



PROPOSITION 115



OFFICIAL TITLE

SENATE CONCURRENT RESOLUTION 1001
A CONCURRENT RESOLUTION

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE VI, SECTIONS 4, 12, 20, 36, 37, 39, 41 AND 42, CONSTITUTION OF ARIZONA; RELATING TO THE JUDICIAL DEPARTMENT.

TEXT OF PROPOSED AMENDMENT

Be it resolved by the Senate of the State of Arizona, the House of Representatives concurring:

1. Article VI, sections 4, 12, 20, 36, 37, 39, 41 and 42, Constitution of Arizona, are proposed to be amended as follows if approved by the voters and on proclamation of the Governor:

4. Supreme court; appellate court; term of office

Section 4. A. THROUGH DECEMBER 31, 2012, justices of the supreme court shall hold office for a regular term of six years except as provided by this article.

B. FOR ANY TERM BEGINNING ON OR AFTER JANUARY 1, 2013, JUSTICES OF THE SUPREME COURT AND JUDGES OF ANY INTERMEDIATE APPELLATE COURT SHALL HOLD OFFICE FOR A REGULAR TERM OF EIGHT YEARS EXCEPT AS PROVIDED BY THIS ARTICLE.

12. Superior court; term of office

Section 12. A. Judges of the superior court in counties having a population of less than two hundred fifty thousand persons according to the most recent United States census shall be elected by the qualified electors of their counties at the general election. THROUGH DECEMBER 31, 2012, they shall hold office for a regular term of four years except as provided by this section from and after the first Monday in January next succeeding their election, and until their successors are elected and qualify. FOR ANY TERM BEGINNING ON OR AFTER JANUARY 1, 2013, THEY SHALL HOLD OFFICE FOR A REGULAR TERM OF EIGHT YEARS EXCEPT AS PROVIDED BY THIS SECTION FROM AND AFTER THE FIRST MONDAY IN JANUARY NEXT SUCCEEDING THEIR ELECTION, AND UNTIL THEIR SUCCESSORS ARE ELECTED AND QUALIFY. The names of all candidates for judge of the superior court in such counties shall be placed on the regular ballot without partisan or other designation except the division and title of the office.

B. The governor shall fill any vacancy in such counties by appointing a person to serve until the election and qualification of a successor. At the next succeeding general election following the appointment of a person to fill a vacancy, a judge shall be elected to serve for the remainder of the unexpired term.

C. THROUGH DECEMBER 31, 2012, judges of the superior court in counties having a population of two hundred fifty thousand persons or more according to the most recent United States census shall hold office for a regular term of four years except as provided by this article. FOR ANY TERM BEGINNING ON OR AFTER JANUARY 1, 2013, JUDGES OF THE SUPERIOR COURT IN COUNTIES HAVING A POPULATION OF TWO HUNDRED FIFTY THOUSAND PERSONS OR MORE ACCORDING TO THE MOST RECENT UNITED STATES CENSUS SHALL HOLD OFFICE FOR A REGULAR TERM OF EIGHT YEARS EXCEPT AS PROVIDED BY THIS ARTICLE.

20. Retirement and service of retired justices and judges

Section 20. A. The legislature shall prescribe by law a plan of retirement for justices and judges of courts of record, including the basis and amount of retirement pay, and requiring except as provided in section 35 of this article, that justices and judges of courts of record be retired upon ON reaching the age of seventy SEVENTY-FIVE YEARS OF AGE.

B. Any retired justice or judge of any court of record who is drawing retirement pay may serve as a justice or judge of any court. When serving outside his county of residence, any such retired justice or judge shall receive his necessary traveling and subsistence expenses. A retired judge who is temporarily called back to the active duties of a judge is entitled to receive the same compensation and expenses as other like active judges less any amount received for such period in retirement benefits.

36. Commission on appellate court appointments and terms, appointments and vacancies on commission

Section 36. A. ~~There shall be~~ A nonpartisan commission on appellate court appointments ~~which shall be composed of~~ IS ESTABLISHED AND CONSISTS OF THE FOLLOWING MEMBERS:

1. The chief justice of the supreme court, who shall be chairman. ~~IN THE EVENT OF THE ABSENCE OR INCAPACITY OF THE CHAIRMAN, THE SUPREME COURT SHALL APPOINT A JUSTICE OF THE SUPREME COURT TO SERVE IN THE CHIEF JUSTICE'S PLACE AND STEAD.~~

2. Five attorney members, who shall be ~~nominated by the board of governors of the state bar of Arizona and~~ appointed by the ~~governor~~ FOLLOWING PEOPLE with the advice and consent of the senate in the manner prescribed by law: ~~and~~

(a) THE GOVERNOR SHALL APPOINT FOUR OF THE MEMBERS.

(b) THE PRESIDENT OF THE STATE BAR OF ARIZONA SHALL APPOINT ONE OF THE MEMBERS WHO SHALL BE A MEMBER OF THE STATE BAR OF ARIZONA.

3. Ten nonattorney members who shall be appointed by the governor with the advice and consent of the senate in the manner prescribed by law.

B. At least ninety days ~~prior to~~ BEFORE a term expiring or within twenty-one days of a vacancy occurring for a ~~nonattorney~~ AN ATTORNEY member on the commission ~~for~~ ON appellate court appointments, the ~~governor shall appoint a nominating committee of nine members, not more than five of whom may be from the same political party. The makeup of the committee shall, to the extent feasible, reflect the diversity of the population of the state. Members shall not be attorneys and shall not hold any governmental office, elective or appointive, for profit. The committee shall provide public notice that a vacancy exists and shall solicit, review and forward to the governor all along with the committee's recommendations for appointment.~~ STATE BAR OF ARIZONA SHALL SOLICIT, REVIEW AND FORWARD TO THE GOVERNOR ALL APPLICATIONS FOR APPOINTMENT ALONG WITH THE STATE BAR'S RECOMMENDATIONS FOR APPOINTMENT.

PROPOSITION 115

C. Attorney members of the commission shall have resided in the state and shall have been admitted to practice before the supreme court for not less than ~~five~~ TEN years, SHALL BE MEMBERS IN GOOD STANDING OF THE STATE BAR OF ARIZONA, SHALL HAVE NO FORMAL DISCIPLINARY COMPLAINTS AND SHALL NOT HAVE EVER BEEN FORMALLY SANCTIONED AS A RESULT OF A DISCIPLINARY ACTION. Not more than three attorney members shall be members of the same political party and not more than two attorney members shall be residents of any one county.

D. ~~Nonattorney~~ Members WHO ARE NOMINATED PURSUANT TO SUBSECTION A, PARAGRAPH 3 shall have resided in the state for not less than five years and shall not be judges, retired judges or admitted to practice before the supreme court. Not more than five nonattorney members shall be members of the same political party. Not more than two nonattorney members shall be residents of any one county.

E. ~~None of The attorney or~~ AND nonattorney members of the commission shall NOT hold any governmental office, elective or appointive, for profit, and ~~no AN attorney member OF THE COMMISSION shall NOT be eligible for appointment to any judicial office of the state until one year after he THE ATTORNEY MEMBER ceases to be a member OF THE COMMISSION.~~

F. ~~Attorney~~ Members of the commission shall serve staggered four-year terms and ~~nonattorney members shall serve staggered four-year terms.~~ Vacancies shall be filled for the unexpired terms in the same manner as the original appointments.

