S T A T E O F N E W Y O R K

4587--B

2011-2012 Regular Sessions

I N S E N A T E

April 13, 2011

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 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- recommitted to the Committee on Judiciary in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

Section 1. Resolved (if the Assembly concur), That subdivision b of section 25 of article 6 of the constitution be amended to read as follows:

b. Each judge of the court of appeals[,] SHALL RETIRE ON THE LAST DAY OF DECEMBER IN THE YEAR IN WHICH HE OR SHE REACHES THE AGE OF SEVENTY AND EACH justice of the supreme court, judge of the court of claims, judge of the county court, judge of the surrogate's court, judge of the family court, judge of a court for the city of New York established pursuant to section fifteen of this article [and], judge of the district court AND JUDGE OF A CITY COURT OUTSIDE THE CITY OF NEW YORK shall retire on the last day of December in the year in which he or she reaches the age of [seventy] SEVENTY-FOUR. Each such former judge of the court of appeals and justice of the supreme court may thereafter perform the duties of a justice of the supreme court, with power to hear and determine actions and proceedings, provided, however, that it shall be certificated in the manner provided by law that the services of such judge or justice are necessary to expedite the business of the court and that he or she is mentally and physically able and competent to perform the full duties of such office. Any such certification shall be valid for a term of two years and may be extended as provided by law for addi-

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

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tional terms of two years. A retired judge or justice shall serve no longer than until the last day of December in the year in which he or she reaches the age of [seventy-six] EIGHTY. A retired judge or justice shall be subject to assignment by the appellate division of the supreme court of the judicial department of his or her residence. Any retired justice of the supreme court who had been designated to and served as a justice of any appellate division immediately preceding his or her reaching the age of [seventy] SEVENTY-FOUR shall be eligible for designation by the governor as a temporary or additional justice of the appellate division. A retired judge or justice shall not be counted in determining the number of justices in a judicial district for purposes of subdivision d of section six of this article.

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

S 36-D. A. THE AMENDMENTS TO SUBDIVISION B OF SECTION TWENTY-FIVE OF THIS ARTICLE, AS FIRST PROPOSED BY A CONCURRENT RESOLUTION PASSED BY THE LEGISLATURE IN THE YEAR TWO THOUSAND TWELVE, ENTITLED "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," SHALL BECOME A PART OF THE CONSTITUTION ON THE FIRST DAY OF SEPTEMBER NEXT AFTER THE APPROVAL AND RATIFICATION OF THE AMENDMENTS PROPOSED BY SUCH CONCURRENT RESOLUTION BY THE PEOPLE AND THE PROVISIONS THEREOF SHALL BECOME EFFECTIVE ON SUCH DATE.

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

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