

AMENDED IN SENATE SEPTEMBER 1, 2005

Senate Constitutional Amendment

No. 16

Introduced by ~~Senator Runner~~ *Senators Runner and Alarcon*
(Principal coauthor: Assembly Member Bermudez)

July 14, 2005

Senate Constitutional Amendment No. 16—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Sections 4 and 16 of, and adding and repealing Section 4.5 of, Article VI thereof, relating to judicial districts.

LEGISLATIVE COUNSEL'S DIGEST

SCA 16, as amended, Runner. Judicial districts: superior court judges.

(1) The California Constitution establishes a superior court of one or more judges in each county.

This measure would provide that the superior court of any county with a population of more than 5,000,000 shall be divided into judicial districts established by three special masters appointed by the Supreme Court, and would prescribe specified population, geographical, and public hearing requirements for the establishment of those districts. The measure would provide for the assignment of incumbent superior court judges to judicial districts within the county in a one-time process conducted by the Judicial Council following the initial establishment of the districts, as specified.

(2) The California Constitution provides that judges of superior courts shall be elected in their counties at general elections, except as specified.

This measure would provide that judges of superior courts shall be elected in their counties or districts at general elections, except as specified.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

1 *Resolved by the Senate, the Assembly concurring,* That the
2 Legislature of the State of California at its 2005-06 Regular
3 Session commencing on the sixth day of December 2004,
4 two-thirds of the membership of each house concurring, hereby
5 proposes to the people of the State of California, that the
6 Constitution of the State be amended as follows:

7 First That Section 4 of Article VI thereof is amended to read:

8 SEC. 4. (a) In each county there is a superior court of one or
9 more judges. The Legislature shall prescribe the number of
10 judges and provide for the officers and employees of each
11 superior court. If the governing body of each affected county
12 concurs, the Legislature may provide that one or more judges
13 serve more than one superior court.

14 (b) In each superior court there is an appellate division. The
15 Chief Justice shall assign judges to the appellate division for
16 specified terms pursuant to rules, not inconsistent with statute,
17 adopted by the Judicial Council to promote the independence of
18 the appellate division.

19 (c) (1) Notwithstanding subdivision (a), the superior court of
20 any county with a population of more than 5,000,000 shall be
21 divided into judicial districts established by three special masters
22 appointed by the Supreme Court.

23 (2) Within 30 days after the effective date of the measure
24 adding this subdivision, the Supreme Court shall appoint the
25 three special masters. Retired state court judges and retired
26 federal court judges who have served in federal courts located
27 within California are qualified to serve as special masters.

28 (3) The panel of special masters shall establish a public
29 schedule, with applicable deadlines, to receive and consider
30 proposed judicial districting plans. In establishing these districts,
31 the special masters shall apply the following criteria:

32 (A) Each district shall comply with this Constitution, the
33 United States Constitution, and the federal Voting Rights Act of
34 1965 (42 U.S.C. Sec. 1973 et seq.).

1 (B) Each district shall be geographically compact and
2 contiguous to the extent practicable and shall consist of no more
3 than 36 superior court judges.

4 (C) The geographical integrity of every city shall be respected
5 to the extent possible without violating the requirements of any
6 other subparagraph of this paragraph.

7 (D) The population of each district shall be reasonably equal,
8 with a maximum deviation of 10 percent between the most
9 populated district and the least populated district. After each
10 federal census, the districts shall be examined to determine
11 whether the population of each district is reasonably equal with a
12 maximum population deviation of 10 percent between the most
13 populated district and the least populated district. If, based upon
14 the new federal census, the population deviation exceeds 10
15 percent, a panel of special masters shall be appointed to redraw
16 the districts in compliance with all provisions of this paragraph.

17 (E) At least three public hearings shall be held, each at a
18 different location in the county, prior to the establishment of
19 those districts. Interested individuals or organizations shall be
20 allowed to present judicial redistricting plans or to make other
21 comments to the special masters during the three public hearings.

22 (F) After reviewing any proposed plans and all of the
23 testimony from the public, the special masters may adopt one of
24 the proposed plans or draw their own plan.