~~B. G. No person other than the chief justice shall serve at the same time as a member of more than one judicial appointment commission.~~

~~G. H. In making or confirming appointments to the appellate court commission, the governor, the senate and the PRESIDENT OF THE state bar shall endeavor to see that the commission reflects the diversity of Arizona's population.~~

~~In the event of the absence or incapacity of the chairman the supreme court shall appoint a justice thereof to serve in his place and stead.~~

~~D. I. Prior to BEFORE making recommendations to the governor as hereinafter provided, the commission shall conduct investigations, hold public hearings and take public testimony. An executive session as prescribed by rule may be held upon ON a two-thirds vote of the members of the commission in a public hearing. Final decisions as to recommendations shall be made without regard to political affiliation in an impartial and objective manner. The commission shall consider the diversity of the state's population, however the primary consideration shall be merit. Voting shall be in a public hearing. The expenses of meetings of the commission and the attendance of members thereof for travel and subsistence shall be paid from the general fund of the state as state officers are paid, upon ON claims approved by the chairman.~~

~~E. J. After public hearings the supreme court shall adopt rules of procedure for the commission on appellate court appointments.~~

~~F. Notwithstanding the provisions of subsection A, the initial appointments for the five additional nonattorney members and the two additional attorney members of the commission shall be designated by the governor for staggered terms as follows:~~

- ~~1. One appointment for a nonattorney member shall be for a one year term.~~
- ~~2. Two appointments for nonattorney members shall be for a two year term.~~
- ~~3. Two appointments for nonattorney members shall be for a three year term.~~
- ~~4. One appointment for an attorney member shall be for a one year term.~~
- ~~5. One appointments for an attorney member shall be for a two year term.~~

~~G. The members currently serving on the commission may continue to serve until the expiration of their normal terms. All subsequent appointments shall be made as prescribed by this section.~~

~~37. Judicial vacancies and appointments: initial terms; residence; age~~

~~Section 37. A. Within sixty days from the occurrence of a ANY vacancy in the office of a justice or judge of any court of record, except for vacancies occurring in the office of a judge of the superior court or a judge of a court of record inferior to the superior court THE SUPREME COURT OR AN INTERMEDIATE APPELLATE COURT OF RECORD, the commission on appellate court appointments, if the vacancy is in the supreme court or an intermediate appellate court of record, shall submit to the governor the names of not less than three EIGHT persons nominated by it to fill such EACH vacancy, no more than two of whom shall be members of the same political party unless there are more than four such nominees, in which event not more than sixty percentum of such nominees shall be members of the same political party, EXCEPT THAT ON A TWO-THIRDS VOTE, THE COMMISSION MAY REJECT AN APPLICANT AND SUBMIT LESS THAN EIGHT NAMES. ANY APPLICANT WHO RECEIVES A MAJORITY VOTE OF THE VOTING MEMBERS FOR NOMINATION SHALL BE NOMINATED FOR THE VACANCY. IF MORE THAN ONE VACANCY EXISTS IN THE SAME COURT AT THE SAME TIME, THE COMMISSION SHALL SUBMIT THE NAMES OF NOT LESS THAN SIX PERSONS NOMINATED BY IT TO FILL EACH VACANCY AND SHALL NOT SUBMIT THE NAME OF THE SAME PERSON FOR MORE THAN ONE VACANCY.~~

~~B. Within sixty days from the occurrence of a ANY vacancy in the office of a judge of the superior court or a judge of a court of record inferior to the superior court except for vacancies occurring in the office of a judge of the superior court or a judge of a court of record inferior to the superior court in a county having a population of less than two hundred fifty thousand persons according to the most recent United States census, the commission on trial court appointments for the county in which the vacancy occurs shall submit to the governor the names of not less than three EIGHT persons nominated by it to fill such vacancy, no more than two of whom shall be members of the same political party unless there are more than four such nominees, in which event no more than sixty per centum of such nominees shall be members of the same political party, EXCEPT THAT ON A TWO-THIRDS VOTE, THE COMMISSION MAY REJECT AN APPLICANT AND SUBMIT LESS THAN EIGHT NAMES. ANY APPLICANT WHO RECEIVES A MAJORITY VOTE OF THE VOTING MEMBERS FOR NOMINATION SHALL BE NOMINATED FOR THE VACANCY. IF MORE THAN ONE VACANCY EXISTS IN THE SAME COURT AT THE SAME TIME, THE COMMISSION SHALL SUBMIT THE NAMES OF NOT LESS THAN SIX PERSONS NOMINATED BY IT TO FILL EACH VACANCY AND SHALL NOT SUBMIT THE NAME OF THE SAME PERSON FOR MORE THAN ONE VACANCY. A nominee shall be under sixty-five years of age at the time his THE NOMINEE'S name is submitted to the governor. Judges of the superior court shall be subject to retention or rejection by a vote of the qualified electors of the county from which they were appointed at the general election in the manner provided by section 38 of this article.~~

~~C. A vacancy in the office of a justice or a judge of such courts of record shall be filled by appointment by the governor without regard to political affiliation from one of the nominees whose names shall be submitted to him THE GOVERNOR as hereinabove provided. IF MORE THAN ONE VACANCY EXISTS IN THE SAME COURT AT THE SAME TIME, THE GOVERNOR MAY MAKE AN APPOINTMENT FROM ANY OF THE NOMINEES PRESENTED FOR ANY OF THE VACANCIES IN THAT COURT. In making the appointment, the governor shall consider the diversity of the state's population for an appellate court appointment and the diversity of the county's population for a trial court appointment, however the primary consideration shall be merit. If the governor does not appoint one of such THE nominees to fill such THE vacancy within sixty days after their names are submitted to the governor by such THE commission, the chief justice of the supreme court forthwith shall appoint on the basis of merit alone without regard to political affiliation one of such THE nominees to fill such THE vacancy. If such THE commission does not, within sixty days after such THE vacancy occurs, submit the names of nominees as hereinabove provided, the governor shall have the power to MAY appoint any qual-~~

ified person to fill ~~such~~ THE vacancy at any time thereafter ~~prior to~~ BEFORE the time the names of the nominees to fill ~~such~~ THE vacancy are submitted to the governor as hereinabove provided.

D. Each APPOINTED justice or judge ~~so appointed~~ shall initially hold office for a term ending sixty days following the next regular general election after the expiration of a term of two years in office. Thereafter, the terms of justices or judges of the supreme court and the superior court shall be as provided by this article.

~~D-~~ E. A person appointed to fill a vacancy on an intermediate appellate court or another court of record now existing or hereafter established by law shall have been a resident of the counties or county in which that vacancy exists for at least one year ~~prior to his~~ BEFORE THE PERSON'S appointment, in addition to possessing the other required qualifications. A nominee shall be under sixty-five years of age at the time ~~his~~ THE NOMINEE'S name is submitted to the governor.

~~39. Retirement of justices and judges; vacancies~~

~~Section 39. A. On attaining the age of seventy SEVENTY-FIVE years OF AGE a justice or judge of a court of record shall retire and his THE JUSTICE'S OR JUDGE'S judicial office shall be vacant, except as otherwise provided in section 35 of this article. In addition to becoming vacant as provided in this section, the office of a justice or judge of any court of record becomes vacant ~~upon his~~ ON THE JUSTICE'S OR JUDGE'S death, or his voluntary retirement pursuant to statute or his voluntary resignation, and also, as provided in section 38 of this article, ~~upon~~ ON the expiration of his THE JUSTICE'S OR JUDGE'S term next following a general election at which a majority of those voting on the question of his THE JUSTICE'S OR JUDGE'S retention vote in the negative or for which general election ~~he~~ THE JUSTICE OR JUDGE is required, but fails, to file a declaration of his desire to be retained in office.~~

B. This section is alternative to and cumulative with the methods of removal of judges and justices provided in ARTICLE VI.I AND ARTICLE VIII, parts 1 and 2 ~~of article 8 and article 6.1 of this Constitution.~~

~~41. Commission on trial court appointments; membership; terms~~

~~A. Except as otherwise provided, judges of the superior court in counties having a population of two hundred fifty thousand persons or more according to the most recent United States census shall hold office for a regular term of four years.~~

~~B-~~ A. There shall be a nonpartisan commission on trial court appointments for each county having a population of two hundred fifty thousand persons or more according to the most recent United States census which shall be composed of the following members:

1. The chief justice of the supreme court, who shall be the chairman of the commission. In the event of the absence or incapacity of the chairman the supreme court shall appoint a justice thereof to serve in his place and stead.

