STATE OF NEW YORK

3506

2023-2024 Regular Sessions

IN SENATE

January 31, 2023

Introduced by Sens. SKOUFIS, MANNION, MAY -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

proposing an amendment to section 5 of article 3, section 1 of article 5, sections 1, 2, 3, 4, 6, 7, 8, 11, 12, 13, 15, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 34, 35 and 36-a of article 6, section 1 of article 7, sections 5, 7 and 7-a of article 8, section 1 of article 9, section 13 of article 13, section 5 of article 14 and section 4 of article 18 of the constitution, in relation to renaming the supreme court the superior court and the court of appeals the supreme court

Section 1. Resolved (if the Assembly concur), That the closing paragraph of section 5 of article 3 of the constitution be amended to read as follows:

An apportionment by the legislature, or other body, shall be subject to review by the [~~supreme~~] *superior* court, at the suit of any citizen, under such reasonable regulations as the legislature may prescribe; and any court before which a cause may be pending involving an apportionment, shall give precedence thereto over all other causes and proceedings, and if said court be not in session it shall convene promptly for the disposition of the same. The court shall render its decision within sixty days after a petition is filed. In any judicial proceeding relating to redistricting of congressional or state legislative districts, any law establishing congressional or state legislative districts found to violate the provisions of this article shall be invalid in whole or in part. In the event that a court finds such a violation, the legislature shall have a full and reasonable opportunity to correct the law's legal infirmities.

§ 2. Resolved (if the Assembly concur), That section 1 of article 5 of the constitution be amended to read as follows:

Section 1. The comptroller and attorney-general shall be chosen at the same general election as the governor and hold office for the same term,

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

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and shall possess the qualifications provided in section 2 of article IV. The legislature shall provide for filling vacancies in the office of comptroller and of attorney-general. No election of a comptroller or an attorney-general shall be had except at the time of electing a governor. The comptroller shall be required: (1) to audit all vouchers before payment and all official accounts; (2) to audit the accrual and collection of all revenues and receipts; and (3) to prescribe such methods of accounting as are necessary for the performance of the foregoing duties. The payment of any money of the state, or of any money under its control, or the refund of any money paid to the state, except upon audit by the comptroller, shall be void, and may be restrained upon the suit of any taxpayer with the consent of the [~~supreme~~] **superior** court in appellate division on notice to the attorney-general. In such respect the legislature shall define the powers and duties and may also assign to him or her: (1) supervision of the accounts of any political subdivision of the state; and (2) powers and duties pertaining to or connected with the assessment and taxation of real estate, including determination of ratios which the assessed valuation of taxable real property bears to the full valuation thereof, but not including any of those powers and duties reserved to officers of a county, city, town or village by virtue of sections seven and eight of article nine of this constitution. The legislature shall assign to him or her no administrative duties, excepting such as may be incidental to the performance of these functions, any other provision of this constitution to the contrary notwithstanding.

§ 3. Resolved (if the Assembly concur), That section 1 of article 6 of the constitution be amended to read as follows:

Section 1. a. There shall be a unified court system for the state. The state-wide courts shall consist of the **supreme** court [~~of appeals~~], the [~~supreme~~] **superior** court including the appellate divisions thereof, the court of claims, the county court, the surrogate's court and the family court, as hereinafter provided. The legislature shall establish in and for the city of New York, as part of the unified court system for the state, a single, city-wide court of civil jurisdiction and a single, city-wide court of criminal jurisdiction, as hereinafter provided, and may upon the request of the mayor and the local legislative body of the city of New York, merge the two courts into one city-wide court of both civil and criminal jurisdiction. The unified court system for the state shall also include the district, town, city and village courts outside the city of New York, as hereinafter provided.

b. The **supreme** court [~~of appeals~~], the [~~supreme~~] **superior** court including the appellate divisions thereof, the court of claims, the county court, the surrogate's court, the family court, the courts or court of civil and criminal jurisdiction of the city of New York, and such other courts as the legislature may determine shall be courts of record.

c. All processes, warrants and other mandates of the **supreme** court [~~of appeals~~], the [~~supreme~~] **superior** court including the appellate divisions thereof, the court of claims, the county court, the surrogate's court and the family court may be served and executed in any part of the state. All processes, warrants and other mandates of the courts or court of civil and criminal jurisdiction of the city of New York may, subject to such limitation as may be prescribed by the legislature, be served and executed in any part of the state. The legislature may provide that processes, warrants and other mandates of the district court may be served and executed in any part of the state and that processes, warrants and other mandates of town, village and city courts outside the

city of New York may be served and executed in any part of the county in which such courts are located or in any part of any adjoining county.