25 (G) One additional hearing shall be held where the public is
26 allowed to make comments on the adopted judicial redistricting
27 plan. After hearing the testimony, the special masters may either
28 adopt their proposed plan or make changes and hold one
29 additional hearing for comments. The special masters shall adopt
30 a final plan at the end of that hearing.

31 SecondThat Section 4.5 is added to Article VI thereof, to read:

32 SEC. 4.5. (a) Incumbent superior court judges serving in a
33 county that has been divided into judicial districts pursuant to
34 subdivision (c) of Section 4 shall be assigned to judicial districts
35 within the county in a one-time process conducted by the Judicial
36 Council following the initial establishment of the districts, as
37 follows:

38 (1) Each incumbent judge shall be provided with a list of the
39 districts.

1 (2) Each incumbent judge shall indicate his or her preference
2 for assignment by rank ordering all the districts. A judge shall
3 not ignore or exclude any district from the rank ordering and
4 shall return his or her list to the Judicial Council by the date
5 designated by the council.

6 (3) The Judicial Council shall assign each incumbent judge to
7 his or her first ranked choice, except as provided in paragraph
8 (4).

9 (4) In the event a particular district is requested by more
10 incumbent judges than there are seats available in that district,
11 the Judicial Council shall conduct a lottery process, as follows:

12 (A) The council shall conduct a lottery to select one applicant
13 for each seat in the district.

14 (B) Applicants not selected by lottery for their first ranked
15 district shall be assigned to their next ranked district.

16 (C) The process set forth in subparagraphs (A) and (B) shall
17 be repeated until each incumbent judge is assigned to a seat in a
18 district.

19 (b) This section shall remain in effect only until January 1,
20 2014, and as of that date is repealed.

21 That Section 16 of Article VI thereof is amended to read:

22 SEC. 16. (a) Judges of the Supreme Court shall be elected at
23 large, and judges of courts of appeal shall be elected in their
24 districts, at general elections at the same time and places as the
25 Governor. Their terms are 12 years beginning the Monday after
26 January 1 following their election, except that a judge elected to
27 an unexpired term serves the remainder of the term. In creating a
28 new court of appeal district or division, the Legislature shall
29 provide that the first elective terms are 4, 8, and 12 years.

30 (b) Judges of superior courts shall be elected in their counties
31 or, if applicable, districts, at general elections, except as
32 otherwise necessary to meet the requirements of federal law. In
33 the latter case, the Legislature, by two-thirds vote of the
34 membership of each house thereof, with the advice of judges
35 within the affected court, may provide for their election by the
36 system prescribed in subdivision (d), or by any other
37 arrangement. The Legislature may provide that an unopposed
38 incumbent's name not appear on the ballot.

39 (c) Terms of judges of superior courts are six years beginning
40 the Monday after January 1 following their election. A vacancy

1 shall be filled by election to a full term at the next general
2 election after the second January 1 following the vacancy, but the
3 Governor shall appoint a person to fill the vacancy temporarily
4 until the elected judge's term begins.

5 (d) (1) Within 30 days before August 16 preceding the
6 expiration of the judge's term, a judge of the Supreme Court or a
7 court of appeal may file a declaration of candidacy to succeed to
8 the office presently held by the judge. If the declaration is not
9 filed, the Governor before September 16 shall nominate a
10 candidate. At the next general election, only the candidate so
11 declared or nominated may appear on the ballot, which shall
12 present the question whether the candidate shall be elected. The
13 candidate shall be elected upon receiving a majority of the votes
14 on the question. A candidate not elected may not be appointed to
15 that court but later may be nominated and elected.

16 (2) The Governor shall fill vacancies in those courts by
17 appointment. An appointee holds office until the Monday after
18 January 1 following the first general election at which the
19 appointee had the right to become a candidate or until an elected
20 judge qualifies. A nomination or appointment by the Governor is
21 effective when confirmed by the Commission on Judicial
22 Appointments.

23 (3) Electors of a county, by majority of those voting and in a
24 manner the Legislature shall provide, may make this system of
25 selection applicable to judges of superior courts.