

A PROPOSAL TO AMEND MICHIGAN CONSTITUTION 1963 ART VI, § 23

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The proposed amendment (shown below in **red highlighting and strikeout**) would require the Governor to act with the advice and consent of the Senate to fill a vacancy on the Michigan Supreme Court within 120 days from the occurrence of the vacancy, thus putting a timeline on the Governor's power to appoint. Further, the Governor would be required to consider nonbinding recommendations from a judicial qualifications commission (provided for by statute). It should be remembered that when a Governor's appointment is subject to the advice and consent of the Senate, the Senate is required to act within 60 days to disapprove an appointment, or the appointment is automatically confirmed.<sup>1</sup> Additionally, the proposed amendment would

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<sup>1</sup> Const 1963 art V § 6 provides:

Appointment by and with the advice and consent of the senate when used in this constitution or laws in effect or hereafter enacted means appointment subject to disapproval by a majority vote of the members elected to and serving in the senate if such action is taken within 60 session days after the date of such

have the newly appointed justice serve out the remainder of the vacant term, with no need to stand in the next election.

Here are the proposed amendments to Const 1963 art VI § 23, as shown by highlighting and strikeout:

§23 Judicial vacancies, filling; appointee, term; successor; new offices.

Sec 23. A vacancy shall occur in the office of judge of any court of record or in the district court by death, removal, resignation or vacating of the office. **Except when the vacancy occurs on the supreme court, and** such vacancy shall be filled by appointment by the governor. The person appointed by the governor shall hold office until 12 noon of the first day of January next succeeding the first general election held after the vacancy occurs, at which election a successor shall be elected for the remainder of the unexpired term. **When the vacancy occurs on the supreme court, the governor shall nominate, and by and with the advice and consent of the senate, shall appoint a qualified person to fill the vacancy. The governor shall consider, but is not bound by, recommendations from the qualifications commission. The composition and procedures of the qualifications commission are provided by**

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appointment. Any appointment not disapproved within such period shall stand confirmed.

law. The governor shall submit a nominee to the senate, with written enumerated reasons why this nominee is the best person to fill the vacancy, within 120 days from the date the vacancy occurs or the power to appoint within 90 days shall pass to the senate; if the senate fails to meet its 90-day deadline, the power of appointment, with no need for advice and consent by the senate, will revert to the governor. If the senate rejects the governor's nominee, it shall release to the public, in writing, its reasons for rejecting the governor's nominee. The governor shall then submit another nominee, following the same procedures and timelines, until an appointment is achieved. The qualified person appointed and confirmed, when required, ~~by the governor shall hold office until 12 noon of the first day of January next succeeding the first general election held after the vacancy occurs, at which election a successor shall be elected~~ for the remainder of the unexpired term.

Whenever a new office of judge in a court of record, or the district court, is created by law, it shall be filled by election as provided by law.

The supreme court may authorize persons who have been elected and served as judges to perform judicial duties for limited periods or specific assignments.