

ASSEMBLY JOINT RESOLUTION NO. 9—
ASSEMBLYMEN MOORE AND JONES

MARCH 16, 2015

Referred to Committee on Legislative Operations and Elections

SUMMARY—Proposes to amend the Nevada Constitution to revise provisions governing the selection of district court judges. (BDR C-640)

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 Nevada Constitution to revise provisions governing the selection of district court judges.

Legislative Counsel's Digest:

This resolution amends the Nevada Constitution, which currently provides for the popular election of judges of the district court, to provide for appointment by the Assembly of judges of the district court from candidates recommended by the Commission on Judicial Selection. (Nev. Const. Art. 6, § 5) Under this resolution, a judge of the district court would serve an 8-year term. If a vacancy occurs in a district court for any reason, the Assembly will appoint a judge from candidates selected by the Commission on Judicial Selection, and the initial term of that judge expires at the conclusion of the 8-year term of the vacant office to which the judge is appointed. Thereafter, if the judge wishes to serve another term, he or she must submit an application for appointment to the Commission on Judicial Selection.

In addition, this resolution amends the Nevada Constitution to authorize the Assembly to convene a special session upon a petition signed by two-thirds of the members of the Assembly for the purposes of appointing a person to fill a vacancy in a district court.

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA, JOINTLY, That Section 2A of Article 4 of the Nevada Constitution be amended to read as follows:

Sec. 2A. 1. The Legislature may be convened, on extraordinary occasions, upon a petition signed by two-thirds of the members elected to each House of the Legislature. A



petition must specify the business to be transacted during the special session, indicate a date on or before which the Legislature is to convene and be transmitted to the Secretary of State. Upon receipt of one or more substantially similar petitions signed, in the aggregate, by the required number of members, calling for a special session, the Secretary of State shall notify all members of the Legislature and the Governor that a special session will be convened pursuant to this ~~[section.]~~ **subsection.**

2. At a special session convened pursuant to ~~[this section.]~~ **subsection 1**, the Legislature shall not introduce, consider or pass any bills except those related to the business specified in the petition and those necessary to provide for the expenses of the session.

3. *If the Legislature is not in session when the Commission on Judicial Selection selects three nominees to fill a vacancy among the district judges, the Assembly must be convened for the purpose of appointing a district judge to fill a vacancy pursuant to Section 20 of Article 6 of this Constitution.*

4. A special session convened pursuant to this section takes precedence over a special session convened by the Governor pursuant to Section 9 of Article 5 of this Constitution, unless otherwise provided in the petition convening the special session pursuant to this section.

~~[4.]~~ 5. The Legislature may provide by law for the procedure for convening a special session pursuant to this section.

~~[5.]~~ 6. Except as otherwise provided in this subsection, the Legislature *or Assembly, as applicable*, shall adjourn sine die a special session convened pursuant to this section not later than midnight Pacific time at the end of the 20th consecutive calendar day of that session, inclusive of the day on which that session commences. Any legislative action taken after midnight Pacific time at the end of the 20th consecutive calendar day of that session is void. This subsection does not apply to a special session that is convened to conduct proceedings for:

(a) Impeachment or removal from office of the Governor and other state and judicial officers pursuant to Article 7 of this Constitution; or

(b) Expulsion from office of a member of the Legislature pursuant to Section 6 of Article 4 of this Constitution.

~~[6.]~~ 7. For the purposes of this section, “midnight Pacific time” must be determined based on the actual measure



of time that, on the final calendar day of the session, is being used and observed by the general population as the uniform time for the portion of Nevada which lies within the Pacific time zone, or any legal successor to the Pacific time zone, and which includes the seat of government of this State as designated by Section 1 of Article 15 of this Constitution. The Legislature and its members, officers and employees shall not employ any device, pretense or fiction that adjusts, evades or ignores this measure of time for the purpose of extending the duration of the session.

And be it further

RESOLVED, That Section 5 of Article 6 of the Nevada Constitution be amended to read as follows:

Sec. 5. 1. The State is hereby divided into nine judicial districts of which the County of Storey shall constitute the First; The County of Ormsby the Second; the County of Lyon the Third; The County of Washoe the Fourth; The Counties of Nye and Churchill the Fifth; The County of Humboldt the Sixth; The County of Lander the Seventh; The County of Douglas the Eighth; and the County of Esmeralda the Ninth. The County of Roop shall be attached to the County of Washoe for judicial purposes until otherwise provided by law. The Legislature may, however, provide by law for an alteration in the boundaries or divisions of the districts herein prescribed, and also for increasing or diminishing the number of the judicial districts and judges therein. But no such change shall take effect, except in case of a vacancy, or the expiration of the term of an incumbent of the office ~~[. At the first general election under this Constitution there shall be elected in each of the respective districts (except as in this Section hereafter otherwise provided) one district judge, who shall hold office from and including the first Monday of December A.D., eighteen hundred and sixty four and until the first Monday of January in the year eighteen hundred and sixty seven. After the said first election, there shall be elected at the general election which immediately precedes the expiration of the term of his predecessor, one district judge in each of the respective judicial districts (except in the First District as in this Section hereinafter provided.) The district judges shall be elected by the qualified electors of their respective districts, and shall hold office for the term of 6 years (excepting those elected at said first election) from and including the first Monday of January, next succeeding their election and qualification; provided, that the First Judicial District shall be entitled to,~~



