

6254

2009-2010 Regular Sessions

I N S E N A T E

October 30, 2009

Introduced by Sen. DUANE -- read twice and ordered printed, and when
printed to be committed to the Committee on Rules

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

proposing an amendment to section 25 of article VI of the constitution,
in relation to eliminating mandatory retirement for judges

1 Section 1. Resolved (if the Assembly concur), That section 25 of arti-
2 cle VI of the constitution be amended to read as follows:
3 S 25. [a.] The compensation of a judge of the court of appeals, a
4 justice of the supreme court, a judge of the court of claims, a judge of
5 the county court, a judge of the surrogate's court, a judge of the fami-
6 ly court, a judge of a court for the city of New York established pursu-
7 ant to section fifteen of this article, a judge of the district court or
8 of a retired judge or justice shall be established by law and shall not
9 be diminished during the term of office for which he or she was elected
10 or appointed. Any judge or justice of a court abolished by section thir-
11 ty-five of this article, who pursuant to that section becomes a judge or
12 justice of a court established or continued by this article, shall
13 receive without interruption or diminution for the remainder of the term
14 for which he or she was elected or appointed to the abolished court the
15 compensation he or she had been receiving upon the effective date of
16 this article together with any additional compensation that may be
17 prescribed by law.
18 [b. Each judge of the court of appeals, justice of the supreme court,
19 judge of the court of claims, judge of the county court, judge of the
20 surrogate's court, judge of the family court, judge of a court for the
21 city of New York established pursuant to section fifteen of this article
22 and judge of the district court shall retire on the last day of December
23 in the year in which he or she reaches the age of seventy. Each such
24 former judge of the court of appeals and justice of the supreme court
25 may thereafter perform the duties of a justice of the supreme court,
26 with power to hear and determine actions and proceedings, provided,
27 however, that it shall be certificated in the manner provided by law

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

LBD89164-01-9

1 that the services of such judge or justice are necessary to expedite the
2 business of the court and that he or she is mentally and physically able
3 and competent to perform the full duties of such office. Any such
4 certification shall be valid for a term of two years and may be extended
5 as provided by law for additional terms of two years. A retired judge or
6 justice shall serve no longer than until the last day of December in the
7 year in which he or she reaches the age of seventy-six. A retired judge
8 or justice shall be subject to assignment by the appellate division of
9 the supreme court of the judicial department of his or her residence.
10 Any retired justice of the supreme court who had been designated to and
11 served as a justice of any appellate division immediately preceding his
12 or her reaching the age of seventy shall be eligible for designation by
13 the governor as a temporary or additional justice of the appellate divi-
14 sion. A retired judge or justice shall not be counted in determining the
15 number of justices in a judicial district for purposes of subdivision d
16 of section six of this article.

17 c. The provisions of this section shall also be applicable to any
18 judge or justice who has not reached the age of seventy-six and to whom
19 it would otherwise have been applicable but for the fact that he or she
20 reached the age of seventy and retired before the effective date of this
21 article.]

22 S 2. Resolved (if the Assembly concur), That the foregoing amendment
23 be referred to the first regular legislative session convening after the
24 next succeeding general election of members of the assembly, and, in
25 conformity with section 1 of article 19 of the constitution, be
26 published for three months previous to the time of such election.