



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
SENATE JOINT RESOLUTION
CONSTITUTIONAL AMENDMENT
SC0055

Introduced 2/9/2004, by Sen. Jeffrey M. Schoenberg

SYNOPSIS AS INTRODUCED:

ILCON Art. VI, Sec. 12
ILCON Art. VI, Sec. 12.1 new
ILCON Art. VI, Sec. 12.2 new

Proposes to amend the Judiciary Article of the Illinois Constitution. Provides that Judges of the Circuit of Cook County may be retained in office by approval of Judicial Review Commissions or by approval of three-fifths of the voters at retention elections. Provides for appointment of the circuit-wide and subcircuit commissions. Effective upon being declared adopted.

LRB093 19046 JAM 44781 e

1 SENATE JOINT RESOLUTION
2 CONSTITUTIONAL AMENDMENT

3 RESOLVED, BY THE SENATE OF THE NINETY-THIRD GENERAL
4 ASSEMBLY OF THE STATE OF ILLINOIS, THE HOUSE OF REPRESENTATIVES
5 CONCURRING HEREIN, that there shall be submitted to the
6 electors of the State for adoption or rejection at the general
7 election next occurring at least 6 months after the adoption of
8 this resolution a proposition to amend Section 12 of and add
9 Sections 12.1 and 12.2 to Article VI of the Illinois
10 Constitution as follows:

11 ARTICLE VI
12 THE JUDICIARY

13 (ILCON Art. VI, Sec. 12)

14 SECTION 12. ELECTION AND RETENTION

15 (a) Supreme, Appellate and Circuit Judges shall be
16 nominated at primary elections or by petition. Judges shall be
17 elected at general or judicial elections as the General
18 Assembly shall provide by law. A person eligible for the office
19 of Judge may cause his name to appear on the ballot as a
20 candidate for Judge at the primary and at the general or
21 judicial elections by submitting petitions. The General
22 Assembly shall prescribe by law the requirements for petitions.

23 (b) The office of a Judge shall be vacant upon his death,
24 resignation, retirement, removal, or upon the conclusion of his
25 term without retention in office. Whenever an additional
26 Appellate or Circuit Judge is authorized by law, the office
27 shall be filled in the manner provided for filling a vacancy in
28 that office.

29 (c) A vacancy occurring in the office of Supreme, Appellate
30 or Circuit Judge shall be filled as the General Assembly may
31 provide by law. In the absence of a law, vacancies may be
32 filled by appointment by the Supreme Court. A person appointed
33 to fill a vacancy 60 or more days prior to the next primary

1 election to nominate Judges shall serve until the vacancy is
2 filled for a term at the next general or judicial election. A
3 person appointed to fill a vacancy less than 60 days prior to
4 the next primary election to nominate Judges shall serve until
5 the vacancy is filled at the second general or judicial
6 election following such appointment.

7 (d) Except as otherwise provided in this Article, not less
8 than six months before the general election preceding the
9 expiration of his term of office, a Supreme, Appellate or
10 Circuit Judge who has been elected to that office may file in
11 the office of the Secretary of State a declaration of candidacy
12 to succeed himself. The Secretary of State, not less than 63
13 days before the election, shall certify the Judge's candidacy
14 to the proper election officials. The names of Judges seeking
15 retention shall be submitted to the electors, separately and
16 without party designation, on the sole question whether each
17 Judge shall be retained in office for another term. The
18 retention elections shall be conducted at general elections in
19 the appropriate Judicial District, for Supreme and Appellate
20 Judges, and in the circuit for Circuit Judges. The affirmative
21 vote of three-fifths of the electors voting on the question
22 shall elect the Judge to the office for a term commencing on
23 the first Monday in December following his election.

24 (e) A law reducing the number of Appellate or Circuit
25 Judges shall be without prejudice to the right of the Judges
26 affected to seek retention in office. A reduction shall become
27 effective when a vacancy occurs in the affected unit.

28 (Source: Illinois Constitution.)

29 (ILCON Art. VI, Sec. 12.1 new)

30 SECTION 12. 1. RETENTION PROCEDURES FOR JUDGES IN THE CIRCUIT
31 OF COOK COUNTY

32 (a) No later than the first Monday in December of the
33 calendar year before the year in which a term of a Judge of the
34 Circuit of Cook County expires pursuant to Section 10, he or
35 she may file in the office of the Director of the

1 Administrative Office of Illinois Courts a declaration of
2 candidacy for retention in that office. Any Judge of the
3 Circuit of Cook County who holds office subsequent to the
4 effective date of this Constitutional Amendment shall be
5 eligible for retention in the office to which he or she was
6 appointed. No later than 11 months before the general election
7 next preceding the expiration of the term of office of a Judge
8 seeking retention, the Director of the Administrative Office of
9 Illinois Courts shall notify the Chair of the appropriate
10 Judicial Review Commission of the Judge's candidacy. The Chair
11 shall then promptly convene the Commission.