2. Five attorney members, none of whom shall reside in the same supervisorial district and not more than three of whom shall be members of the same political party, who are ~~nominated by the board of governors of the state bar of Arizona and who are appointed by the governor~~ FOLLOWING PEOPLE subject to confirmation by the senate in the manner prescribed by law:

(a) THE GOVERNOR SHALL APPOINT FOUR OF THE MEMBERS.

(b) THE PRESIDENT OF THE STATE BAR OF ARIZONA SHALL APPOINT ONE OF THE MEMBERS WHO SHALL BE A MEMBER OF THE STATE BAR.

3. Ten nonattorney members, no more than two of whom shall reside in the same supervisorial district.

~~G-~~ B. At least ninety days ~~prior to~~ BEFORE a term expiring or within twenty-one days of a vacancy occurring for a ~~nonattorney~~ AN ATTORNEY member on the commission for trial court appointments, the member of the board of supervisors from the district in which the vacancy has occurred shall appoint a nominating committee of seven members who reside in the district, not more than four of whom may be from the same political party. The make up of the committee shall, to the extent feasible, reflect the diversity of the population of the district. ~~Members shall not be attorneys and shall not hold any governmental office, elective or appointive, for profit. The committee shall provide public notice that a vacancy exists and shall solicit, review and forward to the governor all applications along with the committee's recommendations for STATE BAR OF ARIZONA SHALL SOLICIT, REVIEW AND FORWARD TO THE GOVERNOR ALL APPLICATIONS FOR APPOINTMENT ALONG WITH THE STATE BAR'S RECOMMENDATIONS FOR appointment. The governor shall appoint two persons from each supervisorial district who shall not be of the same political party, subject to confirmation by the senate in the manner prescribed by law.~~

~~D-~~ C. In making or confirming appointments to trial court commissions, the governor, the senate and the PRESIDENT OF THE state bar shall endeavor to see that the commission reflects the diversity of the county's population.

~~E-~~ Members of the commission shall serve staggered four year terms, except that initial appointments for the five additional non-attorney members and the two additional attorney members of the commission shall be designated by the governor as follows:

- ~~1. One appointment for a nonattorney member shall be for a one year term.~~
- ~~2. Two appointments for nonattorney members shall be for a two year term.~~
- ~~3. Two appointments for nonattorney members shall be for a three year term.~~
- ~~4. One appointment for an attorney member shall be for a one year term.~~
- ~~5. One appointment for an attorney member shall be for a two year term.~~

~~F. D. Vacancies shall be filled for the unexpired terms in the same manner as the original appointments.~~

~~G-~~ E. Attorney members of the commission shall have resided in this state and shall have been admitted to practice in this state by the supreme court for at least five TEN years, SHALL BE MEMBERS IN GOOD STANDING OF THE STATE BAR OF ARIZONA, SHALL HAVE NO FORMAL DISCIPLINARY COMPLAINTS, SHALL NOT HAVE EVER BEEN FORMALLY SANCTIONED AS A RESULT OF A DISCIPLINARY ACTION and shall have resided in the supervisorial district from which they are appointed for at least one year. Nonattorney members shall have resided in this state for at least five years, shall have resided in the supervisorial district for at least one year before being nominated and shall not be judges, retired judges nor admitted to practice before the supreme court. None of the attorney or nonattorney members of the commission shall hold any governmental office, elective or appointive, for profit and no attorney member is eligible for appointment to any judicial office of this state until one year after membership in the commission terminates.

~~H-~~ F. No person other than the chief justice shall serve at the same time as a member of more than one judicial appointment commission.

~~I-~~ G. The commission shall submit the names of not less than ~~three~~ EIGHT individuals for nomination for the office of ~~the~~ superior court judge pursuant to section 37 of this article.

~~J-~~ H. ~~Prior to~~ BEFORE making recommendations to the governor, the commission shall conduct investigations, hold public hearings and take public testimony. An executive session as prescribed by rule may be held upon a two-thirds vote of the members of the commission in a public hearing. Final decisions as to recommendations shall be made without regard to political affiliation in an impartial and objective manner. The commission shall consider the diversity of the county's population and the geographical distribution of the residences of the judges throughout the county, however the primary consideration shall be merit. Voting shall be in a public hearing. The expenses of meetings of the commission and the attendance of members thereof for travel and subsistence shall be paid from the general fund of the state as state officers are paid, upon claims approved by the chairman.

~~K. 1. After public hearings the supreme court shall adopt rules of procedure for the commission on trial court appointments.
L. The members of the commission who were appointed pursuant to section 36 of this article prior to the effective date of this section may continue to serve until the expiration of their normal terms. All subsequent appointments shall be made as prescribed by this section.~~

42. Retention evaluation of justices and judges: electronically accessible information; performance review hearings

A. The supreme court shall adopt, after public hearings, and administer for all justices and judges who file a declaration to be retained in office, a process, established by court rules for evaluating judicial performance. The rules shall include written performance standards and performance reviews which survey opinions of persons who have knowledge of the justice's or judge's performance. The public shall be afforded a full and fair opportunity for participation in the evaluation process through public hearings, dissemination of evaluation reports to voters and any other methods as the court deems advisable.

B. THE SUPREME COURT SHALL MAKE EVERY WRITTEN OPINION OR ORDER THAT IS ISSUED BY A JUDGE OF A COURT OF RECORD, THAT RESOLVES A CONTESTED MATTER OF LAW AND THAT IS NOT SEALED OR CONFIDENTIAL PURSUANT TO LAW ELECTRONICALLY ACCESSIBLE TO THE PUBLIC THROUGH THE SUPREME COURT'S WEBSITE.

C. NOT LATER THAN SIXTY DAYS PRECEDING THE REGULAR PRIMARY ELECTION THE SUPREME COURT SHALL TRANSMIT A COPY OF THE JUDICIAL PERFORMANCE REVIEW OF EACH JUSTICE AND JUDGE WHO IS UP FOR RETENTION TO THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES. NOT LATER THAN SIXTY DAYS PRECEDING THE REGULAR GENERAL ELECTION FOR THE RETENTION OF JUSTICES AND JUDGES, A JOINT LEGISLATIVE COMMITTEE CONSISTING OF THE SENATE JUDICIARY COMMITTEE AND THE HOUSE OF REPRESENTATIVES JUDICIARY COMMITTEE, OR THEIR SUCCESSOR COMMITTEES, MAY MEET AND TAKE TESTIMONY ON THE JUSTICES AND JUDGES WHO ARE UP FOR RETENTION.

2. The Secretary of State shall submit this proposition to the voters at the next general election as provided by article XXI, Constitution of Arizona.

ANALYSIS BY LEGISLATIVE COUNCIL

Proposition 115 would amend the Arizona Constitution to make the following changes relating to the selection and retention of state judges and justices:

1. The terms of state Superior Court judges would be extended from four years to eight years; the terms of state Court of Appeals judges and state Supreme Court justices would be extended from six years to eight years.

2. The mandatory retirement age for state judges and justices would be extended from seventy to seventy-five.

3. The appointment authority for the five attorney members of each commission that nominates applicants to fill judicial vacancies would be amended as follows:

(a) The Governor would appoint four attorneys to each nominating commission and the president of the State Bar of Arizona would appoint one attorney to each nominating commission. Currently, the State Bar of Arizona nominates and the Governor appoints all five attorney members of each commission.

(b) The five attorney members would be required to have resided in and been licensed to practice law for ten years in Arizona and must not have any formal complaints or sanctions with the State Bar of Arizona. Currently, the attorney members must have resided in and been licensed to practice law for five years in Arizona.

4. The minimum number of judicial nominees to be submitted by a nominating commission to the Governor for a judicial vacancy would be increased from three to eight, and the limitations on the number of nominees from a particular political party would be repealed. An applicant who receives a majority vote for nomination shall be nominated for the vacancy. By a two-thirds vote, a nominating commission may reject an applicant and submit fewer than eight nominees for a judicial vacancy.

5. If more than one vacancy exists in the same court at the same time, the nominating commission would be required to submit at least six judicial nominees for each vacancy, and could not submit the same nominee for more than one vacancy. The Governor would be allowed to appoint any of the nominees submitted for any of the vacancies in that court.