§ 4. Resolved (if the Assembly concur), That section 2 of article 6 of the constitution be amended to read as follows:

§ 2. a. The **supreme** court [~~of appeals~~] is continued. It shall consist of the chief judge and the six elected associate judges now in office, who shall hold their offices until the expiration of their respective terms, and their successors, and such justices of the [~~supreme~~] **superior** court as may be designated for service in said court as hereinafter provided. The official terms of the chief judge and the six associate judges shall be fourteen years.

Five members of the court shall constitute a quorum, and the concurrence of four shall be necessary to a decision; but no more than seven judges shall sit in any case. In case of the temporary absence or inability to act of any judge of the **supreme** court [~~of appeals~~], the court may designate any justice of the [~~supreme~~] **superior** court to serve as associate judge of the court during such absence or inability to act. The court shall have power to appoint and to remove its clerk. The powers and jurisdiction of the court shall not be suspended for want of appointment when the number of judges is sufficient to constitute a quorum.

b. Whenever and as often as the **supreme** court [~~of appeals~~] shall certify to the governor that the court is unable, by reason of the accumulation of causes pending therein, to hear and dispose of the same with reasonable speed, the governor shall designate such number of justices of the [~~supreme~~] **superior** court as may be so certified to be necessary, but not more than four, to serve as associate judges of the **supreme** court [~~of appeals~~]. The justices so designated shall be relieved, while so serving, from their duties as justices of the [~~supreme~~] **superior** court, and shall serve as associate judges of the **supreme** court [~~of appeals~~] until the court shall certify that the need for the services of any such justices no longer exists, whereupon they shall return to the [~~supreme~~] **superior** court. The governor may fill vacancies among such designated judges. No such justices shall serve as associate judge of the **supreme** court [~~of appeals~~] except while holding the office of justice of the [~~supreme~~] **superior** court. The designation of a justice of the [~~supreme~~] **superior** court as an associate judge of the **supreme** court [~~of appeals~~] shall not be deemed to affect his or her existing office any longer than until the expiration of his or her designation as such associate judge, nor to create a vacancy.

c. There shall be a commission on judicial nomination to evaluate the qualifications of candidates for appointment to the **supreme** court [~~of appeals~~] and to prepare a written report and recommend to the governor those persons who by their character, temperament, professional aptitude and experience are well qualified to hold such judicial office. The legislature shall provide by law for the organization and procedure of the judicial nominating commission.

d. (1) The commission on judicial nomination shall consist of twelve members of whom four shall be appointed by the governor, four by the chief judge of the **supreme** court [~~of appeals~~], and one each by the speaker of the assembly, the temporary president of the senate, the minority leader of the senate, and the minority leader of the assembly. Of the four members appointed by the governor, no more than two shall be enrolled in the same political party, two shall be members of the bar of the state, and two shall not be members of the bar of the state. Of the four members appointed by the chief judge of the **supreme** court [~~of~~

~~appeals~~], no more than two shall be enrolled in the same political party, two shall be members of the bar of the state, and two shall not be members of the bar of the state. No member of the commission shall hold or have held any judicial office or hold any elected public office for which he or she receives compensation during his or her period of service, except that the governor and the chief judge may each appoint no more than one former judge or justice of the unified court system to such commission. No member of the commission shall hold any office in any political party. No member of the judicial nominating commission shall be eligible for appointment to judicial office in any court of the state during the member's period of service or within one year thereafter.

(2) The members first appointed by the governor shall have respectively one, two, three and four year terms as the governor shall designate. The members first appointed by the chief judge of the **supreme** court [~~of appeals~~] shall have respectively one, two, three and four year terms as the chief judge shall designate. The member first appointed by the temporary president of the senate shall have a one-year term. The member first appointed by the minority leader of the senate shall have a two-year term. The member first appointed by the speaker of the assembly shall have a four-year term. The member first appointed by the minority leader of the assembly shall have a three-year term. Each subsequent appointment shall be for a term of four years.

(3) The commission shall designate one of their number to serve as chairperson.

(4) The commission shall consider the qualifications of candidates for appointment to the offices of judge and chief judge of the **supreme** court [~~of appeals~~] and, whenever a vacancy in those offices occurs, shall prepare a written report and recommend to the governor persons who are well qualified for those judicial offices.

