

SENATE JOINT RESOLUTION NO. 1—SENATOR TITUS

PREFILED JANUARY 23, 2023

Referred to Committee on Legislative Operations and Elections

SUMMARY—Proposes to amend the Nevada Constitution to revise provisions relating to elections involving incumbent justices or judges who are unopposed. (BDR C-515)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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.

SENATE JOINT RESOLUTION—Proposing to amend the Nevada Constitution to revise provisions relating to elections involving incumbent justices or judges who are unopposed.

Legislative Counsel’s Digest:

The Nevada Constitution provides that, in an election, the person having the highest number of votes for an office shall be declared elected. (Nev. Const. Art. 5, § 4)

This joint resolution proposes to amend the Nevada Constitution to provide that if an incumbent justice of the Nevada Supreme Court or incumbent judge of the Nevada Court of Appeals or a district court is seeking election to the office that he or she holds and is not opposed by another candidate, then the ballot for that office must offer a voter only the choice to retain or not retain the justice or judge. If the number of votes for retaining the justice or judge is greater than the number of votes against retaining the justice or judge, then the justice or judge shall be declared elected. If the number of votes against retaining the justice or judge is greater than the number of votes for retaining the justice or judge, then: (1) no person shall be declared elected for the office; and (2) the office must be filled in accordance with the existing constitutional provisions for filling a vacancy that occurs before the expiration of a term of office.

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That Section 4 of Article 5 of the Nevada Constitution be amended to read as follows:

~~Section~~ **Sec.** 4. The returns of every election for United States senator and member of Congress, district and state officers, and for and against any questions submitted to



the electors of the State of Nevada, voted for at the general election, shall be sealed up and transmitted to the seat of government, directed to the secretary of state . ~~[-and the]~~ *The* chief justice of the supreme court, and the associate justices, or a majority thereof, shall meet at the office of the secretary of state, on a day to be fixed by law, and open and canvass the election returns for United States senator and member of Congress, district and state officers, and for and against any questions submitted to the electors of the State of Nevada, and forthwith declare the result and publish the names of the persons elected and the results of the vote cast upon any question submitted to the electors of the State of Nevada. ~~[The]~~ *Except as otherwise provided in this section, the* persons having the highest number of votes for the respective offices shall be declared elected, but in case any two or more have an equal and the highest number of votes for the same office, the legislature shall, by joint vote of both houses, elect one of said persons to fill said office. *If, in an election for a judicial office in the Supreme Court, the court of appeals or a district court, an incumbent justice or judge, as applicable, is not opposed by another candidate and the number of votes for retaining the justice or judge is greater than the number of votes against retaining the justice or judge, then the justice or judge shall be declared elected, but if the number of votes against retaining the justice or judge is greater than the number of votes for retaining the justice or judge, then no person shall be declared elected for the office and the office must be filled for the term to which the election pertains in accordance with the provisions of Section 20 of Article 6 as if the vacancy had occurred before the expiration of the term of the office.*

And be it further

RESOLVED, That Section 3 of Article 6 of the Nevada Constitution be amended to read as follows:

~~[See:]~~ *Sec. 3.* The justices of the Supreme Court ~~[H]~~ shall be elected by the qualified electors of the State at the general election, and shall hold office for the term of six years from and including the first Monday of January next succeeding their election; provided, that there shall be elected, at the first election under this Constitution, three justices of the Supreme Court who shall hold office from and including the first Monday of December A.D., eighteen hundred and sixty four, and continue in office thereafter, two, four and six years respectively, from and including the first Monday of January next succeeding [succeeding] their election. They shall meet as



soon as practicable after their election and qualification, and at their first meeting shall determine by lot, the term of office each shall fill, and the justice drawing the shortest term shall be Chief Justice, and after the expiration of his term, the one having the next shortest term shall be Chief Justice, after which the senior justice in commission shall be Chief Justice; and in case the commission of any two or more of said justices shall bear the same date, they shall determine by lot, who shall be Chief Justice. *If an incumbent justice seeks election to the office that he or she holds and is not opposed by another candidate, then the ballot for the election of that office must offer a voter only the choice to "Retain" or "Not Retain" the incumbent justice.*

And be it further

RESOLVED, That Section 3A of Article 6 of the Nevada Constitution be amended to read as follows:

Sec. 3A. 1. The court of appeals consists of three judges or such greater number as the Legislature may provide by law. If the number of judges is so increased, the Supreme Court must provide by rule for the assignment of each appeal to a panel of three judges for decision.

