

4587

2011-2012 Regular Sessions

I N   S E N A T E

April 13, 2011

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Introduced by Sen. BONACIC -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

proposing an amendment to section 25 of article 6 of the constitution, in relation to retirement of judges and justices

1     Section 1. Resolved (if the Assembly concur), That subdivision b of  
2 section 25 of article 6 of the constitution be amended to read as  
3 follows:  
4     b. Each judge of the court of appeals[, ] SHALL RETIRE ON THE LAST DAY  
5 OF DECEMBER IN THE YEAR IN WHICH HE OR SHE REACHES THE AGE OF SEVENTY  
6 AND EACH justice of the supreme court, judge of the court of claims,  
7 judge of the county court, judge of the surrogate's court, judge of the  
8 family court, judge of a court for the city of New York established  
9 pursuant to section fifteen of this article [and], judge of the district  
10 court AND JUDGE OF A CITY COURT OUTSIDE THE CITY OF NEW YORK shall  
11 retire on the last day of December in the year in which he or she  
12 reaches the age of [seventy] SEVENTY-FOUR. Each such former judge of  
13 the court of appeals and justice of the supreme court may thereafter  
14 perform the duties of a justice of the supreme court, with power to hear  
15 and determine actions and proceedings, provided, however, that it shall  
16 be certificated in the manner provided by law that the services of such  
17 judge or justice are necessary to expedite the business of the court and  
18 that he or she is mentally and physically able and competent to perform  
19 the full duties of such office. Any such certification shall be valid  
20 for a term of two years and may be extended as provided by law for addi-  
21 tional terms of two years. A retired judge or justice shall serve no  
22 longer than until the last day of December in the year in which he or  
23 she reaches the age of [seventy-six] EIGHTY. A retired judge or justice  
24 shall be subject to assignment by the appellate division of the supreme  
25 court of the judicial department of his or her residence. Any retired  
26 justice of the supreme court who had been designated to and served as a

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 justice of any appellate division immediately preceding his or her  
2 reaching the age of [seventy] SEVENTY-FOUR shall be eligible for desig-  
3 nation by the governor as a temporary or additional justice of the  
4 appellate division. A retired judge or justice shall not be counted in  
5 determining the number of justices in a judicial district for purposes  
6 of subdivision d of section six of this article.

7 S 2. Resolved (if the Assembly concur), That article 6 of the consti-  
8 tution be amended by adding a new section 36-d to read as follows:

9 S 36-D. A. THE AMENDMENTS TO SUBDIVISION B OF SECTION TWENTY-FIVE OF  
10 THIS ARTICLE, AS FIRST PROPOSED BY A CONCURRENT RESOLUTION PASSED BY THE  
11 LEGISLATURE IN THE YEAR TWO THOUSAND ELEVEN, ENTITLED "CONCURRENT RESOL-  
12 UTION OF THE SENATE AND ASSEMBLY PROPOSING AN AMENDMENT TO SECTION 25 OF  
13 ARTICLE 6 OF THE CONSTITUTION, IN RELATION TO RETIREMENT OF JUDGES AND  
14 JUSTICES," SHALL BECOME A PART OF THE CONSTITUTION ON THE FIRST DAY OF  
15 SEPTEMBER NEXT AFTER THE APPROVAL AND RATIFICATION OF THE AMENDMENTS  
16 PROPOSED BY SUCH CONCURRENT RESOLUTION BY THE PEOPLE AND THE PROVISIONS  
17 THEREOF SHALL BECOME EFFECTIVE ON SUCH DATE.

18 B. WHERE A FORMER JUDGE OF THE COURT OF APPEALS OR JUSTICE OF THE  
19 SUPREME COURT WHO, PURSUANT TO THE PROVISIONS OF SUBDIVISION B OF  
20 SECTION TWENTY-FIVE OF THIS ARTICLE IN EFFECT ON AUGUST THIRTY-FIRST,  
21 TWO THOUSAND THIRTEEN, IS PERFORMING THE DUTIES OF A JUSTICE OF THE  
22 SUPREME COURT OR OF A TEMPORARY OR ADDITIONAL JUSTICE OF THE APPELLATE  
23 DIVISION, HE OR SHE SHALL, FOR THE REMAINDER OF THE TWO-YEAR TERM FOR  
24 WHICH HE OR SHE SHALL HAVE BEEN CERTIFICATED, CONTINUE PERFORMING SUCH  
25 DUTIES. AT THE EXPIRATION OF SUCH TERM, HIS OR HER CERTIFICATION MAY BE  
26 EXTENDED FOR ADDITIONAL TERMS OF TWO YEARS IN ACCORDANCE WITH THE  
27 PROVISIONS OF SUBDIVISION B OF SECTION TWENTY-FIVE OF THIS ARTICLE IN  
28 EFFECT ON SEPTEMBER FIRST, TWO THOUSAND THIRTEEN.

29 S 3. Resolved (if the Assembly concur), That the foregoing amendments  
30 be referred to the first regular legislative session convening after the  
31 next succeeding general election of members of the assembly, and, in  
32 conformity with section one of article nineteen of the constitution, be  
33 published for three months previous to the time of such election.