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 **supreme** court [~~of appeals~~]; provided, however, that no person may be appointed a judge of the **supreme** 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. The governor shall transmit to the senate the written report of the commission on judicial nomination relating to the nominee.

f. When a vacancy occurs in the office of chief judge or associate judge of the **supreme** court [~~of appeals~~] and the senate is not in session to give its advice and consent to an appointment to fill the vacancy, the governor shall fill the vacancy by interim appointment upon the recommendation of a commission on judicial nomination as provided in this section. An interim appointment shall continue until the senate shall pass upon the governor's selection. If the senate confirms an appointment, the judge shall serve a term as provided in subdivision a of this section commencing from the date of his or her interim appointment. If the senate rejects an appointment, a vacancy in the office shall occur sixty days after such rejection. If an interim appointment to the **supreme** court [~~of appeals~~] be made from among the justices of the [~~supreme~~] **superior** court or the appellate divisions thereof, that appointment shall not affect the justice's existing office, nor create a vacancy in the [~~supreme~~] **superior** court, or the appellate division thereof, unless such appointment is confirmed by the senate and the appointee shall assume such office. If an interim appointment of chief judge of

the supreme court [~~of appeals~~] be made from among the associate judges, an interim appointment of associate judge shall be made in like manner; in such case, the appointment as chief judge shall not affect the existing office of associate judge, unless such appointment as chief judge is confirmed by the senate and the appointee shall assume such office.

g. The provisions of subdivisions c, d, e and f of this section shall not apply to temporary designations or assignments of judges or justices.

§ 5. Resolved (if the Assembly concur), That section 3 of article 6 of the constitution be amended to read as follows:

§ 3. a. The jurisdiction of the supreme court [~~of appeals~~] shall be limited to the review of questions of law except where the judgment is of death, or where the appellate division, on reversing or modifying a final or interlocutory judgment in an action or a final or interlocutory order in a special proceeding, finds new facts and a final judgment or a final order pursuant thereto is entered; but the right to appeal shall not depend upon the amount involved.

b. Appeals to the supreme court [~~of appeals~~] may be taken in the classes of cases hereafter enumerated in this section;

In criminal cases, directly from a court of original jurisdiction where the judgment is of death, and in other criminal cases from an appellate division or otherwise as the legislature may from time to time provide.

In civil cases and proceedings as follows:

(1) As of right, from a judgment or order entered upon the decision of an appellate division of the [~~supreme~~] superior court which finally determines an action or special proceeding wherein is directly involved the construction of the constitution of the state or of the United States, or where one or more of the justices of the appellate division dissents from the decision of the court, or where the judgment or order is one of reversal or modification.

(2) As of right, from a judgment or order of a court of record of original jurisdiction which finally determines an action or special proceeding where the only question involved on the appeal is the validity of a statutory provision of the state or of the United States under the constitution of the state or of the United States; and on any such appeal only the constitutional question shall be considered and determined by the court.

(3) As of right, from an order of the appellate division granting a new trial in an action or a new hearing in a special proceeding where the appellant stipulates that, upon affirmance, judgment absolute or final order shall be rendered against him or her.

(4) From a determination of the appellate division of the [~~supreme~~] superior court in any department, other than a judgment or order which finally determines an action or special proceeding, where the appellate division allows the same and certifies that one or more questions of law have arisen which, in its opinion, ought to be reviewed by the supreme court [~~of appeals~~], but in such case the appeal shall bring up for review only the question or questions so certified; and the supreme court [~~of appeals~~] shall certify to the appellate division its determination upon such question or questions.

(5) From an order of the appellate division of the [~~supreme~~] superior court in any department, in a proceeding instituted by or against one or more public officers or a board, commission or other body of public officers or a court or tribunal, other than an order which finally determines such proceeding, where the supreme court [~~of appeals~~] shall

allow the same upon the ground that, in its opinion, a question of law is involved which ought to be reviewed by it, and without regard to the availability of appeal by stipulation for final order absolute.

(6) From a judgment or order entered upon the decision of an appellate division of the [~~supreme~~] **superior** court which finally determines an action or special proceeding but which is not appealable under paragraph (1) of this subdivision where the appellate division or the **supreme** court [~~of appeals~~] shall certify that in its opinion a question of law is involved which ought to be reviewed by the **supreme** court [~~of appeals~~]. Such an appeal may be allowed upon application (a) to the appellate division, and in case of refusal, to the **supreme** court [~~of appeals~~], or (b) directly to the **supreme** court [~~of appeals~~]. Such an appeal shall be allowed when required in the interest of substantial justice.

