

REFERENCE TITLE: accountability; clean elections for judges.

State of Arizona
Senate
Forty-eighth Legislature
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2008

SCR 1021

Introduced by

Senators Gray C, Blendu, Johnson; Representative Pearce: Senators Burns, Flake, Gould, Gray L, Harper, Verschoor; Representatives Stump, Weiers J

A CONCURRENT RESOLUTION

PROPOSING AMENDMENTS TO THE CONSTITUTION OF ARIZONA AND ARIZONA REVISED STATUTES; AMENDING ARTICLE VI, SECTIONS 12, 28, 30, 35, 37, 38 AND 42, CONSTITUTION OF ARIZONA; REPEALING ARTICLE VI, SECTIONS 40 AND 41, CONSTITUTION OF ARIZONA; AMENDING SECTIONS 12-102, 12-121, 16-311, 16-322, 16-949 AND 38-431.08, ARIZONA REVISED STATUTES; AMENDING TITLE 16, CHAPTER 6, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 16-962; RELATING TO THE JUDICIAL DEPARTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it resolved by the Senate of the State of Arizona, the House of
2 Representatives concurring:

3 1. Article VI, sections 12, 28, 30, 35, 37, 38 and 42, Constitution of
4 Arizona, are proposed to be amended as follows if approved by the voters and
5 on proclamation of the Governor:

6 12. Superior court; term of office; vacancies and
7 appointments

8 Section 12. A. ~~Judges of the superior court~~ In counties
9 ~~having~~ WITH a population of less than ~~two~~ EIGHT hundred ~~fifty~~
10 thousand persons according to the most recent United States
11 decennial census:

12 1. SUPERIOR COURT JUDGES shall be elected by the
13 qualified electors of their counties at the general election.
14 They shall hold office for a regular term of four years except
15 as provided by this section from and after the first Monday in
16 January next succeeding their election, and until their
17 successors are elected and qualify. The names of all candidates
18 for judge of the superior court in such counties shall be placed
19 on the regular ballot without partisan or other designation
20 except the division and title of the office.

21 ~~B.~~ 2. The governor shall fill any vacancy in such
22 counties by appointing a person to serve until the election and
23 qualification of a successor. At the next succeeding general
24 election following the appointment of a person to fill a
25 vacancy, a judge shall be elected to serve for the remainder of
26 the unexpired term.

27 ~~Judges of the superior court in counties having a~~
28 ~~population of two hundred fifty thousand persons or more~~
29 ~~according to the most recent United States census shall hold~~
30 ~~office for a regular term of four years except as provided by~~
31 ~~this article.~~

32 B. IN COUNTIES WITH A POPULATION OF EIGHT HUNDRED
33 THOUSAND PERSONS OR MORE ACCORDING TO THE MOST RECENT UNITED
34 STATES DECENNIAL CENSUS:

35 1. SUPERIOR COURT JUDGES SHALL BE ELECTED BY THE
36 QUALIFIED ELECTORS OF THE JUDICIAL DISTRICT IN THESE COUNTIES.
37 THE BOARDS OF SUPERVISORS IN THESE COUNTIES SHALL ESTABLISH
38 JUDICIAL DISTRICTS THAT CONSIST OF SUBSTANTIALLY EQUAL
39 POPULATIONS AND THAT ARE THE SAME AS THE DISTRICTS FROM WHICH
40 MEMBERS OF THE BOARD OF SUPERVISORS ARE ELECTED. THE NUMBER OF
41 JUDGES ELECTED FROM EACH JUDICIAL DISTRICT SHALL BE AS EQUAL AS
42 PRACTICABLE. SUPERIOR COURT JUDGES SHALL HOLD OFFICE FOR A
43 REGULAR TERM OF SIX YEARS EXCEPT AS PROVIDED BY THIS SECTION
44 FROM AND AFTER THE FIRST MONDAY IN JANUARY NEXT SUCCEEDING THEIR
45 ELECTION, AND UNTIL THEIR SUCCESSORS ARE ELECTED AND QUALIFY.

1 THE BALLOT SHALL REFLECT THAT THERE ARE AS MANY SEPARATE OFFICES
2 TO BE FILLED AS THERE ARE JUDGES TO BE ELECTED. THE BALLOT
3 SHALL DESIGNATE EACH SEPARATE OFFICE AS A SEPARATE DIVISION OF
4 THE COURT.

5 2. WITHIN SIXTY DAYS AFTER THE OCCURRENCE OF A VACANCY IN
6 THE OFFICE OF A SUPERIOR COURT JUDGE IN SUCH COUNTIES, THE BOARD
7 OF SUPERVISORS SHALL APPOINT A JUDGE TO SERVE UNTIL THE ELECTION
8 AND QUALIFICATION OF A SUCCESSOR. THE APPOINTED JUDGE SHALL BE
9 A MEMBER OF THE SAME POLITICAL PARTY AS THE JUDGE VACATING THE
10 OFFICE. IN MAKING THE APPOINTMENT, THE BOARD OF SUPERVISORS
11 SHALL CONSIDER THE DIVERSITY OF THE JUDICIAL DISTRICT'S
12 POPULATION FOR A SUPERIOR COURT APPOINTMENT. HOWEVER, THE
13 PRIMARY CONSIDERATION IS MERIT.

