



ARIZONA HOUSE OF REPRESENTATIVES

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SCR1044: judicial retention elections

Sponsor: Senator Gowan, LD 19

Committee on Municipal Oversight & Elections

Overview

A ballot measure proposing to amend the Arizona Constitution to revise the judicial retention process by requiring a vote of retention only in specified circumstances.

History

Judicial Terms of Office

Superior Court Judges generally serve regular terms of four years in office, except that appointed judges hold office for a term of two years, ending 60 days after the next regular general election, then four year terms of office thereafter (Art. 6 § [12](#) & [37](#), Const. of Ariz.).

The Arizona Court of Appeals is the state's intermediate appellate court of record, established by Laws 1964, Chapter 102, § 1 as the first level of appeal from the superior court. Court of Appeals judges are appointed by the Governor to initial terms of at least two years before being subject to a retention election. The voters then consider the judges for retention every six years ([Art. 6 § 37, Const. of Ariz.](#), [A.R.S. § 12-120.01](#)).

The Arizona Supreme Court is responsible for reviewing appeals and providing rule of procedure for all courts in Arizona. Justices of the Supreme Court hold a regular term of six years in office (Art. 6 § [4](#) & [5](#), Const. of Ariz.).

Arizona Commission on Judicial Performance Review

In 1992 Arizona voters voted to amend the state Constitution to create a process for evaluating the performance of judges appointed through merit selection. The Constitution requires that the performance evaluation process include input from the public and that judicial performance reports be given to the voters before the state's general election. The Commission on Judicial Performance Review (JPR Commission) was created to conduct the periodic performance reviews of appointed judges required by the Constitution. The Arizona Supreme Court sets the standards for judicial performance including whether judges can apply the law fairly, treat people with respect and manage a courtroom ([Art. VI § 42, Const. of Ariz.](#), [JPR Commission](#)).

Judicial Retention Elections

Judges and justices must file a declaration expressing a desire to be retained in office with the appropriate filing officer at least 90 days before the regular general election before their term of office expires. A judge or justice's term in office will expire upon the expiration of that judge or justice's term if they fail to file a declaration expressing a desire to be retained ([Art. IV, § 38, Const. of Ariz.](#)).

Provisions

Regular Terms of Office

1. Allows a Justice of the Supreme Court to hold office indefinitely during good behavior. (Sec. 1)
2. Allows Judges of Intermediate Appellate Courts to hold office indefinitely during good behavior. (Sec. 2)
3. Allows Judges of the Superior Court, in counties with a population of 250,000 or more, to hold office indefinitely during good behavior. (Sec. 3)

Judicial Retention

4. Establishes the following circumstance in which a justice or judge of the Supreme Court, an Intermediate Appellate Court or, for counties with a population of at least 250,000, a Superior Court is subject to a vote of retention:
 - a) upon conviction of a felony offense;
 - b) upon conviction of a crime involving fraud or dishonesty;
 - c) upon the initiation of personal bankruptcy proceedings in which the justice or judge is a debtor;
 - d) the foreclosure of any mortgage for which the justice or judge is a mortgagor; and
 - e) a determination by the body responsible for evaluating judicial performance that the judge or justice does not meet judicial performance standards. (Sec. 5)
5. Instructs a justice or judge who is subject to a vote of retention to file with the appropriate filing officer within the prescribed timeframe. (Sec. 5)
6. Specifies that events requiring a vote of retention that occur less than 120 days before a regular general election require the declaration to be filed between 60 and 90 days before the next ensuing regular general election. (Sec. 5)
7. Directs the Chief Justice of the Supreme Court to provide to the Secretary of State a list of all justices and judges subject to a vote of retention no later than 120 days before the regular general election. (Sec. 5)
8. Specifies the Chief Justice of the Supreme Court is responsible for determining whether a justice or judge is subject to retention. (Sec. 5)
9. Directs the Vice Chief Justice of the Supreme Court to determine, in the appropriate situations, whether the Chief Justice of the Supreme Court is subject to a vote of retention. (Sec. 5)
10. Asserts that if a majority of those voting vote not to retain a justice or judge, a vacancy in that office exists on January 1 the year after the general election. (Sec. 5)
11. Clarifies that if a justice or judge is subject to a vote of retention but fails to file a declaration for retention with the appropriate filing officer, the justice or judge's office becomes vacant on January 1 the year after the general election at which the individual would have been a candidate for retention. (Sec. 5).
12. Clarifies that Judges of an Intermediate Appellate Court who are subject to a vote of retention must be elected for retention on a statewide basis. (Sec. 5)

<input type="checkbox"/> Prop 105 (45 votes)	<input type="checkbox"/> Prop 108 (40 votes)	<input type="checkbox"/> Emergency (40 votes)	<input type="checkbox"/> Fiscal Note
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Retention Evaluations

13. Applies the required judicial performance evaluations only to Judges of the Superior Court in counties with a population of 250,000 or more and Judges of the Superior Court in counties with less than 250,000 at the county's discretion. (Sec. 8)
14. Requires the evaluation of the appropriate judges at least every 4 years from the year of first appointment. (Sec. 8)

Miscellaneous

15. Removes language requiring appointed justices and judges to hold office for a term ending 60 days after the next regular general election after the expiration of a term of 2 years in office. (Sec. 4)
16. Contains a retroactivity clause. (Sec. 9)
17. Requires the Secretary of State to submit the proposition to the voters at the next general election.
18. Becomes effective if approved by the voters and on proclamation of the Governor.
19. Makes technical and conforming changes. (Sec. 4, 5, 6, 7).