6. The Supreme Court would be required to make opinions and orders of state judges and justices available electronically on the Supreme Court website, unless the opinion or order is sealed or confidential pursuant to law.

7. Sixty days before the general election for the retention of state judges and justices, a joint legislative committee would be authorized to meet and take testimony on the state judges and justices who are up for retention. A copy of the judicial performance review of each state judge or justice that is conducted under current law would be required to be transmitted to the Legislature prior to that meeting.

ARGUMENTS "FOR" PROPOSITION 115

Prop. 115 is a consensus measure that strengthens Arizona's method of selecting and retaining judges.

The State Bar of Arizona, the Arizona Judicial Council, the Arizona Judges Association, and the Arizona Legislature worked together to craft Prop. 115.

Prop. 115 is designed to make the judicial nomination process turn on the individual merit of the candidates. Ensuring that each and every candidate will be considered on the basis of merit means Arizona will continue to have excellent candidates apply to be judges.

Prop. 115 also extends the terms of sitting judges, and allows judges to serve to the age of 75. Currently, all judges in Arizona must retire at the age of 70. That's way too early. In fact, four of the nine Justices on the United States Supreme Court are already older than 70. Arizona will be well served by allowing judges to serve with excellence beyond the age 70.

Finally, Prop. 115 gives voters more information about the judges that are on the ballot. Everybody wins when voters are equipped with information.

To learn more about Prop. 115 please visit: www.YesOnProp115.com.

Eddie Farnsworth, State Representative, Chairman, Making Merit Selection Stronger, Yes on Prop. 115, Chairman, Judiciary Committee, Arizona House of Representatives, Gilbert

Paid for by Making Merit Selection Stronger, Yes on Prop. 115

State Bar of Arizona's Ballot Pamphlet Statement in Support of Proposition 115

Fair and impartial courts are necessary to assure liberty and justice for all. Making sure that we have the best judges is a critical part of keeping our courts fair and our scales of justice balanced. In Arizona, judges for superior court are selected through a system that uses elections in smaller counties (where people tend to know the candidates well) and a non-partisan Merit Selection System for larger counties, including Maricopa, Pima and Pinal. Judges for the Supreme Court, as well as the Court of Appeals, also are appointed through Merit Selection.

Because of Arizona's Merit Selection system our courts are fair and impartial. Our merit selected judges are among the most highly regarded in the United States and around the world.

Since the current Merit Selection system is not broken, the question has arisen: why should we amend our State Constitution to fix it? No system is perfect. There are improvements that could be made. Some provisions of Proposition 115 would make improvements. The retirement age for judges would be increased from 70 to 75, and the term between judicial retention elections would be increased to eight years (from the current four years). Also, while the State Bar would no longer make nominations to the Governor for all attorney members of the Commissions, the State Bar would be given direct authority to select one of the 15 members of each Merit Selection Commission.

In an effort to protect Merit Selection, the State Bar of Arizona supports Proposition 115.

Amelia Craig Cramer, President, State Bar of Arizona, Tucson

John F. Phelps, Executive Director, State Bar of Arizona, Phoenix

Paid for by State Bar of Arizona

The Arizona Judges Association supports a YES vote on Proposition 115. This proposition is a compromise which preserves the essence of Arizona's Merit Selection and Tenure system for appellate judges and for superior court judges in Maricopa, Pima and Pinal counties.

Arizona's system of selecting judges has led to a judiciary which is nationally recognized for its excellence. Proposition 115 preserves judicial independence and impartiality while insuring accountability through a Judicial Performance Review System.

Among the benefits of this proposal is the increase of the mandatory retirement age for judges from 70 years of age to 75 years of age.

The Arizona Judges Association joins with the Arizona Judicial Council, the Arizona Bar Association and the Center for Arizona Policy in urging a YES vote on Proposition 115.

Kyle Bryson, President, Arizona Judges Association, Tucson

David Cunanan, Immediate Past President, Arizona Judges Association, Phoenix

Pete Dunn, Esq., Counsel to Arizona Judges Association, Peoria

Paid for by Peter G. Dunn

Dear Voter,

With their rulings and decisions, judges have a direct impact on the lives of Arizonans. For this reason, it is important that the Governor be presented with as many qualified applicants as possible to pick from in making judicial appointments. Similarly, it is critical that voters have adequate access to judges' decisions and performance ratings in order to make an educated decision about which judges to retain at election.

Proposition 115 accomplishes three important reforms to Arizona's judicial nomination process. First, it requires more choices and greater transparency regarding the selection and retention of appointed judges. Because the judiciary is the least directly accountable branch of government, it is essential that as many qualified individuals as possible be presented to the Governor for consideration; and you, the voters, should be provided with as much information as possible about those judges in advance of retention elections. Second, it minimizes the influence of the State Bar of Arizona in selecting the lawyer members of the judicial nominating commissions. Third, the retirement age for judges will be increased from 70 to 75, allowing seasoned and experienced judges to remain on the bench and avoid forced retirement.

Proposition 115 is a common sense reform measure jointly supported by the Arizona Judicial Council, the Arizona Legislature, and the State Bar of Arizona. Please add your vote to the diverse list of supporters and make the existing judicial selection and retention process more transparent and effective.

I encourage you to vote YES on Proposition 115.

Jan Brewer, Governor, Phoenix

Arizona's merit selection system for appointing judges in urban counties is touted as one of the best systems in the country. The United States Chamber of Commerce named it a "best practice" in 2010.

Arizona's merit selection commissions operate transparently, by doing business in public meetings, posting applications for all candidates online, and soliciting comments from the public. Merit commissions check references and screen candidates extensively

ARGUMENTS "FOR" PROPOSITION 115

before nominating applicants to the Governor for appointment. Once appointed by the Governor, merit-selected judges must go through periodic judicial performance evaluations and stand for retention elections.

As with any system, however, there may be room for improvement. Proposition 115 is the result of a compromise that was reached after extensive negotiations among the Governor's office, the then-Speaker of the House of Representatives and then-President of the Senate, the State Bar of Arizona's Board of Governors, the Judges Association, and the Arizona Judicial Council.

Changes to the system contained in Proposition 115 will extend the terms of judges to eight years, which will provide greater independence for judges; raise the retirement age of judges to 75, permitting experienced judges to remain on the bench longer; allow the judicial nominating commissions greater flexibility when deciding which applicants to forward to the Governor by not constraining the choices by political party; give the Governor more choices by requiring the commissions to send more names to the Governor for consideration; and provide the State Bar President the unfettered discretion to appoint a representative to sit on each commission.

It is for these reasons that, on balance, the Arizona Judicial Council, the administrative policy board of the Arizona Judicial Branch, has voted to support this measure.

Rebecca White Berch, Chairperson, Arizona Judicial Council, Phoenix
Paid for by Rebecca White Berch

David K. Byers, Council Member, Arizona Judicial Council, Phoenix

Judicial integrity is important to me, and that's why I support Proposition 115. In Arizona's largest counties, a system based on merit is used to select superior court judges. Appellate judges go through a similar process aimed at insuring quality for our higher court judges. This system has been in place since 1974, and hasn't been updated for 20 years. Prop 115 accomplishes a much-needed update of the judicial selection process so that it can better meet the needs of Arizona citizens today.

First and foremost, Prop 115 gives more applicants an opportunity to be considered for judgeships. Currently, there could be dozens of applicants for a single position, yet only 3 names would have to be forwarded to the Governor for consideration. This is an unreasonably low number, and could deter very qualified people from even applying. Prop 115 fixes this problem by increasing the minimum number to 8, giving more applicants an opportunity to be considered.

Prop 115 increases the qualifications for attorney members of nominating commissions; more qualified people screening applicants for judgeships just makes sense. It also requires judicial opinions to be published online, increasing transparency and accountability to the public.

Prop 115 recognizes the value of seasoned jurists by raising the retirement age to 75 years old, instead of the current 70. Judges will have longer terms in office, allowing them to focus on cases in front of them, not elections.