14 3. AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS
15 SECTION, THE BOARD OF SUPERVISORS SHALL ASSIGN THE JUDICIAL
16 TERMS BY LOT AS FOLLOWS:

17 (a) BEFORE JANUARY 1, 2010, FOR SUPERIOR COURT JUDGES WHO
18 WERE RETAINED IN OFFICE BEFORE THE EFFECTIVE DATE OF THIS
19 AMENDMENT TO THIS SECTION AND WHOSE TERMS END IN 2011 AND FOR
20 ALL OTHER CANDIDATES FOR SUPERIOR COURT JUDGE WHOSE NAMES ARE
21 PLACED ON THE BALLOT IN 2010, ONE-THIRD SHALL BE ELECTED FOR A
22 TERM OF TWO YEARS, ONE-THIRD SHALL BE ELECTED FOR A TERM OF FOUR
23 YEARS AND ONE-THIRD SHALL BE ELECTED FOR A TERM OF SIX YEARS.
24 ALL SUBSEQUENT SUPERIOR COURT JUDGES SHALL BE ELECTED TO SERVE
25 SIX YEAR TERMS.

26 (b) BEFORE JANUARY 1, 2012, FOR SUPERIOR COURT JUDGES WHO
27 WERE RETAINED IN OFFICE BEFORE THE EFFECTIVE DATE OF THIS
28 AMENDMENT TO THIS SECTION AND WHOSE TERMS END IN 2013 AND FOR
29 ALL OTHER CANDIDATES FOR SUPERIOR COURT JUDGE WHOSE NAMES ARE
30 PLACED ON THE BALLOT IN 2012, ONE-THIRD SHALL BE ELECTED FOR A
31 TERM OF TWO YEARS, ONE-THIRD SHALL BE ELECTED FOR A TERM OF FOUR
32 YEARS AND ONE-THIRD SHALL BE ELECTED FOR A TERM OF SIX YEARS,
33 EXCEPT FOR JUDGES WHO WERE ELECTED FOR A TWO YEAR TERM IN 2010.
34 ALL SUBSEQUENT SUPERIOR COURT JUDGES SHALL BE ELECTED TO SERVE
35 SIX YEAR TERMS.

36 4. NOTWITHSTANDING PARAGRAPH 1 OF THIS SUBSECTION, A
37 PRESIDING JUDGE SHALL BE ELECTED BY THE QUALIFIED ELECTORS OF
38 EACH COUNTY. THE PRESIDING JUDGE SHALL APPOINT THE ASSOCIATE
39 PRESIDING JUDGE AND MAKE REGULAR AND SPECIAL ASSIGNMENTS OF ALL
40 SUPERIOR COURT JUDGES.

41 28. Justices and judges; dual office holding;
42 political activity; practice of law

43 Section 28. Justices and judges of courts of record shall
44 not be eligible for any other public office or for any other
45 public employment during their term of office, except that they

1 may assume another judicial office, and upon qualifying
2 therefor, the office formerly held shall become vacant. No
3 justice or judge of any court of record shall practice law
4 during his continuance in office, nor shall he hold any office
5 in a political party or actively take part in any political
6 campaign other than his own for his reelection or retention in
7 office. Any justice or judge who files nomination papers for an
8 elective office, other than for judge of the superior court or a
9 court of record inferior to the superior court ~~in a county~~
10 ~~having a population of less than two hundred fifty thousand~~
11 ~~persons according to the most recent United States census,~~
12 forfeits his judicial office.

13 30. Courts of record

14 Section 30. ~~A.~~ The supreme court, the court of appeals
15 and the superior court shall be courts of record. Other courts
16 of record may be established by law, but justice courts shall
17 not be courts of record.

18 ~~B. All justices and judges of courts of record, except~~
19 ~~for judges of the superior court and other courts of record~~
20 ~~inferior to the superior court in counties having a population~~
21 ~~of less than two hundred fifty thousand persons according to the~~
22 ~~most recent United States census, shall be appointed in the~~
23 ~~manner provided in section 37 of this article.~~

24 35. Continuance in office; continued existence of
25 offices; application of prior statute and rules

26 Section 35. ~~A.~~ All justices, judges, justices of the
27 peace and officers of any court who are holding office as such
28 by election or appointment at the time of the adoption of this
29 section **OR ANY AMENDMENT TO THIS SECTION** shall serve or continue
30 in office for the respective terms for which they are so elected
31 or for their respective unexpired terms, and until their
32 successors are elected or appointed and qualify or they are
33 retained in office pursuant to section 38 of this article;
34 ~~provided, however,~~ **EXCEPT** that any justice or judge elected at
35 the general election at which this section is adopted shall
36 serve for the term for which he is so elected. The continued
37 existence of any office heretofore legally established or held
38 shall not be abolished or repealed by the adoption of this
39 article. The statutes and rules relating to the authority,
40 jurisdiction, practice and procedure of courts, judicial
41 officers and offices in force at the time of the adoption of
42 this article and not inconsistent herewith, shall, so far as
43 applicable, apply to and govern such courts, judicial officers
44 and offices until amended or repealed.