1 ~~and shall have three district judges, who shall possess~~ of
2 *district judge. In a judicial district with more than one*
3 *district judge, each judge possesses* co-extensive and
4 concurrent jurisdiction, and ~~{who shall be elected at the same~~
5 ~~times, in the same manner, and shall hold office for the like~~
6 ~~terms as herein prescribed, in relation to the judges in other~~
7 ~~judicial districts, any one of said}~~ *any of those* judges may
8 preside on the ~~{empanneling [empanneling]}~~ *empanneling* of
9 grand juries and the presentment and trial on indictments ~~{~~
10 ~~under such rules and regulations as may be}~~ *in the manner*
11 prescribed by law.

12 *2. Commencing with a term of office that expires on or*
13 *after December 31, 2019, any person seeking to be*
14 *appointed as a judge of the district court must, on or before*
15 *July 1 next preceding the expiration of the current term of*
16 *the judge of the district court, submit his or her application*
17 *for appointment for review by the Commission on Judicial*
18 *Selection. The Assembly shall appoint a judge from among*
19 *three nominees selected for such judicial office by the*
20 *Commission on Judicial Selection.*

21 *3. The term of office of each appointed judge is 8*
22 *years, and that term begins on the first Monday of March*
23 *following such appointment made by the Assembly.*

24 And be it further

25 RESOLVED, That Section 15 of Article 6 of the Nevada
26 Constitution be amended to read as follows:

27 Sec. 15. The justices of the Supreme Court, the judges
28 of the court of appeals and the district judges are each entitled
29 to receive for their services a compensation to be fixed by law
30 and paid in the manner provided by law, which must not be
31 increased or diminished during the term for which they have
32 been elected ~~{}~~ *or appointed*, unless a vacancy occurs, in
33 which case the successor of the former incumbent is entitled
34 to receive only such salary as may be provided by law at the
35 time of his election or appointment. A provision must be
36 made by law for setting apart from each year's revenue a
37 sufficient amount of money to pay such compensation.

38 And be it further

39 RESOLVED, That Section 20 of Article 6 of the Nevada
40 Constitution be amended to read as follows:

41 Sec. 20. 1. When a vacancy occurs before the
42 expiration of any term of office in the Supreme Court or the
43 court of appeals, ~~{or among the district judges.}~~ the Governor
44 shall appoint a justice or judge from among three nominees
45 selected for such individual vacancy by the Commission on



Judicial Selection. *When a vacancy occurs for any reason among the district judges, the Assembly shall appoint a judge from among three nominees selected for such individual vacancy by the Commission on Judicial Selection.*

2. The term of office of any justice *of the Supreme Court* or judge ~~to~~ *of the court of appeals* appointed pursuant to this section expires on the first Monday of January following the next general election. *The initial term of office of any district judge appointed pursuant to this section expires at the conclusion of the 8-year term of the office to which the judge is being appointed.*

3. Each nomination for the Supreme Court or the court of appeals must be made by the permanent Commission, composed of:

(a) The Chief Justice or an associate justice designated by him;

(b) Three 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.

4. Each nomination for the district court must be made by a temporary commission composed of:

(a) The permanent Commission;

(b) A member of the State Bar of Nevada resident in the judicial district in which the vacancy occurs, appointed by the Board of Governors of the State Bar of Nevada; and

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

5. 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.

6. The term of office of each appointive member of the permanent 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 appointing authority shall fill the vacancy for the unexpired term. The additional members of a temporary commission must be appointed when a vacancy occurs, and their terms



1 expire when the nominations for such vacancy have been
2 transmitted to the Governor.

3 7. An appointing authority shall not appoint to the
4 permanent Commission more than:

5 (a) One resident of any county.

6 (b) Two members of the same political party.

7 No member of the permanent Commission may be a member
8 of the Commission on Judicial Discipline.

9 8. After the expiration of 30 days from the date on which
10 the Commission on Judicial Selection has delivered to him its
11 list of nominees for any vacancy, if the Governor has not
12 made the appointment required by this Section, he shall make
13 no other appointment to any public office until he has
14 appointed a justice or judge from the list submitted.