12 (b) No later than 195 days before the general election to
13 be held in that calendar year, each Judicial Review Commission
14 shall issue a notice to the public and shall make all
15 reasonable efforts to publicize the notice. The notice shall
16 provide that any individual or organization shall have until at
17 least 165 days before the general election in which to submit
18 written comments about the performance of and capacity to
19 continue serving of any Judge being considered for retention by
20 the particular Judicial Review Commission. The Judicial Review
21 Commission's notice to the public shall list the names and then
22 current assignments of all Judges being considered by it for
23 retention and shall provide an address to which written
24 comments may be sent. All written comments shall be made public
25 by the Director of the Administrative Office of Illinois Courts
26 at the same time that the evaluations of the Judges and the
27 Judicial Review Commission's written report on each Judge are
28 made public pursuant to subsection (d), except that written
29 comments shall not be made public if the commenter so requests.

30 (c) If by concurrence of not less than three-fifths of its
31 members the Judicial Review Commission finds the candidate to
32 be qualified to serve another term, the candidate shall be
33 deemed retained in office for a full term commencing on the
34 first Monday in December of that calendar year. The Judicial
35 Review Commission shall investigate the qualifications of all
36 Judges seeking retention and, in particular, shall evaluate

1 each Judge's character, background, temperament, professional
2 aptitude, experience, intellect, integrity, sense of
3 compassion, and commitment to equal justice under law.

4 All Judges shall be considered for retention by the
5 Judicial Review Commission free from discrimination on the
6 basis of race, color, creed, national origin, sex, sexual
7 orientation, disability (so long as the Judge can perform the
8 essential functions of a Judge), political party, or political
9 affiliation. Not less than 150 days before the general election
10 to be held in that calendar year, the Judicial Review
11 Commission shall submit to each candidate its finding as to
12 whether the candidate is qualified or not qualified to serve
13 another term. The Judicial Review Commission's finding shall
14 include a written statement evaluating the candidate's
15 performance in office during the term that is expiring and
16 shall comment upon its assessment of the candidate's
17 performance under all of the criteria set forth in this
18 subsection.

19 (d) Not less than 135 days before the election, the
20 Judicial Review Commission shall submit to the Director of the
21 Administrative Office of Illinois Courts a list stating by
22 name: (i) which candidates it has found qualified to serve
23 another term; (ii) which candidates it has found not qualified
24 to serve another term; and (iii) which candidates have
25 withdrawn their candidacy by written notification to the
26 Judicial Review Commission. At the same time that the Judicial
27 Review Commission tenders its list to the Director of the
28 Administrative Office of Illinois Courts, the Judicial Review
29 Commission shall also make its list public. In addition, the
30 Judicial Review Commission shall make public its written
31 evaluations, which it previously submitted to all of the
32 candidates who sought retention, except for those candidates
33 who withdrew their retention candidacies no later than 135 days
34 before the general election.

35 (e) A Judge found not qualified for retention by a Judicial
36 Review Commission shall have the right to stand for retention

1 by the electorate at the general election. The Judge shall file
2 in the office of the Secretary of State, not less than 135 days
3 before the election, a declaration of candidacy for retention
4 by the electorate. Not less than 115 days before the general
5 election, the Secretary of State shall certify the Judge's
6 candidacy to the proper election officials. At the election,
7 the name of each Judge who has timely filed a declaration of
8 candidacy for retention by the electorate shall be submitted to
9 the electorate, separately and without party designation, on
10 the sole question of retention in office for another term.
11 Retention elections shall be conducted at the same time as
12 general elections. The affirmative vote of three-fifths of the
13 electors voting on the question of retention shall be necessary
14 to retain a Judge in that office for a full term commencing on
15 the first Monday in December following the election.

16 (f) A Judge eligible to file a declaration of candidacy for
17 retention who (i) fails to do so by the first Monday in
18 December of the calendar year before the expiration of his or
19 her then current term or (ii) declares his or her candidacy for
20 retention and subsequently withdraws that candidacy pursuant
21 to subsection (d) or fails of retention shall vacate the office
22 on the first Monday in December following the general election
23 held in that calendar year, whether or not a successor shall
24 yet have been elected and qualified. If an incumbent Judge does
25 not timely file a declaration of candidacy for retention or
26 withdraws as a candidate 135 days or more before the next
27 general election, the election of a successor, if any, shall
28 proceed in the manner provided in Section 12.

29 (g) An authorized reduction in the number of Judges in the
30 Circuit of Cook County shall be without prejudice to the right
31 of Judges in office at the time of the reduction to seek
32 retention in accordance with this Section. The reduction shall
33 become effective when a vacancy occurs in the Circuit of Cook
34 County.