1 ~~B. All judges of the superior court holding office by~~
2 ~~appointment or retention in counties with a population of two~~
3 ~~hundred fifty thousand persons or more according to the most~~
4 ~~recent United States census at the time of the adoption of this~~
5 ~~amendment to this section shall serve or continue in office for~~
6 ~~the respective terms for which they were appointed. Upon an~~
7 ~~incumbent vacating the office of judge of the superior court,~~
8 ~~whether by failing to file a declaration for retention, by~~
9 ~~rejection by the qualified electors of the county or~~
10 ~~resignation, the appointment shall be pursuant to section 37 of~~
11 ~~this article.~~

12 37. Judicial vacancies and appointments; initial
13 terms; residence; age

14 Section 37. A. Within sixty days from the occurrence of
15 a vacancy in the office of a justice OF THE SUPREME COURT or A
16 judge of any AN INTERMEDIATE APPELLATE court of record, ~~except~~
17 ~~for vacancies occurring in the office of a judge of the superior~~
18 ~~court or a judge of a court of record inferior to the superior~~
19 ~~court,~~ the commission on appellate court appointments, ~~if the~~
20 ~~vacancy is in the supreme court or an intermediate appellate~~
21 ~~court of record,~~ shall submit to the governor the names of not
22 less than three persons nominated by it to fill such vacancy, no
23 more than two of whom shall be members of the same political
24 party unless there are more than four such nominees, in which
25 event not more than sixty percentum PER CENT of such nominees
26 shall be members of the same political party.

27 ~~B. Within sixty days from the occurrence of a vacancy in~~
28 ~~the office of a judge of the superior court or a judge of a~~
29 ~~court of record inferior to the superior court except for~~
30 ~~vacancies occurring in the office of a judge of the superior~~
31 ~~court or a judge of a court of record inferior to the superior~~
32 ~~court in a county having a population of less than two hundred~~
33 ~~fifty thousand persons according to the most recent United~~
34 ~~States census, the commission on trial court appointments for~~
35 ~~the county in which the vacancy occurs shall submit to the~~
36 ~~governor the names of not less than three persons nominated by~~
37 ~~it to fill such vacancy, no more than two of whom shall be~~
38 ~~members of the same political party unless there are more than~~
39 ~~four such nominees, in which event no more than sixty per centum~~
40 ~~of such nominees shall be members of the same political party.~~
41 ~~A nominee shall be under sixty-five years of age at the time his~~
42 ~~name is submitted to the governor. Judges of the superior court~~
43 ~~shall be subject to retention or rejection by a vote of the~~
44 ~~qualified electors of the county from which they were appointed~~

1 ~~at the general election in the manner provided by section 38 of~~
 2 ~~this article.~~

3 ~~C.~~ B. A vacancy in the office of a justice OF THE
 4 SUPREME COURT or a judge of ~~such courts~~ AN INTERMEDIATE
 5 APPELLATE COURT of record shall be filled by appointment by the
 6 governor without regard to political affiliation from one of the
 7 nominees whose names ~~shall be~~ ARE submitted to ~~him~~ THE GOVERNOR
 8 as hereinabove provided. In making the appointment, the
 9 governor shall consider the diversity of the state's population
 10 for an appellate court appointment ~~and the diversity of the~~
 11 ~~county's population for a trial court appointment~~, however the
 12 primary consideration shall be merit. If the governor does not
 13 appoint one of ~~such~~ THE nominees to fill such vacancy within
 14 sixty days after their names are submitted to the governor by
 15 ~~such~~ THE commission, the chief justice of the supreme court
 16 ~~forthwith~~ shall appoint ONE OF THE NOMINEES on the basis of
 17 merit alone without regard to political affiliation ~~one of such~~
 18 ~~nominees~~ to fill such vacancy. If ~~such~~ THE commission does not
 19 SUBMIT, within sixty days after such vacancy occurs, ~~submit~~ the
 20 names of nominees ~~as hereinabove provided~~ PURSUANT TO SUBSECTION
 21 A, the governor shall have the power to appoint any qualified
 22 person to fill such vacancy at any time thereafter ~~prior to~~
 23 BEFORE the time the names of the nominees to fill such vacancy
 24 are submitted to the governor ~~as hereinabove provided~~ PURSUANT
 25 TO SUBSECTION A. Each justice or APPELLATE COURT judge so
 26 appointed shall initially hold office for a term ending sixty
 27 days following the next regular general election after the
 28 expiration of a term of two years in office. Thereafter, the
 29 terms of justices or APPELLATE COURT judges ~~of the supreme court~~
 30 ~~and the superior court~~ shall be as provided by this article.

31 ~~D.~~ C. A person appointed to fill a vacancy on an
 32 intermediate appellate court or another court of record now
 33 existing or hereafter established by law shall have been a
 34 resident of the counties or county in which that vacancy exists
 35 for at least one year ~~prior to his~~ BEFORE THE PERSON'S
 36 appointment, in addition to possessing the other required
 37 qualifications. A nominee shall be under sixty-five years of
 38 age at the time ~~his~~ THE NOMINEE'S name is submitted to the
 39 governor.

