

LEGISLATIVE RESOLUTION 303CA

PROPOSED CONSTITUTIONAL AMENDMENT

Passed by the Legislature April 14, 1998

Introduced by Abboud, 12

THE MEMBERS OF THE NINETY-FIFTH LEGISLATURE OF NEBRASKA, SECOND SESSION, RESOLVE THAT:

Section 1. At the general election in November 1998 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article V, section 4:

V-4 "The Chief Justice and the Judges of the Supreme Court shall be selected as provided in this Article V. They ~~shall~~ may reside at the place where the court is located but shall reside within the state, and but no Chief Justice or Judge of the Supreme Court shall be deemed thereby to have lost his or her residence at the place from which he or she was selected. The offices of the Chief Justice and Judges of the Supreme Court shall be at the place where the court is located."

Sec. 2. At the general election in November 1998 the following proposed amendment to the Constitution of Nebraska shall be submitted to the electors of the State of Nebraska for approval or rejection:

To amend Article V, section 21:

V-21 "(1) In the case of any vacancy in the Supreme Court, or in any district the appellate court, or in such other court or courts made subject to this provision by law any other inferior court, such vacancy shall be filled by the Governor from a list of at least two nominees presented to him or her by the appropriate judicial nominating commission. If the Governor shall fail to make an appointment from the list within sixty days from the date it is presented to him or her, the appointment shall be made by the Chief Justice or the acting Chief Justice of the Supreme Court from the same list.

(2) In all other cases, any vacancy shall be filled as provided by law.

(3) At the next general election following the expiration of three years from the date of appointment of any judge under the provisions of subsection (1) of this section and every six years thereafter as long as such judge retains office, each Justice or Judge of the Supreme Court and each judge of the appellate court and any other inferior court or district court or such other court or courts as the Legislature shall provide shall have his or her right to remain in office subject to approval or rejection by the electorate in such manner as the Legislature shall provide. PROVIDED, that every judge holding or elected to an office described in subsection (1) of this section on the effective date of this amendment whether by election or appointment, upon qualification shall be deemed to have been selected and to have once received the approval of the electorate as herein provided, and shall be required to submit his right to continue in office to the approval or rejection of the electorate at the general election next preceding the expiration of the term of office for which such judge was elected or appointed, and every six years thereafter. In the case of the Chief Justice and each Judge of the Supreme Court and each judge of the appellate court, the electorate of the entire state shall vote on the question of approval or rejection. In the case of any Judge of the Supreme Court, other than the Chief Justice, and any judge of the district court or any other court made subject to subsection (1) of this section, the electorate of the district from which such judge was selected shall vote on the question of such approval or rejection.

(4) There shall be a judicial nominating commission for the Chief Justice of the Supreme Court, and one for each judicial district of the Supreme Court and of the district the appellate court, and one for each area or district served by any other court made subject to subsection (1) of this section by law. Each judicial nominating commission shall consist of nine members, one of whom shall be a Judge of the Supreme Court who shall be designated by the Governor and shall act as chairman chairperson, but shall not be entitled to vote. The members of the bar of the state residing in the area from which the nominees are to be selected shall designate four of their number to serve as members of said the commission, and the Governor shall appoint four citizens, not admitted to practice law before the courts of the state, from among the residents of the same geographical area to serve as

members of said the commission. Not more than four of such voting members shall be of the same political party. The terms of office for members of each judicial nominating commission shall be staggered and shall be fixed by the Legislature. The nominees of any such commission cannot include a member of such commission or any person who has served as a member of such commission within a period of two years immediately preceding his or her nomination or for such additional period as the Legislature shall provide. The names of candidates shall be released to the public prior to a public hearing.

(5) Members of the nominating commission shall vote for the nominee of their choice by roll call. Each candidate must receive a majority of the voting members of the nominating commission to have his or her name submitted to the Governor."

Sec. 3. The proposed amendments shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

"A constitutional amendment to change residence and office requirements for the Chief Justice and Judges of the Supreme Court.
For

Against".

"A constitutional amendment to provide for the retention of judges of the Supreme Court and Court of Appeals on a statewide basis.
For

Against".