(7) No appeal shall be taken to the **supreme** court [~~of appeals~~] from a judgment or order entered upon the decision of an appellate division of the [~~supreme~~] **superior** court in any civil case or proceeding where the appeal to the appellate division was from a judgment or order entered in an appeal from another court, including an appellate or special term of the [~~supreme~~] **superior** court, unless the construction of the constitution of the state or of the United States is directly involved therein, or unless the appellate division of the [~~supreme~~] **superior** court shall certify that in its opinion a question of law is involved which ought to be reviewed by the **supreme** court [~~of appeals~~].

(8) The legislature may abolish an appeal to the **supreme** court [~~of appeals~~] as of right in any or all of the cases or classes of cases specified in paragraph (1) of this subdivision wherein no question involving the construction of the constitution of the state or of the United States is directly involved, provided, however, that appeals in any such case or class of cases shall thereupon be governed by paragraph (6) of this subdivision.

(9) The **supreme** court [~~of appeals~~] shall adopt and from time to time may amend a rule to permit the court to answer questions of New York law certified to it by the Supreme Court of the United States, a court of appeals of the United States or an appellate court of last resort of another state, which may be determinative of the cause then pending in the certifying court and which in the opinion of the certifying court are not controlled by precedent in the decisions of the courts of New York.

§ 6. Resolved (if the Assembly concur), That subdivisions b, c, h, j and k of section 4 of article 6 of the constitution be amended to read as follows:

b. The appellate divisions of the [~~supreme~~] **superior** court are continued, and shall consist of seven justices of the [~~supreme~~] **superior** court in each of the first and second departments, and five justices in each of the other departments. In each appellate division, four justices shall constitute a quorum, and the concurrence of three shall be necessary to a decision. No more than five justices shall sit in any case.

c. The governor shall designate the presiding justice of each appellate division, who shall act as such during his or her term of office and shall be a resident of the department. The other justices of the appellate divisions shall be designated by the governor, from all the justices elected to the [~~supreme~~] **superior** court, for terms of five years or the unexpired portions of their respective terms of office, if less than five years.

h. A justice of the appellate division of the [~~supreme~~] **superior** court in any department may be temporarily designated by the presiding justice of his or her department to the appellate division in another judicial department upon agreement by the presiding justices of the appellate division of the departments concerned.

j. No justice of the appellate division shall, within the department to which he or she may be designated to perform the duties of an appellate justice, exercise any of the powers of a justice of the [~~supreme~~] **superior** court, other than those of a justice out of court, and those pertaining to the appellate division, except that the justice may decide causes or proceedings theretofore submitted, or hear and decide motions submitted by consent of counsel, but any such justice, when not actually engaged in performing the duties of such appellate justice in the department to which he or she is designated, may hold any term of the [~~supreme~~] **superior** court and exercise any of the powers of a justice of the [~~supreme~~] **superior** court in any judicial district in any other department of the state.

k. The appellate divisions of the [~~supreme~~] **superior** court shall have all the jurisdiction possessed by them on the effective date of this article and such additional jurisdiction as may be prescribed by law, provided, however, that the right to appeal to the appellate divisions from a judgment or order which does not finally determine an action or special proceeding may be limited or conditioned by law.

§ 7. Resolved (if the Assembly concur), That subdivisions c, d and e of section 6 of article 6 of the constitution be amended to read as follows:

c. The justices of the [~~supreme~~] **superior** court shall be chosen by the electors of the judicial district in which they are to serve. The terms of justices of the [~~supreme~~] **superior** court shall be fourteen years from and including the first day of January next after their election.

d. The [~~supreme~~] **superior** court is continued. It shall consist of the number of justices of the [~~supreme~~] **superior** court including the justices designated to the appellate divisions of the [~~supreme~~] **superior** court, judges of the county court of the counties of Bronx, Kings, Queens and Richmond and judges of the court of general sessions of the county of New York authorized by law on the thirty-first day of August next after the approval and ratification of this amendment by the people, all of whom shall be justices of the [~~supreme~~] **superior** court for the remainder of their terms. The legislature may increase the number of justices of the [~~supreme~~] **superior** court in any judicial district, except that the number in any district shall not be increased to exceed one justice for fifty thousand, or fraction over thirty thousand, of the population thereof as shown by the last federal census or state enumeration. The legislature may decrease the number of justices of the [~~supreme~~] **superior** court in any judicial district, except that the number in any district shall not be less than the number of justices of the [~~supreme~~] **superior** court authorized by law on the effective date of this article.

e. The clerks of the several counties shall be clerks of the [~~supreme~~] **superior** court, with such powers and duties as shall be prescribed by law.