40 38. Declaration of candidacy; form of judicial
 41 ballot, rejection and retention; failure to
 42 file declaration

43 Section 38. A. A justice or judge of the supreme court
 44 or an intermediate appellate court shall file in the office of
 45 the secretary of state, ~~and a judge of the superior court or~~

1 ~~other court of record including such justices or judges who are~~
 2 ~~holding office as such by election or appointment at the time of~~
 3 ~~the adoption of this section except for judges of the superior~~
 4 ~~court and other courts of record inferior to the superior court~~
 5 ~~in counties having a population of less than two hundred fifty~~
 6 ~~thousand persons, according to the United States census, shall~~
 7 ~~file in the office of the clerk of the board of supervisors of~~
 8 ~~the county in which he regularly sits and resides,~~ not less than
 9 sixty nor more than ninety days ~~prior to~~ BEFORE the regular
 10 general election next preceding the expiration of his term of
 11 office, a declaration of his desire to be retained in office,
 12 and the secretary of state shall certify to the several boards
 13 of supervisors the appropriate names of the candidate or
 14 candidates appearing on such declarations filed in his office.

15 B. The name of any justice or APPELLATE COURT judge whose
 16 declaration is filed as provided in this section shall be placed
 17 on the appropriate official ballot at the next regular general
 18 election under a nonpartisan designation and in substantially
 19 the following form:

20 Shall _____, (Name of justice or APPELLATE COURT
 21 judge) of the _____ court be retained in office? Yes ___ No
 22 ___ (Mark X after one).

23 C. If a majority of those voting on the question votes
 24 "No," ~~then,~~ upon the expiration of the term for which such
 25 justice or APPELLATE COURT judge was serving, a vacancy shall
 26 exist, which shall be filled as provided by this article. If a
 27 majority of those voting on the question votes "Yes," such
 28 justice or APPELLATE COURT judge shall remain in office for
 29 another term, subject to removal as provided by this
 30 constitution.

31 D. The votes shall be counted and canvassed and the
 32 result declared as in the case of state and county elections,
 33 whereupon a certificate of retention or rejection of the
 34 incumbent justice or APPELLATE COURT judge shall be delivered to
 35 ~~him~~ THE INCUMBENT by the secretary of state or the clerk of the
 36 board of supervisors, as the case may be.

37 E. If a justice or APPELLATE COURT judge fails to file a
 38 declaration of ~~his~~ THE JUSTICE'S OR JUDGE'S desire to be
 39 retained in office, as required by this section, ~~then his~~ THE
 40 JUSTICE'S OR JUDGE'S office shall become vacant upon expiration
 41 of the term for which such justice or judge was serving.

42 42. Retention evaluation of justices and appellate
 43 court judges

44 The supreme court shall adopt, after public hearings, and
 45 administer for all justices and APPELLATE COURT judges who file

1 a declaration to be retained in office, a process, established
2 by court rules, for evaluating judicial performance. The rules
3 shall include written performance standards and performance
4 reviews which survey opinions of persons who have knowledge of
5 the justice's or APPELLATE COURT judge's performance. The
6 public shall be afforded a full and fair opportunity for
7 participation in the evaluation process through public hearings,
8 dissemination of evaluation reports to voters and any other
9 methods as the court deems advisable.

10 2. Article VI, sections 40 and 41, Constitution of Arizona, are
11 proposed to be repealed as follows if approved by the voters and on
12 proclamation of the Governor:

13 Article VI, section 40, Constitution of Arizona, relating
14 to the option for counties with a population of less than two
15 hundred fifty thousand persons, is repealed.

16 Article VI, section 41, Constitution of Arizona, relating
17 to the commission on trial court appointments, is repealed.

18 3. Section 12-102, Arizona Revised Statutes, is proposed to be amended
19 as follows if approved by the voters and on proclamation of the Governor:

20 12-102. Jurisdiction and duties; court appointments;
21 contract and volunteer service providers;
22 background investigations; fingerprinting

23 A. The supreme court shall discharge the duties imposed
24 and exercise the jurisdiction conferred by the constitution and
25 by law.

26 B. As a condition of appointment to any paid position in
27 the judicial department that is defined as a noncriminal justice
28 agency under federal law, including nomination for judicial
29 office by the ~~commissions~~ COMMISSION on appellate ~~and trial~~
30 court appointments pursuant to article VI, ~~sections~~ SECTION 37
31 ~~and 41~~, Constitution of Arizona, the court shall require each
32 applicant to furnish a full set of fingerprints to enable the
33 court to conduct a criminal background investigation to
34 determine the suitability of the applicant. The court shall
35 submit the completed applicant fingerprint card to the
36 department of public safety. The applicant shall bear the cost
37 of obtaining the applicant's criminal history record
38 information. The cost shall not exceed the actual cost of
39 obtaining the applicant's criminal history record information.
40 Applicant criminal history records checks shall be conducted
41 pursuant to section 41-1750 and Public Law 92-544. The
42 department of public safety is authorized to exchange the
43 submitted applicant fingerprint card information with the
44 federal bureau of investigation for a national criminal history
45 records check.

1 C. The court may require each person who provides
 2 contract or volunteer services in the judicial department that
 3 is defined as a noncriminal justice agency under federal law to
 4 furnish a full set of fingerprints to enable the court to
 5 conduct a criminal background investigation. The court shall
 6 submit the person's completed fingerprint card to the department
 7 of public safety. The person shall bear the cost of obtaining
 8 the person's criminal history record information. The cost
 9 shall not exceed the actual cost of obtaining the person's
 10 criminal history record information. Criminal history records
 11 checks shall be conducted pursuant to section 41-1750 and Public
 12 Law 92-544. The department of public safety is authorized to
 13 exchange the person's submitted fingerprint card information
 14 with the federal bureau of investigation for a national criminal
 15 history records check.

