appeals.* The *supreme* court  
44 ~~{shall}~~ *and court of appeals* also have power to issue writs of  
45 *mandamus, certiorari, prohibition, quo warranto ~~{ }~~ and*



1 *habeas corpus* and also all writs necessary or proper to the  
2 complete exercise of ~~its appellate~~ *their* jurisdiction. Each  
3 ~~of the justices shall have power to~~ *justice of the supreme*  
4 *court and each judge of the court of appeals may* issue writs  
5 of *habeas corpus* to any part of the state, upon petition by, or  
6 on behalf of, any person held in actual custody ~~in this state~~  
7 and may make such writs returnable, before ~~himself~~ *the*  
8 *issuing justice or judge* or the ~~supreme court~~ *court of*  
9 *which the justice or judge is a member*, or before any district  
10 court in the state or ~~before~~ any judge of ~~said courts~~ *a*  
11 *district court*.

12 2. In case of the disability or disqualification, for any  
13 cause, of ~~the chief justice or one of the associate justices~~ *a*  
14 *justice* of the supreme court, ~~for any two of them~~ the  
15 governor ~~is authorized and empowered to designate any~~  
16 *may designate a* district judge ~~or judges~~ *or a judge of the*  
17 *court of appeals* to sit in the place ~~or places of such~~ of the  
18 disqualified or disabled justice. ~~for justices, and said judge or~~  
19 ~~judges so designated shall receive their~~ *The judge*  
20 *designated by the governor is entitled to receive his* actual  
21 expense of travel and otherwise while sitting in the supreme  
22 court.

23 3. *In case of the disability or disqualification, for any*  
24 *cause, of a judge of the court of appeals, the governor may*  
25 *designate a district judge to sit in the place of the disabled or*  
26 *disqualified judge. The judge that the governor designates is*  
27 *entitled to receive his actual expense of travel and otherwise*  
28 *while sitting in the court of appeals.*

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

33 Sec. 7. The times of holding the Supreme Court , *the*  
34 *Court of Appeals* and *the* District Courts ~~shall~~ *must* be as  
35 fixed by law. The terms of the Supreme Court ~~shall~~ *must* be  
36 held at the seat of Government unless the Legislature  
37 otherwise provides by law, except that the Supreme Court  
38 may hear oral argument at other places in the state. *The terms*  
39 *of the Court of Appeals must be held at the place provided*  
40 *by law.* The terms of the District Courts ~~shall~~ *must* be held  
41 at the County seats of their respective counties unless the  
42 Legislature otherwise provides by law.

43 Sec. 8. 1. The Legislature shall determine the number  
44 of Justices of the Peace to be elected in each city and  
45 township of the State ~~and~~ and shall fix by law their



1 qualifications, their terms of office and the limits of their civil  
2 and criminal jurisdiction, according to the amount in  
3 controversy, the nature of the case, the penalty provided ~~[.]~~ or  
4 any combination of these.

5 2. The provisions of this section affecting the number,  
6 qualifications, terms of office and jurisdiction of Justices of  
7 the Peace become effective on the first Monday of January,  
8 1979.

9 3. The Legislature shall also prescribe by law the  
10 manner, and determine the cases in which appeals may be  
11 taken from Justices and other courts. The Supreme Court, *the*  
12 *Court of Appeals*, the District Courts ~~[.]~~ and such other  
13 Courts ~~[.]~~ as the Legislature ~~[shall designate, shall be]~~  
14 *designates are* Courts of Record.

15 Sec. 11. The justices of the supreme court , *the judges*  
16 *of the court of appeals* and the district judges ~~[shall be]~~ *are*  
17 ineligible to any office, other than a judicial office, during the  
18 term for which they ~~[shall]~~ have been elected or appointed ~~[.]~~  
19 , and all elections or appointments of any such judges by the  
20 people, legislature ~~[.]~~ or otherwise ~~[.]~~ during said period ~~[.]~~  
21 to any office other than judicial ~~[, shall be]~~ *are* void.

22 ~~[See:]~~ Sec. 15. The Justices of the Supreme Court , *the*  
23 *Judges of the Court of Appeals* and District Judges ~~[shall]~~  
24 *are* each *entitled to* receive for their services a compensation  
25 to be fixed by law and paid in the manner provided by law,  
26 which ~~[shall]~~ *must* not be increased or diminished during the  
27 term for which they ~~[shall]~~ have been elected, unless a  
28 Vacancy occurs, in which case the successor of the former  
29 incumbent ~~[shall]~~ *is entitled to* receive only such salary as  
30 may be provided by law at the time of his election or  
31 appointment; and provision ~~[shall]~~ *must* be made by law for  
32 setting apart from each year's revenue a sufficient amount of  
33 Money, to pay such compensation.

34 Sec. 20. 1. When a vacancy occurs before the  
35 expiration of any term of office in the supreme court , *the*  
36 *court of appeals* or among the district judges, the governor  
37 shall appoint a justice or judge from among three nominees  
38 selected for such individual vacancy by the commission on  
39 judicial selection.