§ 8. Resolved (if the Assembly concur), That section 7 of article 6 of the constitution be amended to read as follows:

§ 7. a. The [~~supreme~~] **superior** court shall have general original jurisdiction in law and equity and the appellate jurisdiction herein provided. In the city of New York, it shall have exclusive jurisdiction

over crimes prosecuted by indictment, provided, however, that the legislature may grant to the city-wide court of criminal jurisdiction of the city of New York jurisdiction over misdemeanors prosecuted by indictment and to the family court in the city of New York jurisdiction over crimes and offenses by or against minors or between spouses or between parent and child or between members of the same family or household.

b. If the legislature shall create new classes of actions and proceedings, the [~~supreme~~] **superior** court shall have jurisdiction over such classes of actions and proceedings, but the legislature may provide that another court or other courts shall also have jurisdiction and that actions and proceedings of such classes may be originated in such other court or courts.

§ 9. Resolved (if the Assembly concur), That section 8 of article 6 of the constitution be amended to read as follows:

§ 8. a. The appellate division of the [~~supreme~~] **superior** court in each judicial department may establish an appellate term in and for such department or in and for a judicial district or districts or in and for a county or counties within such department. Such an appellate term shall be composed of not less than three nor more than five justices of the [~~supreme~~] **superior** court who shall be designated from time to time by the chief administrator of the courts with the approval of the presiding justice of the appropriate appellate division, and who shall be residents of the department or of the judicial district or districts as the case may be and the chief administrator of the courts shall designate the place or places where such appellate terms shall be held.

b. Any such appellate term may be discontinued and re-established as the appellate division of the [~~supreme~~] **superior** court in each department shall determine from time to time and any designation to service therein may be revoked by the chief administrator of the courts with the approval of the presiding justice of the appropriate appellate division.

c. In each appellate term no more than three justices assigned thereto shall sit in any action or proceeding. Two of such justices shall constitute a quorum and the concurrence of two shall be necessary to a decision.

d. If so directed by the appellate division of the [~~supreme~~] **superior** court establishing an appellate term, an appellate term shall have jurisdiction to hear and determine appeals now or hereafter authorized by law to be taken to the [~~supreme~~] **superior** court or to the appellate division other than appeals from the [~~supreme~~] **superior** court, a surrogate's court, the family court or appeals in criminal cases prosecuted by indictment or by information as provided in section six of article one.

e. As may be provided by law, an appellate term shall have jurisdiction to hear and determine appeals from the district court or a town, village or city court outside the city of New York.

§ 10. Resolved (if the Assembly concur), That section 11 of article 6 of the constitution be amended to read as follows:

§ 11. a. The county court shall have jurisdiction over the following classes of actions and proceedings which shall be originated in such county court in the manner provided by law, except that actions and proceedings within the jurisdiction of the district court or a town, village or city court outside the city of New York may, as provided by law, be originated therein: actions and proceedings for the recovery of money, actions and proceedings for the recovery of chattels and actions and proceedings for the foreclosure of mechanics liens and liens on personal property where the amount sought to be recovered or the value

of the property does not exceed twenty-five thousand dollars exclusive of interest and costs; over all crimes and other violations of law; over summary proceedings to recover possession of real property and to remove tenants therefrom; and over such other actions and proceedings, not within the exclusive jurisdiction of the [~~supreme~~] **superior** court, as may be provided by law.

b. The county court shall exercise such equity jurisdiction as may be provided by law and its jurisdiction to enter judgment upon a counter-claim for the recovery of money only shall be unlimited.

c. The county court shall have jurisdiction to hear and determine all appeals arising in the county in the following actions and proceedings: as of right, from a judgment or order of the district court or a town, village or city court which finally determines an action or proceeding and, as may be provided by law, from a judgment or order of any such court which does not finally determine an action or proceeding. The legislature may provide, in accordance with the provisions of section eight of this article, that any or all of such appeals be taken to an appellate term of the [~~supreme~~] **superior** court instead of the county court.

d. The provisions of this section shall in no way limit or impair the jurisdiction of the [~~supreme~~] **superior** court as set forth in section seven of this article.