16 4. Section 12-121, Arizona Revised Statutes, is proposed to be amended
 17 as follows if approved by the voters and on proclamation of the Governor:

18 12-121. Number of judges; petition for approval of
 19 additional judges

20 A. In each county of the state there shall be a superior
 21 court for which ~~at least one~~ EACH judge shall be elected. ~~In~~
 22 ~~each county having a census enumeration greater than thirty~~
 23 ~~thousand inhabitants, and upon ON~~ petition by the board of
 24 supervisors of ~~such~~ THE county to the governor and ~~his~~ ON THE
 25 GOVERNOR'S approval ~~thereof~~ OF THE PETITION, ~~there shall be~~ an
 26 additional judge OR JUDGES of the superior court ~~for each thirty~~
 27 ~~thousand inhabitants, or majority fraction thereof, or the~~
 28 ~~additional judge of the superior court may~~ SHALL be authorized,
 29 ~~based on the procedure prescribed by the terms of subsections B~~
 30 ~~and C.~~

31 ~~B. Upon petition by the board of supervisors of a county~~
 32 ~~to the governor and his approval thereof, there shall be an~~
 33 ~~additional judge of the superior court provided that the board~~
 34 ~~of supervisors has determined, as prescribed in subsection C,~~
 35 ~~that the county has acquired since the last census enumeration~~
 36 ~~the required number of inhabitants for an additional judge as~~
 37 ~~provided in subsection A.~~

38 ~~C. The determination of the board of supervisors shall be~~
 39 ~~based on, but not limited to, recent estimates of population, if~~
 40 ~~any, of any area within the county issued by the bureau of the~~
 41 ~~census, auto registrations, nonagricultural employment, gross~~
 42 ~~utility revenues and retail sales.~~

43 ~~D. B.~~ Additional judges authorized by ~~the terms of~~ this
 44 section shall be ~~appointed or~~ elected as provided by law.

1 5. Section 16-311, Arizona Revised Statutes, is proposed to be amended
2 as follows if approved by the voters and on proclamation of the Governor:

3 16-311. Nomination papers; filing; definitions

4 A. Any person desiring to become a candidate at a primary
5 election for a political party and to have the person's name
6 printed on the official ballot shall be a qualified elector of
7 such party and, not less than ninety nor more than one hundred
8 twenty days before the primary election, shall sign and cause to
9 be filed a nomination paper giving the person's actual residence
10 address or description of place of residence and post office
11 address, naming the party of which the person desires to become
12 a candidate, stating the office and district or precinct, if
13 any, for which the person offers the person's candidacy, stating
14 the exact manner in which the person desires to have the
15 person's name printed on the official ballot pursuant to
16 subsection G, and giving the date of the primary election and,
17 if nominated, the date of the general election at which the
18 person desires to become a candidate. A candidate for public
19 office shall be a qualified elector at the time of filing and
20 shall reside in the county, district or precinct ~~which~~ THAT the
21 person proposes to represent, EXCEPT THAT JUDGES OF THE SUPERIOR
22 COURT IN COUNTIES WITH A POPULATION OF EIGHT HUNDRED THOUSAND
23 PERSONS OR MORE WHO ARE SERVING A TERM OF OFFICE ON THE
24 EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION SHALL RESIDE IN
25 THE COUNTY AND NOT THE DISTRICT THAT THE JUDGE PROPOSES TO
26 REPRESENT.

27 B. Any person desiring to become a candidate at any
28 nonpartisan election and to have the person's name printed on
29 the official ballot shall be at the time of filing a qualified
30 elector of such county, city, town or district and, not less
31 than ninety nor more than one hundred twenty days before the
32 election, shall sign and cause to be filed a nomination paper
33 giving the person's actual residence address or description of
34 place of residence and post office address, stating the office
35 and county, city, town or district and ward or precinct, if any,
36 for which the person offers the person's candidacy, stating the
37 exact manner in which the person desires to have the person's
38 name printed on the official ballot pursuant to subsection G and
39 giving the date of the election. A candidate for office shall
40 reside at the time of filing in the county, city, town,
41 district, ward or precinct ~~which~~ THAT the person proposes to
42 represent, EXCEPT THAT JUDGES OF THE SUPERIOR COURT IN COUNTIES
43 WITH A POPULATION OF EIGHT HUNDRED THOUSAND PERSONS OR MORE WHO
44 ARE SERVING A TERM OF OFFICE ON THE EFFECTIVE DATE OF THIS

1 AMENDMENT TO THIS SECTION SHALL RESIDE IN THE COUNTY AND NOT THE
2 DISTRICT THAT THE JUDGE PROPOSES TO REPRESENT.

3 C. Notwithstanding THE PROVISIONS OF subsection B to the
4 contrary, any city or town may adopt by ordinance for its
5 elections the time frame provided in subsection A for filing
6 nomination petitions. Such ordinance shall be adopted not less
7 than one hundred twenty days before the first election to which
8 it applies.

9 D. All persons desiring to become a candidate shall file
10 with the nomination paper provided for in subsection A an
11 affidavit which shall be printed in a form prescribed by the
12 secretary of state. The affidavit shall include facts
13 sufficient to show that, other than the residency requirement
14 provided in subsection A, the candidate will be qualified at the
15 time of election to hold the office the person seeks.

