

10727

I N A S S E M B L Y

June 18, 2012

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Weinstein)
-- (at request of the Office of Court Administration) -- read once and
referred to the Committee on Judiciary

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

proposing amendments to sections 2 and 25 of article 6 and adding
section 36-d to such article of the constitution, in relation to
retirement of judges and justices

1 Section 1. RESOLVED (if the Senate concur), That subdivision e of
2 section 2 of article 6 of the constitution be amended to read as
3 follows:
4 e. The governor shall appoint, with the advice and consent of the
5 senate, from among those recommended by the judicial nominating commis-
6 sion, a person to fill the office of chief judge or associate judge, as
7 the case may be, whenever a vacancy occurs in the court of appeals;
8 provided, however, that no person may be appointed a judge of the court
9 of appeals unless such person is a resident of the state [and], has been
10 admitted to the practice of law in this state for at least ten years AND
11 WHO HAS NOT REACHED THE LAST DAY OF DECEMBER IN THE YEAR IN WHICH HE OR
12 SHE REACHES THE AGE OF SEVENTY. The governor shall transmit to the
13 senate the written report of the commission on judicial nomination
14 relating to the nominee.
15 S 2. RESOLVED (if the Senate concur), That subdivision b of section
16 25 of article 6 of the constitution be amended to read as follows:
17 b. 1. Each [judge of the court of appeals,] justice of the supreme
18 court, judge of the court of claims, judge of the county court, judge of
19 the surrogate's court, judge of the family court, judge of a court for
20 the city of New York established pursuant to section fifteen of this
21 article [and], judge of the district court AND JUDGE OF A CITY COURT
22 OUTSIDE THE CITY OF NEW YORK shall retire on the last day of December in
23 the year in which he or she reaches the age of seventy. EACH JUDGE OF
24 THE COURT OF APPEALS SHALL RETIRE ON THE LAST DAY OF DECEMBER IN THE
25 YEAR IN WHICH HE OR SHE REACHES THE AGE OF EIGHTY.
26 2. Each [such] former [judge of the court of appeals and] justice of
27 the supreme court may thereafter perform the duties of a justice of the
28 supreme court, with power to hear and determine actions and proceedings,
29 provided, however, that it shall be certificated in the manner provided
30 by law that the services of such [judge or] justice are necessary to

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

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

16 3. EACH FORMER JUDGE OF THE COURT OF CLAIMS, JUDGE OF THE COUNTY
17 COURT, JUDGE OF THE SURROGATE'S COURT, JUDGE OF THE FAMILY COURT, JUDGE
18 OF A COURT FOR THE CITY OF NEW YORK ESTABLISHED PURSUANT TO SECTION
19 FIFTEEN OF THIS ARTICLE, JUDGE OF THE DISTRICT COURT AND JUDGE OF A CITY
20 COURT OUTSIDE THE CITY OF NEW YORK MAY THEREAFTER PERFORM THE DUTIES OF
21 A JUDGE OF THE COURT FROM WHICH SUCH JUDGE RETIRED, INCLUDING THE
22 PERFORMANCE OF ANY TEMPORARY ASSIGNMENT AUTHORIZED FOR A JUDGE OF SUCH
23 COURT BY THE PROVISIONS OF SECTION TWENTY-SIX OF THIS ARTICLE, WITH
24 POWER TO HEAR AND DETERMINE ACTIONS; PROVIDED, HOWEVER, THAT IT SHALL BE
25 CERTIFICATED IN THE MANNER PROVIDED BY LAW THAT THE SERVICES OF SUCH
26 JUDGE ARE NECESSARY TO EXPEDITE THE OPERATION OF THE COURT FROM WHICH HE
27 OR SHE RETIRED AND THAT HE OR SHE IS MENTALLY AND PHYSICALLY ABLE AND
28 COMPETENT TO PERFORM THE FULL DUTIES OF SUCH OFFICE. ANY SUCH CERTIF-
29 ICATION SHALL BE VALID FOR A TERM OF TWO YEARS AND MAY BE EXTENDED AS
30 PROVIDED BY LAW FOR ADDITIONAL TERMS OF TWO YEARS. A JUDGE SHALL SERVE
31 NO LONGER THAN UNTIL THE LAST DAY OF DECEMBER IN THE YEAR IN WHICH HE OR
32 SHE REACHES THE AGE OF SEVENTY-SIX. A RETIRED JUDGE CERTIFICATED UNDER
33 THIS PARAGRAPH SHALL BE SUBJECT TO ASSIGNMENT, INCLUDING TEMPORARY
34 ASSIGNMENT PURSUANT TO SECTION TWENTY-SIX OF THIS ARTICLE, IN THE SAME
35 MANNER AS A JUDGE OF THE COURT FROM WHICH SUCH JUDGE RETIRED. A RETIRED
36 JUDGE SHALL NOT BE COUNTED IN DETERMINING THE NUMBER OF JUDGES AUTHOR-
37 IZED BY LAW.

38 S 3. RESOLVED (if the Senate concur), That article 6 of the constitu-
39 tion be amended by adding a new section 36-d to read as follows:

40 S 36-D. THE AMENDMENTS TO SUBDIVISION E OF SECTION TWO AND SUBDIVISION
41 B OF SECTION TWENTY-FIVE OF ARTICLE SIX OF THE CONSTITUTION, AS FIRST
42 PROPOSED BY A CONCURRENT RESOLUTION PASSED BY THE LEGISLATURE IN THE
43 YEAR TWO THOUSAND TWELVE, ENTITLED "CONCURRENT RESOLUTION OF THE SENATE
44 AND ASSEMBLY PROPOSING AMENDMENTS TO SECTIONS 2 AND 25 OF ARTICLE 6 OF
45 THE CONSTITUTION, IN RELATION TO RETIREMENT OF JUDGES" SHALL BECOME A
46 PART OF THE CONSTITUTION ON THE FIRST DAY OF JANUARY NEXT AFTER THE
47 APPROVAL AND RATIFICATION OF THE AMENDMENTS PROPOSED BY SUCH CONCURRENT
48 RESOLUTION BY THE PEOPLE AND THE PROVISIONS THEREOF SHALL BECOME EFFEC-
49 TIVE ON SUCH DATE EXCEPT THAT THE AMENDMENTS TO SUBDIVISION B OF SECTION
50 TWENTY-FIVE OF THIS ARTICLE SHALL NOT BECOME EFFECTIVE UNTIL THE FIRST
51 DAY OF JANUARY IN THE YEAR TWO THOUSAND FIFTEEN.

52 S 4. RESOLVED (if the Senate concur), That the foregoing be referred
53 to the first regular legislative session convening after the next
54 succeeding general election of members of the assembly, and, in conform-
55 ity with section 1 of article 19 of the constitution, be published for 3
56 months previous to the time of such election.