Prop 115 was crafted through a stakeholder process that included legislators, the Center for Arizona Policy, the Arizona Judicial Council, the Arizona State Bar and the Arizona Judges Association. It is a common-sense update to our current judicial merit selection system, I urge you to vote "yes" on Prop 115.

Steve Pierce, President of the Arizona State Senate, Phoenix

Please vote YES to support improvements to our merit selection system.

This merit selection improvement proposal is a well thought out compromise that will bring more openness and accountability to our judicial selection and retention process. It will give the people greater access than ever before to decisions written by our courts of record.

The Governor will have more choices to pick and that will result in more qualified applicants offering themselves to be considered. And the Governor as a consequence will also be more accountable to the people for the appointments that are made.

The people should have more information about the decisions of our courts of record and this amendment will further the goal of transparency by requiring that decisions be published in a more accessible manner.

All these good things are accomplished within the merit selection system. Please support the sensible and fair improvement to our current law.

Please vote YES.

Steve Twist, Scottsdale

Vote "Yes" on Proposition 115! This measure is a step forward to improve the accountability and transparency of how judges are selected in Arizona.

It's important to note that the measure is supported by judges and attorneys. Proposition 115 is a consensus measure agreed to by judges at every level, the State Bar of Arizona, and legislators from both major political parties. As an attorney and longtime advocate of judicial reform, I support Proposition 115 because it offers reasonable and necessary changes to the current system.

Proposition 115 improves judicial selection by making these needed changes:

- Removes the requirement that the judicial nominees be selected according to party affiliation. Party affiliation should not be a factor in evaluating the qualifications of judges. This requirement has often resulted in limiting the number of qualified individuals who apply for and who are nominated for judicial positions.

- Increases the number of qualified, meritorious judicial nominees sent to the Governor. The current system, whereby the selection commissions often limit the number of nominees to three, unnecessarily limits the nominees available to the Governor who is duly elected by the people. Using commissions to limit those they deem "meritorious" is one of the biggest concerns about the current system. Proposition 115 fixes this issue.

- Expands the process for nominating attorney members to serve on the commission thereby making the process more accountable to the people.

Whether you favor the current merit selection process, election of judges, or a different federal model to select judges, I urge you to vote YES on 115. For more information on judicial selection in Arizona, visit azvoterguide.com.

Cathi Herrod, Esq., President, Center for Arizona Policy, Phoenix

Paid for by Center for Arizona Policy

When you vote on judges, how do you know if the judges on the ballot have done a good job? Prop. 115 gives you more information about how the judges perform in office so you can make an informed decision when you cast your vote.

As for selecting new judges, competition produces excellence. Prop. 115 improves our system of selecting judges because it presents the Governor with multiple qualified candidates for each appointment. Choosing the men and women who preside in our courts of law is a difficult and important task. The more qualified candidates sent to the Governor the better.

Prop. 115 makes "merit selection" stronger. That is why the State Bar of Arizona, Arizona Judges Association, and the Arizona Judicial Council have endorsed Prop. 115.

Please join me in voting YES on Prop. 115.

Andy M. Tobin, Speaker of the Arizona House of Representatives, Paulden

Spelling, grammar and punctuation were reproduced as submitted in the "for" and "against" arguments.

Courts of law play an important role in our constitutional system of government. Judges do more than just decide legal disputes between parties. They rule on the constitutionality of the laws your elected representatives enact. And they are sometimes called upon to enforce the separation of powers mandated by our Constitution.

Clearly our method of selecting and retaining judges is very important. That's why when I was Speaker of the Arizona House of Representatives I worked closely with The Arizona Judges Association, the Arizona Judicial Council, the State Bar of Arizona, and other stakeholders, to improve and strengthen the "merit selection" system. Prop. 115 is the result of that cooperative effort. And I'm deeply grateful to all the participants.

Prop. 115 improves the selection process to make sure that each and every judicial vacancy is filled based on merit, not politics. Prop. 115 also empowers you as a voter by giving you more information on the judges on the ballot.

Please consider voting yes of Prop. 115. For more information please visit www.yesonprop115.com.

Kirk Adams, Congressional Candidate, former Speaker of the Arizona House of Representatives, Mesa

ARGUMENTS "AGAINST" PROPOSITION 115

We read and hear of scandals from all over the country involving judges who have violated their public trust. But not from Arizona! We have good, honest, hard-working judges who are independent. That is why we don't need Proposition 115. No one has shown how Proposition 115 will improve the ranks of our judges, both in the trial courts and the appellate courts.

Proposition 115 is an unnecessary power grab, to give politicians even more to say about the judicial selection process.

I have practiced before Arizona judges for more than 50 years. I worked hard, along with many others, to help bring in the present system and I remember how things were before that. There is nothing wrong with our judicial selection process that will be fixed by Proposition 115. We don't need it. Vote NO on Proposition 115.

Richard A. Segal, Phoenix

I urge you to vote no on Proposition 115. Arizona voters approved the judicial merit selection system in 1974 to ensure that judges would be independent and non-partisan. Under the merit selection system, Arizona has developed one of the finest judiciaries in the country. The undisputed fact is that the system has worked extremely well.

In an effort to assert more political control over the judicial selection process, the legislature has referred Proposition 115 to the ballot. It would basically eliminate the State Bar's role in the judicial selection process and leave it in the hands of the Governor, who would appoint almost all members of the nominating commissions for Maricopa County, Pima County and appellate court appointments. Just as significantly, it would require those commissions to submit at least eight names (instead of the currently required three names) from which the Governor can select. That means that less qualified and potentially more partisan individuals will be sent to the Governor for appointment.

If you want to keep partisan politics out of the selection of judges, you should vote against Proposition 115. We have a judicial selection system in Arizona that we can all be proud of. Let's keep it that way.

Timothy M. Hogan, Phoenix

PROPOSITION 115 is basically an extorted plea bargain. It claims "reform" for judicial merit selection – a system having served the Arizona people well since adoption by our citizens in 1974. But it hasn't always served the Politicians. "Reform" is a gross mischaracterization, instead it gives future Governors and Legislators almost complete control in appointing members to Judicial Nominating Committees (JNCs). We trust voters to see through this attempt to politicize the judiciary and recognize that it introduces political patronage and partisanship into our current system, recognized nationwide as one of the finest. Be assured, this is another example of legislative intrusion into the judicial system. And for what? There is NO PROBLEM with the present system. Prop 115 is a brazen attempt by the other branches to gain control over the judicial branch.

JNCs consist of 10 non-lawyer members (appointed by Governor, confirmed by Senate) and 5 members recommended by the State Bar Association. Involvement of lawyer members has been critical to ascertain competency of names forwarded to the Governor. Prop 115 turns this upside down, allowing the Governor 14 of 15 appointments, markedly reducing the bar's valuable, professional input. It significantly politicizes the process by expanding the Governor's power.

Some 115 proponents say they support its passage for fear the legislature plans to obliterate the merit selection system entirely. Others secretly say they fear reprisal by hindered legislation. People are being 'blackmailed' into supporting this for fear of a worse outcome. The League of Women Voters does not act out of fear. Lady Justice's blindfold is slipping. Only you as voters can hold it in place.

The League joins former Chief Justices of Arizona Supreme Court, Feldman, Gordon, Ziaket, Jones and McGregor and respected constitutional lawyer Paul Bender, ASU Professor, in urging your 'NO' VOTE on PROPOSITION 115.

Barbara Klein, President, League of Women Voters of Arizona, Scottsdale

Robyn Prud'homme-Bauer, 1st Vice President, League of Women Voters of Arizona, Clarkdale

Sandra Goodwin, Impartial Courts Director, Dewey

Paid for by League of Women Voters of Arizona

The Phoenix Law Enforcement Association, with a membership of approximately 2,200 police officers, opposes ballot proposal Proposition 115 for the November 2012 election. Police officers have a personal stake in having a fair, unbiased judiciary, free from the influence of politics. Arizona's current system of judge selection, "Merit Selection," allows for non-partisan method of judicial selection that Proposition 115 does not improve: instead, Proposition 115 will undermine the safeguards against partisanship contained in the current "Merit Selection" process.