1 SECTION 12. 2. JUDICIAL REVIEW COMMISSIONS

2 (a) In the Circuit of Cook County, a Judicial Review
3 Commission shall be created to determine qualifications for
4 retention of Circuit Judges. A separate Judicial Review
5 Commission shall be created for each subcircuit of the Circuit
6 of Cook County to review the performance in office of any Judge
7 in the Circuit of Cook County who was originally elected by
8 subcircuit rather than on an at-large basis.

9 (b) The circuit-wide Judicial Review Commission shall
10 consist of 15 members, eight of whom are not lawyers and seven
11 of whom are lawyers. Two of the non-lawyer members and four of
12 the lawyer members, all of whom shall be residents of the
13 Circuit of Cook County, shall be chosen from the Circuit of
14 Cook County at large. Two non-lawyer members and one lawyer
15 member shall be chosen from each of three subdistricts within
16 the Circuit of Cook County and they shall be residents of the
17 subdistrict from which they are chosen. The subdistricts shall
18 be determined on the basis of population by the General
19 Assembly in like manner to that provided for legislative
20 redistricting in Section 3 of Article IV.

21 A separate Judicial Review Commission shall be created for
22 each judicial subcircuit within the Circuit of Cook County.
23 Each subcircuit Judicial Review Commission shall consist of 11
24 members, six of whom are not lawyers and five of whom are
25 lawyers. Three of the non-lawyer members and three of the
26 lawyer members shall be residents of the subcircuit in which
27 they serve. The remaining members shall be residents of the
28 Circuit of Cook County, but need not be residents of the
29 subcircuit in which they serve.

30 (c) Half of the non-lawyer members of each Judicial Review
31 Commission shall be appointed by the Attorney General and the
32 other half by the State official or officer first in the order
33 indicated who was elected to office and is not affiliated with
34 the same political party as the Attorney General: the Secretary
35 of State, the Comptroller, the Treasurer, the President of the
36 Senate, the Speaker of the House of Representatives, and the

1 Minority Leader of the Senate; provided that two of the
2 resident non-lawyer members and one of the resident lawyer
3 members of each subcircuit Judicial Review Commission shall be
4 appointed by the President of the Cook County Board of
5 Commissioners and one resident non-lawyer member and two
6 resident lawyer members of each subcircuit Judicial Review
7 Commission shall be appointed by the member of the Cook County
8 Board of Commissioners with the most seniority who is of
9 another political party than the President of the Cook County
10 Board of Commissioners.

11 (d) The lawyer members of each Judicial Review Commission,
12 except the resident lawyer members of subcircuit Judicial
13 Review Commissions, shall be selected by the Supreme Court
14 pursuant to Supreme Court Rule. Not more than a simple majority
15 of the lawyers appointed shall be primary electors of the same
16 political party.

17 (e) The terms of all members of a Judicial Review
18 Commission shall begin 11 months before the general election in
19 each calendar year in which a general election is held and
20 shall expire on the first Monday in November of the same
21 calendar year. Appointments to a Judicial Review Commission may
22 not be made earlier than 45 days before the term is to
23 commence.

24 (f) A vacancy in the non-lawyer membership of a Judicial
25 Review Commission shall be filled for an unexpired term or for
26 a full term, as the case may be, by the Attorney General, if
27 qualified by being affiliated with the same political party as
28 the official or officer who had appointed the person whose
29 vacancy is to be filled, or otherwise by the State official or
30 officer who is so qualified and first in the order indicated in
31 subsection (c). A vacancy in the lawyer membership of a
32 Judicial Review Commission shall be filled for an unexpired
33 term or for a full term, as the case way be, by the Supreme
34 Court pursuant to Supreme Court Rule.

35 (g) The Chair of each Judicial Review Commission shall be
36 elected by a majority vote of all of the members of the

1 Commission. The term of a Chair shall be 11 months.

2 (h) Any person who holds any office under the United
3 States, this State, or any political subdivision, municipal
4 corporation, or unit of local government of this State and
5 receives compensation for services rendered in that office, or
6 who holds any office or official position in a political party,
7 shall be ineligible to serve on a Judicial Review Commission.
8 Compensation for services in the State militia or the armed
9 services of the United States for a period of time as may be
10 determined by Supreme Court Rule shall not be considered a
11 disqualification. No member of a Judicial Review Commission may
12 be appointed to judicial office while serving on the Commission
13 or for a period of three years thereafter.

14 (i) Each Judicial Review Commission may conduct
15 investigations, meetings, and hearings, all of which may be
16 confidential, and employ staff members as may be necessary to
17 perform its duties. Members of each Commission shall not
18 receive any compensation for their services but shall be
19 entitled to reimbursement for necessary expenses. The General
20 Assembly shall appropriate funds for that reimbursement and for
21 all other administrative expenses of the Judicial Review
22 Commissions.

23 (j) All members of each Judicial Review Commission shall be
24 subject to ethics and economic disclosure requirements as
25 provided by law.

26 SCHEDULE

27 This Constitutional Amendment takes effect upon being
28 declared adopted in accordance with Section 7 of the Illinois
29 Constitutional Amendment Act.