§ 11. Resolved (if the Assembly concur), That subdivisions d and f of section 12 of article 6 of the constitution be amended to read as follows:

d. The surrogate's court shall have jurisdiction over all actions and proceedings relating to the affairs of decedents, probate of wills, administration of estates and actions and proceedings arising thereunder or pertaining thereto, guardianship of the property of minors, and such other actions and proceedings, not within the exclusive jurisdiction of the [~~supreme~~] **superior** court, as may be provided by law.

f. The provisions of this section shall in no way limit or impair the jurisdiction of the [~~supreme~~] **superior** court as set forth in section seven of this article.

§ 12. Resolved (if the Assembly concur), That subdivisions c and d of section 13 of article 6 of the constitution be amended to read as follows:

c. The family court shall also have jurisdiction to determine, with the same powers possessed by the [~~supreme~~] **superior** court, the following matters when referred to the family court from the [~~supreme~~] **superior** court: habeas corpus proceedings for the determination of the custody of minors; and in actions and proceedings for marital separation, divorce, annulment of marriage and dissolution of marriage, applications to fix temporary or permanent support and custody, or applications to enforce judgments and orders of support and of custody, or applications to modify judgments and orders of support and of custody which may be granted only upon the showing to the family court that there has been a subsequent change of circumstances and that modification is required.

d. The provisions of this section shall in no way limit or impair the jurisdiction of the [~~supreme~~] **superior** court as set forth in section seven of this article.

§ 13. Resolved (if the Assembly concur), That subdivisions b, c and d of section 15 of article 6 of the constitution be amended to read as follows:

b. The court of city-wide civil jurisdiction of the city of New York shall have jurisdiction over the following classes of actions and

proceedings which shall be originated in such court in the manner provided by law: actions and proceedings for the recovery of money, actions and proceedings for the recovery of chattels and actions and proceedings for the foreclosure of mechanics liens and liens on personal property where the amount sought to be recovered or the value of the property does not exceed fifty thousand dollars exclusive of interest and costs, or such smaller amount as may be fixed by law; over summary proceedings to recover possession of real property and to remove tenants therefrom and over such other actions and proceedings, not within the exclusive jurisdiction of the [~~supreme~~] **superior** court, as may be provided by law. The court of city-wide civil jurisdiction shall further exercise such equity jurisdiction as may be provided by law and its jurisdiction to enter judgment upon a counterclaim for the recovery of money only shall be unlimited.

c. The court of city-wide criminal jurisdiction of the city of New York shall have jurisdiction over crimes and other violations of law, other than those prosecuted by indictment, provided, however, that the legislature may grant to said court jurisdiction over misdemeanors prosecuted by indictment; and over such other actions and proceedings, not within the exclusive jurisdiction of the [~~supreme~~] **superior** court, as may be provided by law.

d. The provisions of this section shall in no way limit or impair the jurisdiction of the [~~supreme~~] **superior** court as set forth in section seven of this article.

§ 14. Resolved (if the Assembly concur), That section 19 of article 6 of the constitution be amended to read as follows:

§ 19. a. The [~~supreme~~] **superior** court may transfer any action or proceeding, except one over which it shall have exclusive jurisdiction which does not depend upon the monetary amount sought, to any other court having jurisdiction of the subject matter within the judicial department provided that such other court has jurisdiction over the classes of persons named as parties. As may be provided by law, the [~~supreme~~] **superior** court may transfer to itself any action or proceeding originated or pending in another court within the judicial department other than the court of claims upon a finding that such a transfer will promote the administration of justice.

b. The county court shall transfer to the [~~supreme~~] **superior** court or surrogate's court or family court any action or proceeding which has not been transferred to it from the [~~supreme~~] **superior** court or surrogate's court or family court and over which the county court has no jurisdiction. The county court may transfer any action or proceeding, except a criminal action or proceeding involving a felony prosecuted by indictment or an action or proceeding required by this article to be dealt with in the surrogate's court or family court, to any court, other than the [~~supreme~~] **superior** court, having jurisdiction of the subject matter within the county provided that such other court has jurisdiction over the classes of persons named as parties.

c. As may be provided by law, the [~~supreme~~] **superior** court or the county court may transfer to the county court any action or proceeding originated or pending in the district court or a town, village or city court outside the city of New York upon a finding that such a transfer will promote the administration of justice.

d. The surrogate's court shall transfer to the [~~supreme~~] **superior** court or the county court or the family court or the courts for the city of New York established pursuant to section fifteen of this article any

action or proceeding which has not been transferred to it from any of said courts and over which the surrogate's court has no jurisdiction.