40 ~~[2.—The]~~ *Except as otherwise provided in subsection 2,*  
41 *the* term of office of any justice or judge so appointed expires  
42 on the first Monday of January following the ~~[next]~~ *first*  
43 general election ~~[.]~~ *that is held at least 12 calendar months*  
44 *after the date on which the appointment was made. At that*



1 *general election, a justice or judge must be elected to fill the*  
2 *remainder of the term.*

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

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

12 (a) The chief justice or an associate justice designated by  
13 him;

14 (b) Three members of the State Bar of Nevada, a public  
15 corporation created by statute, appointed by its board of  
16 governors; and

17 (c) Three persons, not members of the legal profession,  
18 appointed by the governor.

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

21 (a) The permanent commission;

22 (b) A member of the State Bar of Nevada resident in the  
23 judicial district in which the vacancy occurs, appointed by the  
24 board of governors of the State Bar of Nevada; and

25 (c) A resident of such judicial district, not a member of  
26 the legal profession, appointed by the governor.

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

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

43 7. An appointing authority shall not appoint to the  
44 permanent commission more than:

45 (a) One resident of any county.



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(b) Two members of the same political party.  
No member of the permanent commission may be a member of a commission on judicial discipline.

8. After the expiration of 30 days from the date on which the commission on judicial selection has delivered to him its list of nominees for any vacancy, if the governor has not made the appointment required by this section, he shall make no other appointment to any public office until he has appointed a justice or judge from the list submitted.

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

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

2. The commission is composed of:

(a) Two justices or judges appointed by the supreme court;

(b) Two members of the State Bar of Nevada, a public corporation created by statute, appointed by its board of governors; and

(c) Three persons, not members of the legal profession, appointed by the governor.

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

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

4. The term of office of each appointive member of the commission, except the first members, is 4 years. Each appointing authority shall appoint one of the members first appointed for a term of 2 years. If a vacancy occurs, the



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1 appointing authority shall fill the vacancy for the unexpired  
2 term. An appointing authority shall not appoint more than one  
3 resident of any county. The governor shall not appoint more  
4 than two members of the same political party. No member  
5 may be a member of a commission on judicial selection.

6 5. The legislature shall establish:

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

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

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

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

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

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

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

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

29 (b) Retired except for advanced age which interferes with  
30 the proper performance of his judicial duties, or for mental or  
31 physical disability which prevents the proper performance of  
32 his judicial duties and which is likely to be permanent in  
33 nature.

34 9. Any matter relating to the fitness of a justice or judge  
35 may be brought to the attention of the commission by any  
36 person or on the motion of the commission. The commission  
37 shall, after preliminary investigation, dismiss the matter or  
38 order a hearing to be held before it. If a hearing is ordered, a  
39 statement of the matter ~~[shall]~~ **must** be served upon the justice  
40 or judge against whom the proceeding is brought. The  
41 commission in its discretion may suspend a justice or judge  
42 from the exercise of his office pending the determination of  
43 the proceedings before the commission. Any justice or judge  
44 whose removal is sought is liable to indictment and  
45 punishment according to law. A justice or judge retired for



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1 disability in accordance with this section is entitled thereafter  
2 to receive such compensation as the legislature may provide.

3 10. If a proceeding is brought against a justice of the  
4 supreme court, no justice of the supreme court may sit on the  
5 commission for that proceeding. *If a proceeding is brought*  
6 *against a judge of the court of appeals, no judge of the court*  
7 *of appeals may sit on the commission for that proceeding.* If  
8 a proceeding is brought against a district judge, no district  
9 judge from the same judicial district may sit on the  
10 commission for that proceeding. If a proceeding is brought  
11 against a justice of the peace, no justice of the peace from the  
12 same township may sit on the commission for that  
13 proceeding. If a proceeding is brought against a municipal  
14 judge, no municipal judge from the same city may sit on the  
15 commission for that proceeding. If an appeal is taken from an  
16 action of the commission to the supreme court, any justice  
17 who sat on the commission for that proceeding is disqualified  
18 from participating in the consideration or decision of the  
19 appeal. When any member of the commission is disqualified  
20 by this subsection, the supreme court shall appoint a  
21 substitute from among the eligible judges.

22 11. The commission may:

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

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

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

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

34 And be it further

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

37 ~~{See:}~~ *Sec.* 3. For any reasonable cause to be entered on  
38 the journals of each House ~~{ }~~ which may ~~{ }~~ or may not be  
39 sufficient grounds for impeachment, the ~~{Chief Justice and~~  
40 ~~Associate}~~ Justices of the Supreme Court, *the Judges of the*  
41 *Court of Appeals* and *the* Judges of the District Courts ~~{shall}~~  
42 *must* be removed from Office on the vote of two thirds of the  
43 Members elected to each branch of the Legislature, and the  
44 Justice or Judge complained of ~~{, shall}~~ *must* be served with a  
45 copy of the complaint against him ~~{, and shall}~~ *and* have an





1 opportunity of being heard in person or by counsel in his  
2 defense ; ~~{ }~~ Provided, that no member of either branch of the  
3 Legislature ~~{shall be}~~ *is* eligible to fill the vacancy occasioned  
4 by such removal.

5 And be it further

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

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

