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HOUSE JOINT RESOLUTION 12

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

FRANK BIRD

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO ARTICLE 6 OF THE CONSTITUTION OF NEW MEXICO TO PROVIDE FOR APPOINTMENT OF JUSTICES AND JUDGES FOR A SINGLE TERM AND INCREASING QUALIFICATIONS FOR JUSTICES AND JUDGES.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. It is proposed to amend Article 6, Section 8 of the constitution of New Mexico to read:

"No person shall be qualified to hold the office of justice of the supreme court unless that person is at least thirty-five years old and has been in the actual practice of law for at least ~~ten~~ fifteen years preceding that person's assumption of office and has resided in this state for at least three years immediately preceding that person's assumption of office. The actual practice of law shall include a lawyer's service upon the

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1 bench of any court of this state. The increased qualifications
2 provided by this ~~[1988]~~ 1998 amendment shall not apply to
3 justices and judges serving at the time this amendment passes or
4 elected at the general election in ~~[1988]~~ 1998. "

5 Section 2. It is proposed to amend Article 6, Section 10
6 of the constitution of New Mexico to read:

7 "After the publication of the census of the United States
8 in the year nineteen hundred and twenty, the legislature shall
9 have power to increase the number of justices of the supreme
10 court to five; provided, however, that no more than two of
11 ~~[said]~~ the justices shall be ~~[elected]~~ appointed at one time,
12 except to fill a vacancy. "

13 Section 3. It is proposed to amend Article 6, Section 14
14 of the constitution of New Mexico to read:

15 "The qualifications of the district judges shall be the
16 same as those of justices of the supreme court ~~[except that~~
17 ~~district judges shall have been in the actual practice of law~~
18 ~~for at least six years preceding assumption of office]~~. Each
19 district judge shall reside in the district for which the judge
20 was ~~[elected or]~~ appointed. The increased qualifications
21 provided by this ~~[1988]~~ 1998 amendment shall not apply to
22 district judges serving at the time this amendment passes or
23 elected at the general election in ~~[1988]~~ 1998. "

24 Section 4. It is proposed to amend Article 6, Section 16
25 of the constitution of New Mexico to read:

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1 "The legislature may increase the number of district judges
2 in any judicial district, and they shall be [~~elected or~~]
3 appointed as other district judges for that district. At any
4 session after the publication of the census of the United States
5 in the year nineteen hundred and twenty, the legislature may
6 rearrange the districts of the state, increase the number
7 [~~thereof~~] of judges and make provision for a district judge for
8 any additional district."

9 Section 5. It is proposed to amend Article 6, Section 28
10 of the constitution of New Mexico to read:

11 "The court of appeals shall consist of not less than seven
12 judges who shall be chosen as provided in this constitution,
13 whose qualifications shall be the same as those of justices of
14 the supreme court and whose compensation shall be as provided by
15 law. The increased qualifications provided by this [~~1988~~] 1998
16 amendment shall not apply to court of appeals judges serving at
17 the time this amendment passes or elected at the general
18 election in [~~1988~~] 1998.

19 Three judges of the court of appeals shall constitute a
20 quorum for the transaction of business, and a majority of those
21 participating must concur in any judgment of the court.

22 When necessary, the chief justice of the supreme court may
23 designate any justice of the supreme court, or any district
24 judge of the state, to act as a judge of the court of appeals,
25 and the chief justice may designate any judge of the court of

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1 appeals to hold court in any district, or to act as a justice of
2 the supreme court. "

3 Section 6. It is proposed to amend Article 6, Section 33
4 of the constitution of New Mexico to read:

5 "A. Each justice of the supreme court, judge of the
6 court of appeals, district judge or metropolitan court judge
7 shall ~~[have been elected to that position in a partisan election~~
8 ~~prior to being eligible for a nonpartisan retention election.~~
9 ~~Thereafter, each such justice or judge shall be subject to~~
10 ~~retention or rejection on a nonpartisan ballot. Retention of~~
11 ~~the judicial office shall require at least fifty-seven percent~~
12 ~~of the vote cast on the question of retention or rejection.~~

13 B. ~~Each justice of the supreme court or judge of the~~
14 ~~court of appeals shall be subject to retention or rejection in~~
15 ~~like manner at the general election every eighth year.~~

16 C. ~~Each district judge shall be subject to retention~~
17 ~~or rejection in like manner at the general election every sixth~~
18 ~~year.~~

19 D. ~~Each metropolitan court judge shall be subject to~~
20 ~~retention or rejection in like manner at the general election~~
21 ~~every fourth year.~~

22 E. ~~Every justice of the supreme court, judge of the~~
23 ~~court of appeals, district judge or metropolitan court judge~~
24 ~~holding office on January 1 next following the date of the~~
25 ~~election at which this amendment is adopted shall be deemed to~~

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1 ~~have fulfilled the requirements of Subsection A of this section~~
2 ~~and the justice or judge shall be eligible for retention or~~
3 ~~rejection by the electorate at the general election next~~
4 ~~preceding the end of the term of which the justice or judge was~~
5 ~~last elected prior to the adoption of this amendment]~~ be
6 appointed by the governor with the advice and consent of the
7 senate. The term of each appointment is ten years plus any
8 additional time necessary to ensure that the term expires on
9 December 31, and a justice or judge cannot serve more than one
10 term, except as otherwise provided in this section. A person
11 may be appointed to serve in a judgeship superior or inferior to
12 the one to which he was previously appointed and the term of the
13 new appointment is ten years plus any additional time necessary
14 to ensure that the term expires on December 31. If a vacancy in
15 a judgeship occurs, a qualified person, who may be a judge
16 holding a superior or inferior judgeship, shall be appointed by
17 the governor and confirmed by the senate to fill the vacancy.
18 The person appointed to fill the vacancy shall serve one ten-
19 year term plus any additional time necessary to ensure that the
20 term expires on December 31.

21 B. Every justice of the supreme court, judge of the
22 court of appeals, district judge or metropolitan court judge
23 holding or taking office on January 1, 1999 shall serve out the
24 term for which elected or retained and, thereafter, shall be
25 eligible for appointment for one full ten-year term plus any

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1 additional time necessary to ensure that the term expires on
2 December 31. When a vacancy occurs in a term extant on January
3 1, 1999, the term shall be considered expired, and the governor
4 shall appoint a qualified person to fill a full ten-year term."

5 Section 7. It is proposed to amend Article 6 of the
6 constitution of New Mexico by repealing Sections 34, 35, 36 and
7 37.

8 Section 8. The amendment proposed by this resolution shall
9 be submitted to the people for their approval or rejection at
10 the next general election or at any special election prior to
11 that date which may be called for that purpose.

State of New Mexico House of Representatives

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 6, 1997

Mr. Speaker:

Your VOTERS AND ELECTIONS COMMITTEE, to whom has
been referred

HOUSE JOINT RESOLUTION 12

has had it under consideration and reports same with
recommendation that it DO PASS, and thence referred to the
JUDICIARY COMMITTEE.

Respectfully submitted,

Edward C. Sandoval, Chairman

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

HVEC/HJR 12

Page 8

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Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 6 For 4 Against

Yes: 6

No: Coll, Garcia, Sandoval, J. P. Taylor

Excused: Lujan, Sanchez

Absent: None

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