

AMENDED IN ASSEMBLY APRIL 2, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

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~~ *amending and repealing Section 23 of, and repealing Section 5* of, Article VI thereof, relating to court consolidation.

LEGISLATIVE COUNSEL'S DIGEST

ACA 15, as amended, 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
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 1 of Article VI is amended to read:

8 SEC. 1. The judicial power of this State is vested in the
9 Supreme Court, courts of appeal, and superior courts, all of which
10 are courts of record.

11 Second—That Section 5 of Article VI is repealed.

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

13 SEC. 6. (a) The Judicial Council consists of the Chief
14 Justice and one other judge of the Supreme Court, three judges of
15 courts of appeal, 10 judges of superior courts, two nonvoting court
16 administrators, and any other nonvoting members as determined
17 by the voting membership of the council, each appointed by the
18 Chief Justice for a three-year term pursuant to procedures
19 established by the council; four members of the State Bar
20 appointed by its governing body for three-year terms; and one
21 member of each house of the Legislature appointed as provided by
22 the house.

23 (b) Council membership terminates if a member ceases to hold
24 the position that qualified the member for appointment. A vacancy
25 shall be filled by the appointing power for the remainder of the
26 term.

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

31 (d) To improve the administration of justice the council shall
32 survey judicial business and make recommendations to the courts,
33 make recommendations annually to the Governor and Legislature,
34 adopt rules for court administration, practice and procedure, and
35 perform other functions prescribed by statute. The rules adopted
36 shall not be inconsistent with statute.

37 (e) The Chief Justice shall seek to expedite judicial business
38 and to equalize the work of judges. The Chief Justice may provide
39 for the assignment of any judge to another court but only with the



1 judge's consent if the court is of lower jurisdiction. A retired judge
2 who consents may be assigned to any court.

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

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

7 SEC. 8. (a) The Commission on Judicial Performance
8 consists of one judge of a court of appeal and two judges of
9 superior courts, each appointed by the Supreme Court; two
10 members of the State Bar of California who have practiced law in
11 this State for 10 years, each appointed by the Governor; and six
12 citizens who are not judges, retired judges, or members of the State
13 Bar of California, two of whom shall be appointed by the
14 Governor, two by the Senate Committee on Rules, and two by the
15 Speaker of the Assembly. Except as provided in subdivisions (b)
16 and (c), all terms are for four years. No member shall serve more
17 than two four-year terms, or for more than a total of 10 years if
18 appointed to fill a vacancy.

19 (b) Commission membership terminates if a member ceases to
20 hold the position that qualified the member for appointment. A
21 vacancy shall be filled by the appointing power for the remainder
22 of the term. A member whose term has expired may continue to
23 serve until the vacancy has been filled by the appointing power.
24 Appointing powers may appoint members who are already serving
25 on the commission prior to March 1, 1995, to a single two-year
26 term, but may not appoint them to an additional term thereafter.

27 (c) To create staggered terms among the members of the
28 Commission on Judicial Performance, the following members
29 shall be appointed, as follows:

30 (1) Two members appointed by the Supreme Court to a term
31 commencing March 1, 1995, shall each serve a term of two years
32 and may be reappointed to one full term.

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

36 (3) One citizen member appointed by the Governor to a term
37 commencing March 1, 1995, shall serve a term of two years and
38 may be reappointed to one full term.



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

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

7 (6) All other members shall be appointed to full four-year terms
8 commencing March 1, 1995.

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

10 SEC. 10. The Supreme Court, courts of appeal, superior
11 courts, and their judges have original jurisdiction in habeas corpus
12 proceedings. Those courts also have original jurisdiction in
13 proceedings for extraordinary relief in the nature of mandamus,
14 certiorari, and prohibition. The appellate division of the superior
15 court has original jurisdiction in proceedings for extraordinary
16 relief in the nature of mandamus, certiorari, and prohibition
17 directed to the superior court in causes subject to its appellate
18 jurisdiction.

19 Superior courts have original jurisdiction in all other causes.

20 The court may make any comment on the evidence and the
21 testimony and credibility of any witness as in its opinion is
22 necessary for the proper determination of the cause.

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

24 SEC. 15. A person is ineligible to be a judge of a court of
25 record unless for 10 years immediately preceding selection, the
26 person has been a member of the State Bar or served as a judge of
27 a court of record in this State.

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

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

37 (b) Judges of superior courts shall be elected in their counties
38 at general elections except as otherwise necessary to meet the
39 requirements of federal law. In the latter case the Legislature, by
40 two-thirds vote of the membership of each house thereof, with the



1 advice of judges within the affected court, may provide for their
2 election by the system prescribed in subdivision (d), or by any
3 other arrangement. The Legislature may provide that an
4 unopposed incumbent's name not appear on the ballot.

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

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

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

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

32 Eighth—That Section 23 of Article VI is ~~repealed~~. *amended to*
33 *read:*

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
39 judge shall be performed by a superior court judge other than the
40 judge who originally made the ruling or order.



1 (d) *This section shall remain in effect only until January 1,*
2 *2007, and as of that date is repealed.*

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