16 E. The nomination paper of a candidate for the office of
17 United States senator or representative in Congress, for the
18 office of presidential elector or for a state office, including
19 a member of the legislature, or for any other office for which
20 the electors of the entire state or a subdivision of the state
21 greater than a county are entitled to vote, shall be filed with
22 the secretary of state no later than 5:00 p.m. on the last date
23 for filing.

24 F. The nomination paper of a candidate for superior court
25 judge or for a county, district and precinct office for which
26 the electors of a county or a subdivision of a county other than
27 an incorporated city or town are entitled to vote shall be filed
28 with the county elections officer no later than 5:00 p.m. on the
29 last date for filing as prescribed by subsection A. The
30 nomination paper of a candidate for a city or town office shall
31 be filed with the city or town clerk no later than 5:00 p.m. on
32 the last date for filing. The nomination paper of a candidate
33 for school district office shall be filed with the county school
34 superintendent no later than 5:00 p.m. on the last date for
35 filing.

36 G. The nomination paper shall include the exact manner in
37 which the candidate desires to have the person's name printed on
38 the official ballot and shall be limited to the candidate's
39 surname and given name or names, an abbreviated version of such
40 names or appropriate initials such as "Bob" for "Robert", "Jim"
41 for "James", "Wm." for "William" or "S." for "Samuel". Nicknames
42 are permissible, but in no event shall nicknames, abbreviated
43 versions or initials of given names suggest reference to
44 professional, fraternal, religious or military titles. No other
45 descriptive name or names shall be printed on the official

1 ballot, except as provided in this section. Candidates'
2 abbreviated names or nicknames may be printed within quotation
3 marks. The candidate's surname shall be printed first, followed
4 by the given name or names.

5 H. A person who does not file a timely nomination paper
6 that complies with this section is not eligible to have the
7 person's name printed on the official ballot for that office.
8 The filing officer shall not accept the nomination paper of a
9 candidate for state or local office unless the person provides
10 or has provided all of the following:

11 1. The nomination petition required by this title.

12 2. A political committee statement of organization or the
13 five hundred dollar threshold exemption statement for that
14 office.

15 3. The financial disclosure statement as prescribed for
16 candidates for that office.

17 I. For the purposes of this title:

18 1. "Election district" means the state, any county, city,
19 town, precinct or other political subdivision or a special
20 district which is not a political subdivision, which is
21 authorized by statute to conduct an election and which is
22 authorized or required to conduct its election in accordance
23 with this title.

24 2. "Nomination paper" means the form filed with the
25 appropriate office by a person wishing to declare the person's
26 intent to become a candidate for a particular political office.

27 6. Section 16-322, Arizona Revised Statutes, is proposed to be amended
28 as follows if approved by the voters and on proclamation of the Governor:

29 16-322. Number of signatures required on nomination
30 petitions

31 A. Nomination petitions shall be signed:

32 1. If for a candidate for the office of United States
33 senator or for a state office, excepting members of the
34 legislature and superior court judges, by a number of qualified
35 electors who are qualified to vote for the candidate whose
36 nomination petition they are signing equal to at least one-half
37 of one per cent of the voter registration of the party of the
38 candidate in at least three counties in the state, but not less
39 than one-half of one per cent nor more than ten per cent of the
40 total voter registration of his party in the state.

41 2. If for a candidate for the office of representative in
42 Congress, by a number of qualified electors who are qualified to
43 vote for the candidate whose nomination petition they are
44 signing equal to at least one-half of one per cent but not more
45 than ten per cent of the total voter registration of the party

1 designated in the district from which such representative shall
2 be elected.

3 3. If for a candidate for the office of member of the
4 legislature, by a number of qualified electors who are qualified
5 to vote for the candidate whose nomination petition they are
6 signing equal to at least one per cent but not more than three
7 per cent of the total voter registration of the party designated
8 in the district from which the member of the legislature may be
9 elected.

10 4. If for a candidate for a county office or **A CANDIDATE**
11 **FOR** superior court judge, by a number of qualified electors who
12 are qualified to vote for the candidate whose nomination
13 petition they are signing equal to at least two per cent but not
14 more than ten per cent of the total voter registration of the
15 party designated in the county or district, provided that in
16 counties with a population of two hundred thousand persons or
17 more, a candidate for a county office **OR A CANDIDATE FOR**
18 **SUPERIOR COURT** shall have nomination petitions signed by a
19 number of qualified electors who are qualified to vote for the
20 candidate whose nomination petition they are signing equal to at
21 least one-half of one per cent but not more than ten per cent of
22 the total voter registration of the party designated in the
23 county or district.

24 5. If for a candidate for a community college district,
25 by a number of qualified electors who are qualified to vote for
26 the candidate whose nomination petition they are signing equal
27 to at least one-half of one per cent but not more than ten per
28 cent of the total voter registration in the precinct as
29 established pursuant to section 15-1441.

30 6. If for a candidate for county precinct committeeman,
31 by a number of qualified electors who are qualified to vote for
32 the candidate whose nomination petition they are signing equal
33 to at least two per cent but not more than ten per cent of the
34 party voter registration in the precinct or ten signatures,
35 whichever is less.

36 7. If for a candidate for justice of the peace or
37 constable, by a number of qualified electors who are qualified
38 to vote for the candidate whose nomination petition they are
39 signing equal to at least two per cent but not more than ten per
40 cent of the party voter registration in the precinct.

