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

886--A

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

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

Section 1. Resolved (if the Assembly concur), That subdivision e of section 2 of article 6 of the constitution be amended to read as follows:

e. The governor shall appoint, with the advice and consent of the senate, from among those recommended by the judicial nominating commission, a person to fill the office of chief judge or associate judge, as the case may be, whenever a vacancy occurs in the court of appeals; provided, however, that no person may be appointed a judge of the court of appeals unless such person is a resident of the state [and], has been admitted to the practice of law in this state for at least ten years AND WHO HAS NOT REACHED THE LAST DAY OF DECEMBER IN THE YEAR IN WHICH HE OR SHE REACHES THE AGE OF SEVENTY. The governor shall transmit to the senate the written report of the commission on judicial nomination relating to the nominee.

S 2. 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,] 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 shall retire on the last day of December

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

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in the year in which he or she reaches the age of seventy. 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 EIGHTY. 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 additional 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 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 3. Resolved (if the Assembly concur), That the foregoing amendment be submitted to the people for approval at the general election to be held in the year 2013 in accordance with the provisions of the election law.