

Assembly Constitutional Amendment

No. 15

Introduced by Assembly Member Wayne

January 7, 2002

Assembly Constitutional Amendment No. 15—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Sections 1, 6, 8, 10, 15, and 16 of, and repealing Sections 5 and 23 of, Article VI thereof, relating to court consolidation.

LEGISLATIVE COUNSEL'S DIGEST

ACA 15, as introduced, Wayne. Court consolidation.

The California Constitution provides for the division of each county into municipal court districts, but also provides for the abolition of municipal courts within a county, and for the establishment of a unified superior court for that county, upon a majority vote of superior court judges and a majority vote of municipal court judges within the county. By July 2001, all 58 counties had merged the superior and municipal courts.

This measure would delete obsolete references to municipal courts from the California Constitution and make conforming and related changes.

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

1 *Resolved by the Assembly, the Senate concurring,* That the
2 Legislature of the State of California at its 2001–02 Regular
3 Session commencing on the fourth day of December 2000,
4 two-thirds of the membership of each house concurring, hereby

1 proposes to the people of the State of California that the
2 Constitution of the State be amended as follows:

3 First—That Section 1 of Article VI is amended to read:

4 SEC. 1. The judicial power of this State is vested in the
5 Supreme Court, courts of appeal, *and* superior courts,~~and~~
6 ~~municipal courts~~, all of which are courts of record.

7 Second—That Section 5 of Article VI is repealed.

8 ~~SEC. 5. (a) Each county shall be divided into municipal~~
9 ~~court districts as provided by statute, but a city may not be divided~~
10 ~~into more than one district. Each municipal court shall have one~~
11 ~~or more judges. Each municipal court district shall have no fewer~~
12 ~~than 40,000 residents; provided that each county shall have at least~~
13 ~~one municipal court district. The number of residents shall be~~
14 ~~determined as provided by statute.~~

15 ~~(b) On the operative date of this subdivision, all existing justice~~
16 ~~courts shall become municipal courts, and the number,~~
17 ~~qualifications, and compensation of judges, officers, attachés, and~~
18 ~~employees shall continue until changed by the Legislature. Each~~
19 ~~judge of a part time municipal court is deemed to have agreed to~~
20 ~~serve full time and shall be available for assignment by the Chief~~
21 ~~Justice for the balance of time necessary to comprise a full-time~~
22 ~~workload.~~

23 ~~(c) The Legislature shall provide for the organization and~~
24 ~~prescribe the jurisdiction of municipal courts. It shall prescribe for~~
25 ~~each municipal court the number, qualifications, and~~
26 ~~compensation of judges, officers, and employees.~~

27 ~~(d) Notwithstanding subdivision (a), any city in San Diego~~
28 ~~County may be divided into more than one municipal court district~~
29 ~~if the Legislature determines that unusual geographic conditions~~
30 ~~warrant such division.~~

31 ~~(e) Notwithstanding subdivision (a), the municipal and~~
32 ~~superior courts shall be unified upon a majority vote of superior~~
33 ~~court judges and a majority vote of municipal court judges within~~
34 ~~the county. In those counties, there shall be only a superior court.~~

35 Third—That Section 6 of Article VI is amended to read:

36 SEC. 6. (a) The Judicial Council consists of the Chief
37 Justice and one other judge of the Supreme Court, ~~3~~ *three* judges
38 of courts of appeal, ~~5~~ *10* judges of superior courts, ~~5~~ *judges of*
39 ~~municipal courts~~, ~~2~~ *two* nonvoting court administrators, and ~~such~~
40 *any* other nonvoting members as determined by the voting



1 membership of the council, each appointed by the Chief Justice for
2 a ~~3-year~~ *three-year* term pursuant to procedures established by the
3 council; 4 *four* members of the State Bar appointed by its
4 governing body for ~~3-year~~ *three-year* terms; and one member of
5 each house of the Legislature appointed as provided by the house.
6 ~~Vacancies in the memberships on the Judicial Council otherwise~~
7 ~~designated for municipal court judges shall be filled by judges of~~
8 ~~the superior court in the case of appointments made when fewer~~
9 ~~than 10 counties have municipal courts.~~

10 (b) Council membership terminates if a member ceases to hold
11 the position that qualified the member for appointment. A vacancy
12 shall be filled by the appointing power for the remainder of the
13 term.

14 (c) The council may appoint an Administrative Director of the
15 Courts, who serves at its pleasure and performs functions
16 delegated by the council or the Chief Justice, other than adopting
17 rules of court administration, practice and procedure.