41 8. If for a candidate for mayor or other office nominated
42 by a city at large, by a number of qualified electors who are
43 qualified to vote for the candidate whose nomination petition
44 they are signing equal to at least five per cent and not more
45 than ten per cent of the designated party vote in the city.

1 9. If for an office nominated by ward, precinct or other
2 district of a city, by a number of qualified electors who are
3 qualified to vote for the candidate whose nomination petition
4 they are signing equal to at least five per cent and not more
5 than ten per cent of the designated party vote in the ward,
6 precinct or other district.

7 10. If for a candidate for an office nominated by a town
8 at large, by a number of qualified electors who are qualified to
9 vote for the candidate whose nomination petition they are
10 signing equal to at least five per cent and not more than ten
11 per cent of the vote in the town.

12 11. If for a candidate for a governing board of a school
13 district, by a number of qualified electors who are qualified to
14 vote for the candidate whose nomination petition they are
15 signing equal to at least one-half of one per cent of the total
16 voter registration in the school district if the governing board
17 members are elected at large or one per cent of the total voter
18 registration in the single member district if governing board
19 members or joint technological education district board members
20 are elected from single member districts. Notwithstanding the
21 total voter registration in the school district or single member
22 district, the maximum number of signatures required by this
23 paragraph is four hundred.

24 12. If for a candidate for a governing body of a special
25 district as described in title 48 by a number of qualified
26 electors who are qualified to vote for the candidate whose
27 nomination petition they are signing equal to at least one-half
28 of one per cent of the vote in the special district but not more
29 than two hundred fifty and not fewer than five signatures.

30 B. The basis of percentage in each instance referred to
31 in subsection A of this section, except in cities, towns and
32 school districts, shall be the number of voters registered in
33 the designated party of the candidate as reported pursuant to
34 section 16-168, subsection G on March 1 of the year in which the
35 general election is held. In cities, the basis of percentage
36 shall be the vote of the party for mayor at the last preceding
37 election at which a mayor was elected. In towns, the basis of
38 percentage shall be the highest vote cast for an elected
39 official of the town at the last preceding election at which an
40 official of the town was elected. In school districts, the
41 basis of percentage shall be the total number of voters
42 registered in the school district or single member district,
43 whichever applies. The total number of voters registered for
44 school districts shall be calculated using the periodic reports
45 prepared by the county recorder pursuant to section 16-168,

1 subsection G. The count that is reported on March 1 of the year
2 in which the general election is held shall be the basis for the
3 calculation of total voter registration for school districts.

4 C. In primary elections the signature requirement for
5 party nominees, other than nominees of the parties entitled to
6 continued representation pursuant to section 16-804, is at least
7 one-tenth of one per cent of the total vote for the winning
8 candidate or candidates for governor or presidential electors at
9 the last general election within the district. Signatures must
10 be obtained from qualified electors who are qualified to vote
11 for the candidate whose nomination petition they are signing.

12 D. If new boundaries for congressional districts,
13 legislative districts, supervisorial districts, justice
14 precincts or election precincts are established and effective
15 subsequent to March 1 of the year of a general election and
16 prior to the date for filing of nomination petitions, the basis
17 for determining the required number of nomination petition
18 signatures is the number of registered voters in the designated
19 party of the candidate in the elective office, district or
20 precinct on the day the new districts or precincts are
21 effective.

22 7. Section 16-949, Arizona Revised Statutes, is proposed to be amended
23 as follows if approved by the voters and on proclamation of the Governor:

24 16-949. Caps on spending from citizens clean
25 elections fund

26 A. The commission shall not spend, on all costs incurred
27 under this article during a particular calendar year, more than
28 ~~five~~ TEN dollars times the number of Arizona resident personal
29 income tax returns filed during the previous calendar year. Tax
30 reductions and tax credits awarded to taxpayers pursuant to
31 section 16-954, subsections A and B shall not be considered
32 costs incurred under this article for THE purposes of this
33 section. The commission may exceed this limit during a calendar
34 year, provided that it is offset by an equal reduction of the
35 limit during another calendar year during the same four-year
36 period beginning January 1 immediately after a gubernatorial
37 election.

38 B. The commission may use up to ten ~~percent~~ PER CENT of
39 the amount specified in subsection A of this section for
40 reasonable and necessary expenses of administration and
41 enforcement, including the activities specified in section
42 16-956, subsection A, paragraphs 3 through 7 and subsections B
43 and C. Any portion of the ten ~~percent~~ PER CENT not used for
44 this purpose shall remain in the fund.

1 C. The commission shall apply ten ~~percent~~ PER CENT of the
2 amount specified in subsection A of this section for reasonable
3 and necessary expenses associated with voter education,
4 including the activities specified in section 16-956,
5 subsection A.

6 D. The state treasurer shall administer a citizens clean
7 ~~election~~ ELECTIONS fund from which costs incurred under this
8 article shall be paid. The auditor general shall review the
9 monies in, payments into, ~~and~~ expenditures from the fund no
10 less often than every four years.