e. The family court shall transfer to the [~~supreme~~] **superior** court or the surrogate's court or the county court or the courts for the city of New York established pursuant to section fifteen of this article any action or proceeding which has not been transferred to it from any of said courts and over which the family court has no jurisdiction.

f. The courts for the city of New York established pursuant to section fifteen of this article shall transfer to the [~~supreme~~] **superior** court or the surrogate's court or the family court any action or proceeding which has not been transferred to them from any of said courts and over which the said courts for the city of New York have no jurisdiction.

g. As may be provided by law, the [~~supreme~~] **superior** court shall transfer any action or proceeding to any other court having jurisdiction of the subject matter in any other judicial district or county provided that such other court has jurisdiction over the classes of persons named as parties.

h. As may be provided by law, the county court, the surrogate's court, the family court and the courts for the city of New York established pursuant to section fifteen of this article may transfer any action or proceeding, other than one which has previously been transferred to it, to any other court, except the [~~supreme~~] **superior** court, having jurisdiction of the subject matter in any other judicial district or county provided that such other court has jurisdiction over the classes of persons named as parties.

i. As may be provided by law, the district court or a town, village or city court outside the city of New York may transfer any action or proceeding, other than one which has previously been transferred to it, to any court, other than the county court or the surrogate's court or the family court or the [~~supreme~~] **superior** court, having jurisdiction of the subject matter in the same or an adjoining county provided that such other court has jurisdiction over the classes of persons named as parties.

j. Each court shall exercise jurisdiction over any action or proceeding transferred to it pursuant to this section.

k. The legislature may provide that the verdict or judgment in actions and proceedings so transferred shall not be subject to the limitation of monetary jurisdiction of the court to which the actions and proceedings are transferred if that limitation be lower than that of the court in which the actions and proceedings were originated.

§ 15. Resolved (if the Assembly concur), That section 20 of article 6 of the constitution be amended to read as follows:

§ 20. a. No person, other than one who holds such office at the effective date of this article, may assume the office of judge of the **supreme** court [~~of appeals~~], justice of the [~~supreme~~] **superior** court, or judge of the court of claims unless he or she has been admitted to practice law in this state at least ten years. No person, other than one who holds such office at the effective date of this article, may assume the office of judge of the county court, surrogate's court, family court, a court for the city of New York established pursuant to section fifteen of this article, district court or city court outside the city of New York unless he or she has been admitted to practice law in this state at least five years or such greater number of years as the legislature may determine.

b. A judge of the **supreme** court [~~of appeals~~], justice of the [~~supreme~~] **superior** court, judge of the court of claims, judge of a county court,

judge of the surrogate's court, judge of the family court or judge of a court for the city of New York established pursuant to section fifteen of this article who is elected or appointed after the effective date of this article may not:

(1) hold any other public office or trust except an office in relation to the administration of the courts, member of a constitutional convention or member of the armed forces of the United States or of the state of New York in which latter event the legislature may enact such legislation as it deems appropriate to provide for a temporary judge or justice to serve during the period of the absence of such judge or justice in the armed forces;

(2) be eligible to be a candidate for any public office other than judicial office or member of a constitutional convention, unless he or she resigns from judicial office; in the event a judge or justice does not so resign from judicial office within ten days after his or her acceptance of the nomination of such other office, his or her judicial office shall become vacant and the vacancy shall be filled in the manner provided in this article;

(3) hold any office or assume the duties or exercise the powers of any office of any political organization or be a member of any governing or executive agency thereof;

(4) engage in the practice of law, act as an arbitrator, referee or compensated mediator in any action or proceeding or matter or engage in the conduct of any other profession or business which interferes with the performance of his or her judicial duties.

Judges and justices of the courts specified in this subdivision shall also be subject to such rules of conduct as may be promulgated by the chief administrator of the courts with the approval of the **supreme** court [~~of appeals~~].

c. Qualifications for and restrictions upon the judges of district, town, village or city courts outside the city of New York, other than such qualifications and restrictions specifically set forth in subdivision a of this section, shall be prescribed by the legislature, provided, however, that the legislature shall require a course of training and education to be completed by justices of town and village courts selected after the effective date of this article who have not been admitted to practice law in this state. Judges of such courts shall also be subject to such rules of conduct not inconsistent with laws as may be promulgated by the chief administrator of the courts with the approval of the **supreme** court [~~of appeals~~].