18 (d) To improve the administration of justice the council shall
19 survey judicial business and make recommendations to the courts,
20 make recommendations annually to the Governor and Legislature,
21 adopt rules for court administration, practice and procedure, and
22 perform other functions prescribed by statute. The rules adopted
23 shall not be inconsistent with statute.

24 (e) The Chief Justice shall seek to expedite judicial business
25 and to equalize the work of judges. The Chief Justice may provide
26 for the assignment of any judge to another court but only with the
27 judge's consent if the court is of lower jurisdiction. A retired judge
28 who consents may be assigned to any court.

29 (f) Judges shall report to the council as the Chief Justice directs
30 concerning the condition of judicial business in their courts. They
31 shall cooperate with the council and hold court as assigned.

32 Fourth—That Section 8 of Article VI is amended to read:

33 SEC. 8. (a) The Commission on Judicial Performance
34 consists of one judge of a court of appeal, ~~one judge of a superior~~
35 ~~court, and one judge of a municipal court~~ *and two judges of*
36 *superior courts*, each appointed by the Supreme Court; 2 *two*
37 members of the State Bar of California who have practiced law in
38 this State for 10 years, each appointed by the Governor; and 6 *six*
39 citizens who are not judges, retired judges, or members of the State
40 Bar of California, 2 *two* of whom shall be appointed by the



1 Governor, ~~2 two~~ by the Senate Committee on Rules, and ~~2 two~~ by
2 the Speaker of the Assembly. Except as provided in subdivisions
3 (b) and (c), all terms are for ~~4 four~~ years. No member shall serve
4 more than ~~2-4 year two~~ *four-year* terms, or for more than a total of
5 10 years if appointed to fill a vacancy. ~~A vacancy in the~~
6 ~~membership on the Commission on Judicial Performance~~
7 ~~otherwise designated for a municipal court judge shall be filled by~~
8 ~~a judge of the superior court in the case of an appointment made~~
9 ~~when fewer than 10 counties have municipal courts.~~

10 (b) Commission membership terminates if a member ceases to
11 hold the position that qualified the member for appointment. A
12 vacancy shall be filled by the appointing power for the remainder
13 of the term. A member whose term has expired may continue to
14 serve until the vacancy has been filled by the appointing power.
15 Appointing powers may appoint members who are already serving
16 on the commission prior to March 1, 1995, to a single ~~2-year~~
17 *two-year* term, but may not appoint them to an additional term
18 thereafter.

19 (c) To create staggered terms among the members of the
20 Commission on Judicial Performance, the following members
21 shall be appointed, as follows:

22 (1) Two members appointed by the Supreme Court to a term
23 commencing March 1, 1995, shall each serve a term of ~~2 two~~ years
24 and may be reappointed to one full term.

25 (2) One attorney appointed by the Governor to a term
26 commencing March 1, 1995, shall serve a term of ~~2 two~~ years and
27 may be reappointed to one full term.

28 (3) One citizen member appointed by the Governor to a term
29 commencing March 1, 1995, shall serve a term of ~~2 two~~ years and
30 may be reappointed to one full term.

31 (4) One member appointed by the Senate Committee on Rules
32 to a term commencing March 1, 1995, shall serve a term of ~~2 two~~
33 years and may be reappointed to one full term.

34 (5) One member appointed by the Speaker of the Assembly to
35 a term commencing March 1, 1995, shall serve a term of ~~2 two~~
36 years and may be reappointed to one full term.

37 (6) All other members shall be appointed to full ~~4-year~~
38 *four-year* terms commencing March 1, 1995.

39 Fifth—That Section 10 of Article VI is amended to read:



1 SEC. 10. The Supreme Court, courts of appeal, superior
 2 courts, and their judges have original jurisdiction in habeas corpus
 3 proceedings. Those courts also have original jurisdiction in
 4 proceedings for extraordinary relief in the nature of mandamus,
 5 certiorari, and prohibition. The appellate division of the superior
 6 court has original jurisdiction in proceedings for extraordinary
 7 relief in the nature of mandamus, certiorari, and prohibition
 8 directed to the superior court in causes subject to its appellate
 9 jurisdiction.

10 Superior courts have original jurisdiction in all other causes
 11 ~~except those given by statute to other trial courts.~~

12 The court may make ~~such~~ *any* comment on the evidence and the
 13 testimony and credibility of any witness as in its opinion is
 14 necessary for the proper determination of the cause.