Joe Clure, President, Phoenix Law Enforcement Association, Glendale

Will Buvidas, Treasurer, Phoenix Law Enforcement Association, Phoenix

Paid for by No on Proposition 115 - Save Merit Selection

The Pima County Interfaith Council (PCIC) opposes ballot proposal Proposition 115 for the November 2012 Election. Arizona's system of "Merit Selection" of judges is working well and should not be changed.

PCIC's mission is to building organizations that are "universities of public life," dedicated to developing citizens in the fullest sense: participants in our democracy and agents in the creation of a more just society.

The current "Merit Selection" system allows for a non-partisan method of judicial selection that Proposition 115 does not improve. Instead this proposition would politicize the selection of judges. PCIC thus opposes Proposition 115.

Rev. Leah Sandwell-Weiss, Deacon, St Philip's in the Hills Episcopal Church, Leader, Pima County Interfaith Council, Tucson

Ernesto Lujan, Treasurer, Pima County Interfaith Council, Tucson

Paid for by No on Proposition 115 - Save Merit Selection

The Arizona Save the Family Foundation has been serving homeless families and domestic violence victims with children for more than 20 years. Many of the people we serve depend on the justice system for help with landlord-tenant issues, orders of protection, child support enforcement and other remedies.

The Save the Family Foundation opposes the ballot proposal Proposition 115 for the November 2012 Election. Arizona's system of "Merit Selection" of judges is working well and should not be changed.

The current "Merit Selection" system allows for a method of judicial selection that has produced a judiciary of extremely high quality that groups across the country have praised. In 2010, the Arizona Town Hall said, "The state's judicial merit selection system and

ARGUMENTS "AGAINST" PROPOSITION 115

the courts' judicial education program...have combined to give Arizona a court system that is widely praised by litigants and lawyers in Arizona and other observers nationally."

Proposition 115 does not improve the current system but rather, is an attempt to transfer more power over the courts to the politicians. Save the Family Foundation recommends a "No" vote on Proposition 115.

Jacki Taylor, MAEd, MC, Chief Executive Officer, Save the Family Foundation of Arizona, Gilbert
Paid for by No on Proposition 115 - Save Merit Selection

Greg Obolewicz, Treasurer, Save the Family Foundation of Arizona, Higley

Proposition 115 would destroy the present merit-selection system for selecting judges and let politicians control the judicial process.

We have each practiced law in Arizona for many years. We each served several years as a justice on the Arizona Supreme Court, including a term as chief justice, and thus chaired many meetings of the commissions that sent names to the Governor for appointment to the trial courts in Pima and Maricopa Counties, the Court of Appeals, and the Arizona Supreme Court.

The Arizona system has worked very well since 1974. While people may disagree about a particular decision, Arizona courts operate independently from the political branches of government, and justice is dispensed without worry about political influence, lobbying, or corruption.

The Arizona system has been praised by Justice Sandra Day O'Connor, and is a model cited by the U.S. Chamber Institute for Legal Reform (part of the U.S. Chamber of Commerce): "Arizona leads the nation with the procedures it has put in place to fulfill the promise of true nonpartisan 'merit' selection."

Proposition 115 will give politicians too much power over the judicial system. It is important that we keep a fair and independent judiciary in this state. Merit selection has no problem that needs fixing, and there is no reason to adopt Proposition 115 except to increase political influence and control of our court system. That is a bad reason, both in the short and long term, no matter whether Republicans or Democrats are in political power.

We strongly recommend a no vote on Proposition 115.

Stanley G. Feldman, Chief Justice (ret.), Arizona Supreme Court, Tucson

Thomas A. Zlaket, Chief Justice (ret.), Arizona Supreme Court, Tucson

Ruth V. McGregor, Chief Justice (ret.), Arizona Supreme Court, Phoenix

Frank X. Gordon, Jr., Chief Justice (ret.), Arizona Supreme Court, Phoenix

Charles E. Jones, Chief Justice (ret.), Arizona Supreme Court, New York, NY

Paid for by No on Proposition 115 - Save Merit Selection

In 1974, Arizona citizens voted decisively to adopt a system for appointing the judges of certain of our courts based on their qualifications. The reasons for adopting merit selection included preventing unqualified persons from becoming judges, keeping politics out of choosing judges, and freeing judges to decide cases fairly without fear of political consequences. Our system isn't broken and doesn't need to be fixed by Proposition 115, which would give politicians too much influence in the selection and retention of judges.

In our current system, selection committees made up of fifteen private citizens, ten of whom are not lawyers, conduct extensive background investigations and interview applicants to evaluate their qualifications. Those citizen committees are required to recommend at least three candidates to the Governor for each vacancy on the Arizona Supreme Court, the Arizona Court of Appeals, and the superior courts in Maricopa, Pima and Pinal Counties. The nominees *cannot* all be members of the same political party. The Governor then appoints one of the nominees. This system has been a nationally recognized success.

Proposition 115 would increase partisan political influence and could reduce the quality of our judges. First, it would increase political control of the appointment of the selection committees by giving the Governor power to appoint fourteen of the fifteen members. Second, its requirement that selection committees nominate at least eight instead of three applicants could result in the appointment of less qualified or unqualified judges. Third, it allows *all* of the nominees to be members of the same political party. Fourth, it would subject judges to political pressure by allowing the Legislature to conduct hearings on judges who are on the voter retention ballot.

For these reasons, we strongly urge you to vote no on Proposition 115.

Selmer D. Lutey, Past President, State Bar of Arizona 1971-1972, Prescott

Mark I. Harrison, Past President, State Bar of Arizona 1975-1976, Phoenix

William F. Haug, Past President, State Bar of Arizona 1982-1983, Phoenix

John J. Bouma, Past President, State Bar of Arizona 1983-1984, Phoenix

Larry W. Suciu, Past President, State Bar of Arizona 1984-1985, Yuma

Kenneth J. Sherk, Past President, State Bar of Arizona 1985-1986, Phoenix

Thomas A. Zlaket, Past President, State Bar of Arizona 1988-1989, Tucson

Frederick M. Aspey, Past President, State Bar of Arizona 1990-1991, Flagstaff

Roxana Bacon, Past President, State Bar of Arizona 1991-1992, Phoenix

Robert E. Schmitt, Past President, State Bar of Arizona 1992-1993, Prescott

Michael R. Murphy, Past President, State Bar of Arizona 1994-1995, Prescott

Michael D. Kimerer, Past President, State Bar of Arizona 1995-1996, Paradise Valley

Michael L. Piccarreta, Past President, State Bar of Arizona 1996-1997, Tucson

Don Bivens, Past President, State Bar of Arizona 1998-1999, Paradise Valley

Nicholas J. Wallwork, Past President, State Bar of Arizona 2001-2002, Tempe

Pamela Treadwell-Rubin, Past President, State Bar of Arizona 2003-2004, Tucson

Charles W. Wirken, Past President, State Bar of Arizona 2004-2005, Mesa

Helen Perry Grimwood, Past President, State Bar of Arizona 2005-2006, Phoenix

Raymond A. Hanna, Past President, State Bar of Arizona 2009-2010, Prescott

Paid for by No on Proposition 115 - Save Merit Selection

Since 1974 when the people of Arizona proposed and then voted into our Constitution the merit selection system of judges, our court system has been a model for the rest of the nation and a truly capable, impartial and independent judiciary. Merit selection by the Governor appointing from a list of candidates by Nominating Commissions applies to trial judges in Maricopa and Pima counties and to all appellate judges. It has worked very well and no change is required.

