

State of Arkansas

77th General Assembly

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H.J.R.

1018

By: Representative Schexnayder

HOUSE JOINT RESOLUTION

PROPOSING A CONSTITUTIONAL AMENDMENT RELATING TO  
QUALIFICATIONS, SELECTION, ELECTION AND TENURE OF SUPREME  
COURT AND COURT OF APPEALS JUDGES.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE SEVENTY-SEVENTH GENERAL ASSEMBLY OF THE STATE OF ARKANSAS AND BY THE SENATE, A MAJORITY OF ALL MEMBERS ELECTED TO EACH HOUSE AGREEING THERETO:

That the following is hereby proposed as an amendment to the Constitution of the State of Arkansas, and upon being submitted to the electors of the State for approval or rejection at the next general election for Senators and Representatives, if a majority of the electors voting thereon, at such an election, adopt such amendment, the same shall become a part of the Constitution of the State of Arkansas, to wit:

SECTION 1. Qualification and Tenure of Supreme Court and Court of Appeals Judges.

Judges of the Supreme Court and Court of Appeals shall be at least thirty years of age, of good moral character, learned in the law, citizens of the United States and residents of this state for two years. They must have been attorneys licensed in this state for at least eight years. The terms of office of Supreme Court and Court of Appeals Judges shall be eight years, except for the first term following selection which is otherwise provided for in this Amendment. Each judge selected for a district must have resided in that district for at least two years next preceding his selection. All judges subject to this section shall continue to meet the qualifications established for attorneys licensed in this state.

SECTION 2. Selection of Judges of the Supreme Court and Court of

Appeals.

Whenever a vacancy occurs in the office of a judge of the Supreme Court, or judge of the Court of Appeals, the Governor shall fill this vacancy by selecting one of three nominees, possessing the qualifications for this office, who shall be nominated and submitted to him by the Appellate Nominating Commission, established and organized as is provided for in this Amendment. The names of these nominees must be submitted to the Governor by the Commission within thirty (30) days from the date the vacancy occurs. If the Governor fails to make the selection within thirty (30) days from the date the names are submitted to him, the Chief Justice of the Supreme Court shall make the selection from the nominees, unless the vacancy is in the office of Chief Justice, then the Lieutenant Governor shall make the selection from the nominees.

SECTION 3. Terms of Judges -- Retention in Office -- Election.

Each judge selected pursuant to the provisions of this Amendment shall hold office for an initial term ending December 31 following the next general election after the expiration of thirty-six months in office. Any judge holding office, or elected to office, at the time of the election by which the provisions of this Amendment shall be made applicable to the office shall, unless removed for cause, remain in office for the term to which he would have been entitled had the provisions of this Amendment not become applicable to his office. Not less than sixty (60) days prior to the holding of the general election next preceding the expiration of his term, any judge whose office is subject to the provisions of this Amendment may file with the office of the Secretary of State a declaration of candidacy for election to succeed himself. If a declaration is not so filed, the resulting vacancy shall be filled by selection as is provided for in this Amendment. If such a declaration is filed, his name alone shall be submitted at the next general election to the voters on a separate judicial ballot, without regard to party affiliation, as follows: "Shall Judge \_\_\_\_\_ of the \_\_\_\_\_ Court be retained in office? Yes \_\_\_\_ No \_\_\_\_ (Mark One)." If a majority of the votes cast on the question are against retaining the judge in office, upon the expiration of his term of office, a vacancy shall exist which shall be filled by selection as provided for in Section 2 of this Amendment; otherwise, the judge shall, unless removed for cause, remain in office for the number of

years after December 31 following such election as is provided for the full term of such office, and at the expiration of each term shall be eligible for retention in office by election in the manner prescribed in this Amendment, until he has reached the age of seventy years. Whenever a declaration of candidacy for election to succeed himself is filed by any judge under the provisions of this section, the Secretary of State shall, not less than thirty days before the election, certify the name of the judge and the official title of his office to the boards of election commissioners in counties or cities having such boards, or to such other officials as may hereafter be provided by law, and the judicial ballots required by this section shall be prepared, printed, published, and distributed, and the election upon the question of retention of the judge in office shall be conducted and the votes counted, canvassed, returned, certified, and proclaimed by such public officials in the manner as is now or hereafter may be provided by the statutes governing voting upon candidates for state offices in general elections.