15 Sixth—That Section 15 of Article VI is amended to read:

16 SEC. 15. A person is ineligible to be a judge of a court of
 17 record unless for ~~5 years immediately preceding selection to a~~
 18 ~~municipal court or~~ 10 years immediately preceding selection to
 19 ~~other courts,~~ the person has been a member of the State Bar or
 20 served as a judge of a court of record in this State. ~~A judge eligible~~
 21 ~~for municipal court service may be assigned by the Chief Justice~~
 22 ~~to serve on any court.~~

23 Seventh—That Section 16 of Article VI is amended to read:

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

32 (b) ~~(1) In counties in which there is no municipal court, judges~~
 33 *Judges* of superior courts shall be elected in their counties at
 34 general elections except as otherwise necessary to meet the
 35 requirements of federal law. In the latter case the Legislature, by
 36 two-thirds vote of the membership of each house thereof, with the
 37 advice of judges within the affected court, may provide for their
 38 election by the system prescribed in subdivision (d), or by any
 39 other arrangement. The Legislature may provide that an
 40 unopposed incumbent's name not appear on the ballot.



1 ~~(2) In counties in which there is one or more municipal court~~
2 ~~districts, judges of superior and municipal courts shall be elected~~
3 ~~in their counties or districts at general elections. The Legislature~~
4 ~~may provide that an unopposed incumbent's name not appear on~~
5 ~~the ballot.~~

6 (c) Terms of judges of superior courts are ~~6~~ six years beginning
7 the Monday after January 1 following their election. A vacancy
8 shall be filled by election to a full term at the next general election
9 after the second January 1 following the vacancy, but the Governor
10 shall appoint a person to fill the vacancy temporarily until the
11 elected judge's term begins.

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

23 (2) The Governor shall fill vacancies in those courts by
24 appointment. An appointee holds office until the Monday after
25 January 1 following the first general election at which the
26 appointee had the right to become a candidate or until an elected
27 judge qualifies. A nomination or appointment by the Governor is
28 effective when confirmed by the Commission on Judicial
29 Appointments.

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

33 Eighth—That Section 23 of Article VI is repealed.

34 ~~SEC. 23. (a) The purpose of the amendments to Sections 1,~~
35 ~~4, 5, 6, 8, 10, 11, and 16, of this article, and the amendments to~~
36 ~~Section 16 of Article I, approved at the June 2, 1998, primary~~
37 ~~election is to permit the Legislature to provide for the abolition of~~
38 ~~the municipal courts and unify their operations within the superior~~
39 ~~courts. Notwithstanding Section 8 of Article IV, the~~
40 ~~implementation of, and orderly transition under, the provisions of~~



1 ~~the measure adding this section may include urgency statutes that~~
2 ~~create or abolish offices or change the salaries, terms, or duties of~~
3 ~~offices, or grant franchises or special privileges, or create vested~~
4 ~~rights or interests, where otherwise permitted under this~~
5 ~~Constitution.~~

6 ~~(b) When the superior and municipal courts within a county are~~
7 ~~unified, the judgeships in each municipal court in that county are~~
8 ~~abolished and the previously selected municipal court judges shall~~
9 ~~become judges of the superior court in that county. The term of~~
10 ~~office of a previously selected municipal court judge is not affected~~
11 ~~by taking office as a judge of the superior court. The 10-year~~
12 ~~membership or service requirement of Section 15 does not apply~~
13 ~~to a previously selected municipal court judge. Pursuant to Section~~
14 ~~6, the Judicial Council may prescribe appropriate education and~~
15 ~~training for judges with regard to trial court unification.~~

16 ~~(c) Except as provided by statute to the contrary, in any county~~
17 ~~in which the superior and municipal courts become unified, the~~
18 ~~following shall occur automatically in each preexisting superior~~
19 ~~and municipal court:~~

20 ~~(1) Previously selected officers, employees, and other~~
21 ~~personnel who serve the court become the officers and employees~~
22 ~~of the superior court.~~

23 ~~(2) Preexisting court locations are retained as superior court~~
24 ~~locations.~~

25 ~~(3) Preexisting court records become records of the superior~~
26 ~~court.~~

27 ~~(4) Pending actions, trials, proceedings, and other business of~~
28 ~~the court become pending in the superior court under the~~
29 ~~procedures previously applicable to the matters in the court in~~
30 ~~which the matters were pending.~~

31 ~~(5) Matters of a type previously within the appellate~~
32 ~~jurisdiction of the superior court remain within the jurisdiction of~~
33 ~~the appellate division of the superior court.~~

34 ~~(6) Matters of a type previously subject to rehearing by a~~
35 ~~superior court judge remain subject to rehearing by a superior~~
36 ~~court judge, other than the judge who originally heard the matter.~~

37 ~~(7) Penal Code procedures that necessitate superior court~~
38 ~~review of, or action based on, a ruling or order by a municipal court~~



- 1 ~~judge shall be performed by a superior court judge other than the~~
- 2 ~~judge who originally made the ruling or order.~~

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