Certain members of the Legislature opposed merit selection back in 1974 and ever since have sought to inject politics back into our court system. Numerous times legislators have sought to tinker with the process or to abolish the merit system outright and return us to the elective system where judges were dependent on campaign contributions from the very lawyers appearing before them. Proposition 115 is yet another misguided legislative effort to undermine merit selection. It would emasculate the role of the Bar Association in recommending the five lawyers on each Nominating Commissions (there are also 10 non-lawyers appointed by the Governor on each Commission). Proposition 115 would also require 8 nominees for a vacancy be sent to the Governor rather than at least 3 as is now the case, thereby increasing the likelihood of inferior candidates. Finally, it would do away with the requirement that nominees selected by the Commission could not be all members of the same political party as is the case now. This is pure politics at its worst.

Proposition 115 is truly a wolf in sheep's clothing and must be defeated. An independent judiciary, which Arizona enjoys now, is a fundamental requirement of a free society. Keep politics out of our court system and vote NO on Proposition 115.

Kenneth J. Sherk, Phoenix

Proposition 115 extends the governor's control over judicial selection and eliminates important checks and balances that protect judicial independence. Do you trust any governor with such power?

To claim our current system "takes the politics out of judicial selection" overstates its virtues. Judges hold positions of power and public trust. How we choose them is inevitably political. Our merit selection system, however, has checked and balanced judicial selection politics since 1974, and that great achievement is imperiled now.

Three checks currently restrict governors from appointing an unqualified crony, financial benefactor, or ideologically driven judge: (1) Governors must choose among candidates nominated by a commission the Chief Justice chairs. (2) Although the governor appoints that commission's 10 non-lawyer and 5 lawyer members, the State Bar nominates all 5 lawyers. Bar nomination not only brings professional insight to merit screening; it also assures independent voices on the commission. (3) The commission must send governors politically balanced lists of judicial nominees; it cannot nominate from only one party.

Proposition 115 eliminates checks 2 and 3. Reducing the Bar to naming 1 commissioner, it empowers the governor to pack the commission by naming 14. Next it frees the governor-packed commission to nominate *entirely* from the governor's party.

You'll hear that the State Bar, Judges Association, and Judicial Council accepted Proposition 115 as a compromise. It was a shotgun compromise. Those bodies, hoping to appease legislators who sought to utterly destroy merit selection, surrendered to a fall-back that guts merit selection. They should have held their ground, fought the good fight, and trusted the voters. *Sometimes you've got to know when NOT to fold 'em.*

Don't be fooled. Preserve judicial independence. Vote NO on Proposition 115.

Noel Fidel, Former Chief Judge, Arizona Court of Appeals, Division One, Phoenix

One of the most dangerous changes proposed by Proposition 115 is to essentially eliminate the input of Arizona's legal profession in that process of judicial selection, in order to increase the governor's power to choose judges.

I have practiced as a trial lawyer in Arizona for over 25 years. Here's why it's so important that Arizona's legal profession, through the State Bar, continue to appoint 4 of the 15 judicial commission members that nominate our judges. When people want a lawyer, they want the best lawyer they can get—the smartest, most experienced, most successful lawyer. That lawyer's personal political agenda has little to do with how well that lawyer will represent their client. Similarly, for our clients' cases, we lawyers want the best judges we can get. That means the smartest, most experienced, fairest judges—judges of the highest quality. Those qualities are never determined by political agenda.

The State Bar of Arizona's membership includes every kind of lawyer, representing all kinds of clients—individuals, corporations, developers, employers, employees, etc. The lawyers that the State Bar chooses to serve on judicial commissions want the best judges they can get, not judges that will advance some politician's agenda.

The proof that the current system works is the national recognition Arizona gets for the excellence of its judiciary, from the U.S. Chamber of Commerce to the Arizona Town Hall, to former U.S. Supreme Court Justice Sandra Day O'Connor.

The proponents of Proposition 115 have never shown any specific problem with the system. It is simply a power grab by politicians. Please vote no and preserve the Constitution.

JoJene Mills, Former President, Arizona Association for Justice, Tucson

As the saying goes, if it isn't broken, don't fix it. Proposition 115 fits that saying perfectly.

Since a voter-approved measure in 1974, judges for the Supreme Court, Court of Appeals and Superior Courts in Maricopa and Pima counties have gone through a merit selection process, which limits political influence in how Arizona seats judges. Because of population increases, Pinal County would also be under this new scheme. In the 38 years since, judges have been selected fairly, with lesser qualified candidates weeded out of the process.

Prop. 115 wants to change that, by injecting politics into the selection process and allowing candidates with minimal qualifications to advance and possibly find a seat on the bench.

Many attorneys and professionals who deal with the courts agree that politics should be left out of our justice system.

Prop. 115 seeks to give too much power to a Governor. Under the new proposal, a Governor would get to appoint 14 out of the 15 appointments to the Commission on Appellate Court appointments. Current law gives the Governor 10 slots and the State Bar makes 5 attorney nominations. Additionally, the Commission would have to send 8 names to the Governor to fill a judicial vacancy instead of the 3 selected by the Commission under current law. This allows lesser qualified candidates to sneak through the process and gives the Governor more influence in who gets appointed.

If Proposition 115 were to pass, merit selection as Arizonans have known it for a generation would be gutted. For some vacancies in Pima, Pinal and Maricopa counties, the Commission would consist of political appointees and anyone who applied could get forwarded to the Governor for appointment. A candidate who is politically connected but not worthy of sitting on the bench could sail through the new process.

**H. Micheal Wright, President, Arizona Association for Justice/
Arizona Trial Lawyers Association, Mesa**

**J. Tyrrell Taber, Secretary, Arizona Association for Justice/
Arizona Trial Lawyers Association, Phoenix**

Paid for by Arizona Association for Justice/Arizona Trial Lawyers Association

ARIZONA ASSOCIATION OF DEFENSE COUNSEL (AADC)
STATEMENT IN OPPOSITION TO PROPOSITION 115

Arizona's current judicial merit-selection system is a national model, and provides us with courts free of political influence and outside lobbying. Litigants in Arizona know the judge in their case is not beholden to politicians or financial donors.

The Arizona Association of Defense Counsel (the "AADC") consists of lawyers practicing primarily in the civil defense area. The AADC is dedicated to the education of its members and the judiciary, as well as to increasing community awareness of the positive aspects of the legal profession. As attorneys practicing in Arizona we see first-hand, every day the high quality of judges our current merit-selection system produces. Why change something that's worked so well for almost 40 years?

The AADC believes the proposed reforms are unnecessary and will lead to a judiciary that is more politicized and less independent. Merit selection leads to qualified, fair and unbiased judges. Inserting politics into the courts will result in less qualified judges, and less confidence in the judiciary. Arizona should maintain its current system to select judges based on merit not politics.

The AADC strongly recommends a no vote on Proposition 115.
Michael A. Ludwig, President, Arizona Association of Defense Counsel, Phoenix

Barry M. Markson, President-Elect, Arizona Association of Defense Counsel, Scottsdale

Paid for by Arizona Association of Defense Counsel

Arizona's merit selection system for judges is highly respected as a model for the nation. The current system ensures that well-qualified individuals will serve regardless of a governor's political affiliation. This ballot measure politicizes the entire process of nomination, appointment, and retention. It would create a more partisan nominating commission. Under Prop 115, politicians would also play a greater role in the final selection of judges. Additionally, judges will be required to testify before the legislature about their decisions before their retention election, replacing an independent non-partisan evaluation process. Prop 115 invites political interference in the judicial branch, weakens the separation of powers and threatens judicial independence and impartiality. The legislature referred this ballot measure to the voters hoping to undermine a system that voters adopted to protect the judiciary from partisanship. Arizona Advocacy Network urges you to VOTE NO on Prop 115 to preserve a system that has served our citizens well. Get more information about all the propositions and us at www.AZadvocacy.org.