11 8. Title 16, chapter 6, article 2, Arizona Revised Statutes, is
12 proposed to be amended as follows by adding section 16-962 if approved by the
13 voters and on proclamation of the Governor:

14 16-962. Applicability; superior court judges;
15 reports

16 A. THIS ARTICLE APPLIES TO CANDIDATES FOR JUDGE OF THE
17 SUPERIOR COURT. FOR CANDIDATES FOR JUDGE OF THE SUPERIOR COURT,
18 "PRIMARY ELECTION SPENDING LIMIT" HAS THE SAME MEANING AS FOR A
19 CANDIDATE FOR THE LEGISLATURE. FOR CANDIDATES FOR PRESIDING
20 JUDGE, "PRIMARY ELECTION SPENDING LIMIT" HAS THE SAME MEANING AS
21 FOR A CANDIDATE FOR MINE INSPECTOR.

22 B. PERSONS WHO ARE REQUIRED TO FILE REPORTS PURSUANT TO
23 THIS ARTICLE SHALL:

24 1. IF THE PERSON IS A NONPARTICIPATING CANDIDATE, FILE
25 THE REPORTS WITH THE COUNTY OFFICER IN CHARGE OF ELECTIONS.

26 2. IF THE PERSON IS A PARTICIPATING CANDIDATE, FILE THE
27 REPORTS WITH THE SECRETARY OF STATE, WHO SHALL TRANSMIT EACH
28 JUDICIAL CANDIDATE'S REPORT TO THE COUNTY OFFICER IN CHARGE OF
29 ELECTIONS.

30 9. Section 38-431.08, Arizona Revised Statutes, is proposed to be
31 amended as follows if approved by the voters and on proclamation of the
32 Governor:

33 38-431.08. Exceptions; limitation

34 A. This article does not apply to:

35 1. Any judicial proceeding of any court or any political
36 caucus of the legislature.

37 2. Any conference committee of the legislature, except
38 that all such meetings shall be open to the public.

39 ~~3-~~ The ~~commissions~~ COMMISSION on appellate ~~and trial~~
40 court appointments and the commission on judicial
41 qualifications.

42 ~~4-~~ 3. Good cause exception determinations and hearings
43 conducted by the board of fingerprinting pursuant to section
44 41-619.55.

1 B. A hearing held within a prison facility by the board
2 of executive clemency is subject to this article, except that
3 the director of the state department of corrections may:

4 1. Prohibit, on written findings that are made public
5 within five days of so finding, any person from attending a
6 hearing whose attendance would constitute a serious threat to
7 the life or physical safety of any person or to the safe, secure
8 and orderly operation of the prison.

9 2. Require a person who attends a hearing to sign an
10 attendance log. If the person is over sixteen years of age, the
11 person shall produce photographic identification which verifies
12 the person's signature.

13 3. Prevent and prohibit any articles from being taken
14 into a hearing except recording devices, and if the person who
15 attends a hearing is a member of the media, cameras.

16 4. Require that a person who attends a hearing submit to
17 a reasonable search on entering the facility.

18 C. The exclusive remedies available to any person who is
19 denied attendance at or removed from a hearing by the director
20 of the state department of corrections in violation of this
21 section shall be those remedies available in section 38-431.07,
22 as against the director only.

23 D. Either house of the legislature may adopt a rule or
24 procedure pursuant to article IV, part 2, section 8,
25 Constitution of Arizona, to provide an exemption to the notice
26 and agenda requirements of this article or to allow standing or
27 conference committees to meet through technological devices
28 rather than only in person.

29 10. Conditional enactment

30 Section 16-962, Arizona Revised Statutes, as added by this measure, and
31 sections 12-102, 12-121, 16-311, 16-322, 16-949 and 38-431.08, Arizona
32 Revised Statutes, as amended by this measure, do not become effective unless
33 the Constitution of Arizona is amended by vote of the people at the next
34 regular general election to replace the constitutional requirement of merit
35 selection of superior court judges with election as provided in sections 1
36 and 2 of this measure.

37 11. Short title

38 These measures may be cited as "Clean Elections for Judges."

39 12. Intent

40 In 1974, a new system for accountability for judges was instituted in
41 Arizona. Under this selection and retention scheme, voters were supposed to
42 have a meaningful way to remove judges who abused their authority and who
43 refused to follow the law in their decisions.

1 Now, over 30 years later, it is clear that the current system has
2 failed to provide any accountability for judges. Each election voters are
3 presented with long lists of names of judges and no meaningful information to
4 decide whether to retain a particular judge or remove that judge. Out of the
5 thousands of times judges have sought retention on the ballot since _____, no
6 judges have been removed by the voters.

7 Clean Elections for Judges will institute a democratic system in which
8 the voters will be allowed to choose who will hold the office of superior
9 court judge. Judges who are incompetent or abusive will face a real opponent
10 who will be able to point out the incumbent's misconduct. Funding from fines
11 assessed on criminals will ensure that qualified persons will be able to run
12 for office without the risk of being tainted by campaign contributions from
13 special interests.

14 A further purpose of Clean Elections for Judges is to ensure that all
15 geographic areas of the county will receive equal representation of superior
16 court judges. Under the current scheme, most judges live in only a few
17 geographic areas.

18 Clean Elections for Judges restores democracy, accountability and
19 geographic representation to the judiciary.

20 13. The Secretary of State shall submit these propositions to the
21 voters at the next general election as separate ballot propositions as
22 provided by article IV, part 1, section 1 and article XXI, Constitution of
23 Arizona, and section 19-125, Arizona Revised Statutes.