

5827

2011-2012 Regular Sessions

I N   S E N A T E

June 19, 2011

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Introduced by Sen. BONACIC -- 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 2 of article 6 of the constitution, in relation to persons appointed to the court of appeals, and proposing an amendment to section 25 of article 6 of the constitution, in relation to service by retired justices and requiring judges of the court of appeals to retire at age 80

1     Section 1. RESOLVED (if the Assembly 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 Assembly concur), That subdivision b of section  
16    25 of article 6 of the constitution be amended to read as follows:  
17    b. Each [judge of the court of appeals,] justice of the supreme court,  
18    judge of the court of claims, judge of the county court, judge of the  
19    surrogate's court, judge of the family court, judge of a court for the  
20    city of New York established pursuant to section fifteen of this article  
21    and judge of the district court shall retire on the last day of December  
22    in the year in which he or she reaches the age of seventy. EACH JUDGE OF  
23    THE COURT OF APPEALS SHALL RETIRE ON THE LAST DAY OF DECEMBER IN THE  
24    YEAR IN WHICH HE OR SHE REACHES THE AGE OF EIGHTY. Each [such] former

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

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1 [judge of the court of appeals and] justice of the supreme court may  
2 thereafter perform the duties of a justice of the supreme court, with  
3 power to hear and determine actions and proceedings, provided, however,  
4 that it shall be certificated in the manner provided by law that the  
5 services of such [judge or] justice are necessary to expedite the busi-  
6 ness of the court and that he or she is mentally and physically able and  
7 competent to perform the full duties of such office. Any such certif-  
8 ication shall be valid for a term of two years and may be extended as  
9 provided by law for additional terms of two years. A [retired judge or]  
10 justice shall serve no longer than until the last day of December in the  
11 year in which he or she reaches the age of [seventy-six] EIGHTY. A  
12 retired judge or justice shall be subject to assignment by the appellate  
13 division of the supreme court of the judicial department of his or her  
14 residence. Any retired justice of the supreme court who had been desig-  
15 nated to and served as a justice of any appellate division immediately  
16 preceding his or her reaching the age of seventy shall be eligible for  
17 designation by the governor as a temporary or additional justice of the  
18 appellate division. A retired judge or justice shall not be counted in  
19 determining the number of justices in a judicial district for purposes  
20 of subdivision d of section six of this article.

21 S 3. RESOLVED (if the Assembly concur), That the foregoing be referred  
22 to the first regular legislative session convening after the next  
23 succeeding general election of members of the assembly, and, in conform-  
24 ity with section 1 of article 19 of the constitution, be published for 3  
25 months previous to the time of such election.