Doris Marie Provine, President, Arizona Advocacy Network, Tempe

Elizabeth Enright, Secretary, Arizona Advocacy Network, Scottsdale

Paid for by Arizona Advocacy Network

ARGUMENT AGAINST PROPOSITION 115

The Maricopa County Bar Association, a voluntary organization comprised of over 3,000 members of the Maricopa County legal community, urges you to vote NO on Ballot Proposition 115, SCR 1001. As local attorneys, we have daily interaction and experience with state court judges in Maricopa County. We believe the current merit selection system is not broken. Merit selection produces the highest quality judicial officers who provide superior and efficient service to our community. In fact, the Maricopa County judiciary is among the most respected in the country. The proposed changes will neither improve the quality of judges appointed to the bench, nor increase access to justice for residents in our community. Although some aspects of Ballot Proposition 115 do not appear to be objectionable, we oppose any changes that could politicize the selection of judges or erode the separation of powers. Ballot Proposition 115 seeks to increase the role of partisan politics in the judicial selection system and thereby undermines the constitutional goal of creating an independent judiciary staffed by impartial judges. For these reasons, we urge you to vote NO on Ballot Proposition 115.

Jennifer A. Cranston, President, Maricopa County Bar Association, Phoenix

Allen W. Kimbrough, Executive Director, Maricopa County Bar Association, Phoenix

Paid for by Maricopa County Bar Association

As a thirty-year law enforcement officer and a three term Judicial Merit Selection Commission member, I oppose ballot proposal Proposition 115 in the November 2012 election. I believe the current selection process has created a bench that is the envy of the country. The current process allows for the non-partisan selection of judges. My personal experience has been that the commission members are representative of Arizonans and that they select the best candidates for consideration by the Governor, regardless of party affiliation. My professional associations across the country have reinforced to me that we have a system that puts the qualifications of candidates ahead of personal connections and politics. The proposed changes would allow the Governor to consider candidates that may not be qualified, but who are politically connected. The changes contained in the ballot initiative would destroy the current system, not improve it. Those Arizonans who want the non-partisan selection of judges to continue should vote against Proposition 115.

John A. Leavitt, Tucson

Vote NO on 115 – Keep Politics Out of the Courts

Los Abogados, Arizona's Hispanic Bar Association, urges you to Vote NO on Proposition 115. For almost 40 years, Arizona has benefited from a judicial merit selection process, created to provide a barrier between partisan influence and our judges. Today, Prop 115 threatens to breakdown this barrier.

Arizona's judicial merit selection process provides that a nonpartisan commission exists for appointing justices and judges to the Arizona Supreme Court, Arizona's Appellate Courts, and Superior Courts in counties with populations above two hundred fifty thousand persons. These nonpartisan commissions are tasked with vetting and recommending viable justices and judges to the Governor for nomination to Arizona's vacant judicial positions.

Currently, the nonpartisan commissions are composed of five attorney members that are nominated by the State Bar of Arizona, appointed by the Governor, and consented to by the Senate. The State Bar's nomination of the possible attorney members provides a level of protection against the partisan influences of the Governor and Senate. However, Prop 115 will eliminate this necessary protection by eliminating the State Bar's ability to nominate the Governor's appointees. In short, Prop 115 will allow the Governor to appoint 14 members of the 15 member commissions without any nonpartisan protections with the removal of the State Bar's participation in the process.

Because Arizona's justices and judges should be able to serve the State free from political influence and accountable only to Arizona's citizens, Los Abogados asks you to Vote NO on Proposition 115.

Gaetano Testini, President, Los Abogados Hispanic Bar Association, Phoenix

Marian Zapata-Rossa, Vice President, Los Abogados Hispanic Bar Association, Phoenix

Paid for by Los Abogados Hispanic Bar Association

Opposition

The Tucson Community Development/ Design Center, Inc. is a non-profit organization that advocates on behalf of low and middle income Arizonans on many issues including law, civil rights, housing, economics, transportation and planning.

We strongly urge all Arizonans to vote against Proposition 115.

The current Merit Selection process of selecting judges contains too much “merit” for our partisan politicians. These changes would allow any Governor to pick whomever she or he wants. Political favoritism would replace the process that has kept our judgeships from being sold to the insurance companies or other high bidders.

Now that there are no political spending limits on corporations these changes would make certain that our state judges are picked from their list of “friends”. The current “problem” from the Governor’s viewpoint is that the Governor must choose one of only three persons approved by a nomination commission the Governor does not completely control. The “answer” the legislature has proposed to get around this “problem” for the Governor is to enlarge the list of nominees to eight, allow all eight to be from one political party and furthermore to allow the Governor to appoint more of the members of the nominating commission so as to make sure the person she or her corporate friends wants is one of the eight on the list from which she must choose from.

The end result is certain. The insurance company or mining company that puts up the most money to elect the Governor will get their candidate for judge on the eight person list. Merit, like beauty, is in the eye of the beholder. The public will pay the price if the beholden Governor gets her pick from a rigged process.

Bill Risner, President, Tucson Community Development/Design Center, Inc., Tucson

Paid for by Tucson Community Development/Design Center, Inc.

Jody Gibbs, Secretary Treasurer, Tucson Community Development/Design Center, Inc., Tucson

Proposition 115 is a grave threat to the integrity of Arizona’s judiciary. Ending the current merit selection process and replacing it with a process controlled by politicians, Proposition 115 opens the door for abuse, allowing judgeships to be handed out as political favors on the basis of cronyism, not on qualifications. Arizonans should vote No on Proposition 115.

In 1974 Arizona voters adopted the merit system of judicial selection. Under the merit system, nominations are forwarded for appointment by nonpartisan Judicial Nominating Commissions. The Judicial Nominating Commissions pick judicial candidates on the basis of legal qualifications, not based on political connections. No system is perfect, but the current merit selection system has produced a judiciary that sets a national standard for its nonpartisanship and impartiality. Thanks to the merit system, Arizona’s judicial system is highly regarded nationally.

Under Proposition 115, the Governor would control the judicial selection process, undermining judicial independence. By turning the Judicial Nominating Commissions into a functional subdivision of the Governor’s Office, governors would have free rein to stack the courts with their political allies. This would do nothing to improve our courts and do everything to inject partisanship into our court system. Make no mistake: Proposition 115 would undermine judicial independence in Arizona.

Our courts are not the place for partisan politics. I urge all Arizona voters to stop this unprecedented power grab by politicians and their accomplices. I urge you to vote No on Proposition 115.

Bill Roe, Chair, Arizona Democratic Party, Tucson

Paid for by Arizona Democratic Party



PROPOSITION 115 ~ BALLOT FORMAT



PROPOSITION 115

PROPOSED AMENDMENT TO THE CONSTITUTION BY THE LEGISLATURE RELATING TO THE JUDICIAL DEPARTMENT [SCR 1001]

BALLOT FORMAT FOR PROPOSITION 115

<p><u>PROPOSITION 115</u> PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE VI, SECTIONS 4, 12, 20, 36, 37, 39, 41 AND 42, CONSTITUTION OF ARIZONA; RELATING TO THE JUDICIAL DEPARTMENT.</p>
<p><u>DESCRIPTIVE TITLE</u> INCREASES TERM LENGTH AND RAISES THE RETIREMENT AGE FOR JUSTICES AND JUDGES; MODIFIES MEMBERSHIP OF COURT APPOINTMENT COMMISSIONS; REQUIRES ARIZONA SUPREME, APPELLATE, AND SUPERIOR COURTS TO PUBLISH DECISIONS ONLINE AND TO TRANSMIT A COPY OF JUDICIAL PERFORMANCE REVIEWS OF EACH JUDGE UP FOR RETENTION TO THE STATE LEGISLATURE.</p>

<p>A “yes” vote shall have the effect of (1) increasing the terms of Arizona Supreme Court justices, Appellate and Superior Court judges to eight years; (2) raising the retirement age for justices and judges from seventy to seventy-five; (3) changing membership of commissions on appellate and trial court appointments and procedures for appointing justices and judges; (4) requiring the Supreme, Appellate, and Superior courts to publish decisions online, (5) requiring the Supreme Court to send a copy of the judicial performance review of each justice and judge who is up for retention to the Legislature, and (6) allowing a joint legislative committee to meet and take testimony on justices and judges up for retention.</p>	<p>YES <input type="checkbox"/></p>
<p>A “no” vote shall have the effect of keeping current constitutional law related to the courts.</p>	<p>NO <input type="checkbox"/></p>