2. After the initial terms, each judge of the court of appeals must be elected by the qualified electors of this State at the general election for a term of 6 years beginning on the first Monday of January next after the election. The initial three judges of the court of appeals must be appointed by the Governor from among three nominees selected for each individual seat by the permanent Commission on Judicial Selection described in subsection 3 of section 20 of this Article. After the expiration of 30 days from the date on which the permanent Commission on Judicial Selection has delivered to the Governor its list of nominees for the initial judges, if the Governor has not made the appointments required by this Section, the Governor shall make no other appointment to any public office until the Governor has appointed a judge from the list submitted. The term of the initial judges is 2 years beginning on the first Monday of January next after the effective date of this Section, and an initial judge may succeed himself. *If an incumbent judge seeks election to the office that he or she holds and is not opposed by another candidate, then the ballot for the election of that office must offer a voter only the choice to "Retain" or "Not Retain" the incumbent judge.* If there is an increase in the number of judges, each additional judge must be elected by the qualified electors of this State at the first



1 general election following the increase for a term of 6 years
2 beginning on the first Monday of January next after the
3 election.

4 3. The Chief Justice of the Supreme Court shall appoint
5 one of the judges of the court of appeals to be chief judge.
6 The chief judge serves a term of 4 years, except that the term
7 of the initial chief judge is 2 years. The chief judge may
8 succeed himself. The chief judge may resign the position of
9 chief judge without resigning from the court of appeals.

10 4. The Supreme Court shall provide by rule for the
11 assignment of one or more judges of the court of appeals to
12 devote a part of their time to serve as supplemental district
13 judges, where needed.

14 And be it further

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

17 Sec. 5. The State is hereby divided into nine judicial
18 districts of which the County of Storey shall constitute the
19 First; The County of Ormsby the Second; the County of Lyon
20 the Third; The County of Washoe the Fourth; The Counties of
21 Nye and Churchill the Fifth; The County of Humboldt the
22 Sixth; The County of Lander the Seventh; The County of
23 Douglas the Eighth; and the County of Esmeralda the Ninth.
24 The County of Roop shall be attached to the County of
25 Washoe for judicial purposes until otherwise provided by
26 law. The Legislature may, however, provide by law for an
27 alteration in the boundaries or divisions of the districts herein
28 prescribed, and also for increasing or diminishing the number
29 of the judicial districts and judges therein. But no such
30 change shall take effect, except in case of a vacancy, or the
31 expiration of the term of an incumbent of the office. At the
32 first general election under this Constitution there shall be
33 elected in each of the respective districts (except as in this
34 Section hereafter otherwise provided) one district judge, who
35 shall hold office from and including the first Monday of
36 December A.D., eighteen hundred and sixty four and until the
37 first Monday of January in the year eighteen hundred and
38 sixty seven. After the said first election, there shall be elected
39 at the general election which immediately precedes the
40 expiration of the term of his predecessor, one district judge in
41 each of the respective judicial districts (except in the First
42 District as in this Section hereinafter provided.) The district
43 judges shall be elected by the qualified electors of their
44 respective districts, and shall hold office for the term of 6
45 years (excepting those elected at said first election) from and



1 including the first Monday of January, next succeeding their
2 election and qualification; provided, that the First Judicial
3 District shall be entitled to, and shall have three district
4 judges, who shall possess co-extensive and concurrent
5 jurisdiction, and who shall be elected at the same times, in the
6 same manner, and shall hold office for the like terms as
7 herein prescribed, in relation to the judges in other judicial
8 districts, any one of said judges may preside on the
9 empanneling [empaneling] of grand juries and the
10 presentment and trial on indictments, under such rules and
11 regulations as may be prescribed by law. *If an incumbent
12 judge seeks election to the office that he or she holds and is
13 not opposed by another candidate, then the ballot for the
14 election of that office must offer a voter only the choice to
15 “Retain” or “Not Retain” the incumbent judge.*

16 And be it further

17 RESOLVED, That this resolution becomes effective upon
18 passage.