SECTION 4. Composition of Appellate Nominating Commission.

The Appellate Nominating Commission shall consist of the Chief Justice of the Supreme Court, who shall serve as chairman, one attorney from each congressional district and one lay member from each congressional district. The attorney members shall be selected in the following manner: They shall be nominated by the filing of a petition containing the signatures of not less than fifty licensed attorneys from their congressional districts who are in good standing with the Supreme Court of Arkansas; the Clerk of the Supreme Court shall hold an election in each congressional district, under the rules to be promulgated by the Supreme Court, by mailing ballots containing the names of all nominees to all resident licensed attorneys in good standing in this congressional district as reflected on his office records; on the fifteenth day after mailing, the clerk shall canvass all ballots received by him; and any attorney receiving a majority of the votes cast shall be elected. If no attorney receives a majority of the votes cast, the clerk of the Supreme Court shall hold a runoff election between the two attorneys receiving the most votes, and the attorney receiving the majority of the votes cast in the runoff election shall be elected. The lay members of the Commission shall be named by the Governor, with the advice and consent of the Senate of this state. These lay appointments shall be made without regard to political affiliation.

The initial Appellate Nominating Commission shall be created within sixty (60) days after the effective date of this Amendment.

SECTION 5. Qualifications of Commissioners -- Restrictions.

Each member of the Appellate Nominating Commission shall hold office until his successor is selected and qualified and shall be a qualified elector. The attorney members and lay members of the Appellate Nominating Commission shall be ineligible to serve if they hold any elective or appointive office of any executive, judicial, or legislative branch of the federal government, the state, a municipality, a county or a school district or any political district or subdivision thereof, or if they hold any office in a political party.

SECTION 6. Certification and Organization of Commissioners.

The clerk of the Supreme Court shall immediately after the election of the attorney members of the Appellate Nominating Commission, certify to the Secretary of the State, the names of these attorneys and shall identify the commission on which each was elected to serve. The Governor shall immediately certify to the Secretary of State the names of all lay members appointed and shall identify the commission on which each shall serve. The Secretary of State shall then notify each of the certified persons of his membership on the Commission. Successors to these members shall be certified and notified in the same manner. The Commission shall then promptly meet and organize. Five members of the Appellate Nominating Commission shall constitute a quorum for the transaction of business and any act of the Appellate Nominating Commission shall require the affirmative vote of a majority of the total membership of that Commission.

SECTION 7. Tenure of Commissioners.

The Commissioners of the Appellate Nominating Commission shall serve staggered terms of eight years, provided that two of the initial members shall serve two years; two members shall serve four years; two members shall serve six years; two members shall serve eight years, and the successors of each shall serve eight years. These staggered terms shall be decided by the drawing of lots.

SECTION 8. Vacancies on the Appellate Nominating Commission.

Vacancies occurring on the Appellate Nominating Commission shall be filled in the same manner as the original appointments were made. The person selected to fill a vacancy shall hold office for the remainder of the term of the commissioner whose office became vacant and shall not be eligible for re-appointment or selection.

SECTION 9. Administrative Expenses.

The members of the Appellate Nominating Commission shall receive no salary or other compensation for their services, but shall receive their necessary traveling and other expenses incurred in the discharge of their official duties. All such expenses, when approved by the Chief Justice of the Supreme Court, shall be paid out of the State Treasury upon certification of such to the State Auditor who shall draw his warrant therefor payable out of the funds appropriated for the Judicial Department.

SECTION 10. Political Activities.

No judge selected to, or retained in office, in the manner specified in this Amendment shall directly or indirectly hold office in any political party or organization or take part in any political campaign. If any such judge becomes a candidate at any primary or general election for a non-judicial office, state or federal, or any subdivision of either, by either a public announcement of intention to become a candidate for said office or by filing therefor the judicial office shall become vacant, and shall be filled as provided for in this Amendment.

SECTION 11. Provisions Self-Executing.

All the provisions of this Amendment shall be self-executing.

SECTION 12. Repealer.

Any prior existing laws or parts of laws contrary to any of the provisions of this Amendment are hereby repealed and rendered null and void, to the extent that they are in conflict with this Amendment.