§ 16. Resolved (if the Assembly concur), That subdivision a of section 21 of article 6 of the constitution be amended to read as follows:

a. When a vacancy shall occur, otherwise than by expiration of term, in the office of justice of the [~~supreme~~] **superior** court, of judge of the county court, of judge of the surrogate's court or judge of the family court outside the city of New York, it shall be filled for a full term at the next general election held not less than three months after such vacancy occurs and, until the vacancy shall be so filled, the governor by and with the advice and consent of the senate, if the senate shall be in session, or, if the senate not be in session, the governor may fill such vacancy by an appointment which shall continue until and including the last day of December next after the election at which the vacancy shall be filled.

§ 17. Resolved (if the Assembly concur), That section 22 of article 6 of the constitution be amended to read as follows:

§ 22. a. There shall be a commission on judicial conduct. The commission on judicial conduct shall receive, initiate, investigate and hear complaints with respect to the conduct, qualifications, fitness to perform or performance of official duties of any judge or justice of the unified court system, in the manner provided by law; and, in accordance with subdivision d of this section, may determine that a judge or justice be admonished, censured or removed from office for cause, including, but not limited to, misconduct in office, persistent failure to perform his or her duties, habitual intemperance, and conduct, on or off the bench, prejudicial to the administration of justice, or that a judge or justice be retired for mental or physical disability preventing the proper performance of his or her judicial duties. The commission shall transmit [~~an~~] **any** such determination to the chief judge of the **supreme** court [~~of appeals~~] who shall cause written notice of such determination to be given to the judge or justice involved. Such judge or justice may either accept the commission's determination or make written request to the chief judge, within thirty days after receipt of such notice, for a review of such determination by the **supreme** court [~~of appeals~~].

b. (1) The commission on judicial conduct shall consist of eleven members, of whom four shall be appointed by the governor, one by the temporary president of the senate, one by the minority leader of the senate, one by the speaker of the assembly, one by the minority leader of the assembly and three by the chief judge of the **supreme** court [~~of appeals~~]. Of the members appointed by the governor one person shall be a member of the bar of the state but not a judge or justice, two shall not be members of the bar, justices or judges or retired justices or judges of the unified court system, and one shall be a judge or justice of the unified court system. Of the members appointed by the chief judge one person shall be a justice of the appellate division of the [~~supreme~~] **superior** court and two shall be judges or justices of a court or courts other than the **supreme** court [~~of appeals~~] or appellate divisions. None of the persons to be appointed by the legislative leaders shall be justices or judges or retired justices or judges.

(2) The persons first appointed by the governor shall have respectively one, two, three, and four-year terms as the governor shall designate. The persons first appointed by the chief judge of the **supreme** court [~~of appeals~~] shall have respectively two, three, and four-year terms as the governor shall designate. The person first appointed by the temporary president of the senate shall have a one-year term. The person first appointed by the minority leader of the senate shall have a two-year term. The person first appointed by the speaker of the assembly shall have a four-year term. The person first appointed by the minority leader of the assembly shall have a three-year term. Each member of the commission shall be appointed thereafter for a term of four years. Commission membership of a judge or justice appointed by the governor or the chief judge shall terminate if such member ceases to hold the judicial position which qualified him or her for such appointment. Membership shall also terminate if a member attains a position which would have rendered him or her ineligible for appointment at the time of appointment. A vacancy shall be filled by the appointing officer for the remainder of the term.

c. The organization and procedure of the commission on judicial conduct shall be as provided by law. The commission on judicial conduct may establish its own rules and procedures not inconsistent with law. Unless the legislature shall provide otherwise, the commission shall be

empowered to designate one of its members or any other person as a referee to hear and report concerning any matter before the commission.

d. In reviewing a determination of the commission on judicial conduct, the **supreme** court [~~**of appeals**~~] may admonish, censure, remove or retire, for the reasons set forth in subdivision a of this section, any judge of the unified court system. In reviewing a determination of the commission on judicial conduct, the **supreme** court [~~**of appeals**~~] shall review the commission's findings of fact and conclusions of law on the record of the proceedings upon which the commission's determination was based. The **supreme** court [~~**of appeals**~~] may impose a less or more severe sanction prescribed by this section than the one determined by the commission, or impose no sanction.

e. The **supreme** court [~~**of appeals**~~] may suspend a judge or justice from exercising the powers of his or her office while there is pending a determination by the commission on judicial conduct for his or her removal or retirement, or while the judge or justice is charged in this state with a felony by an indictment or an information filed pursuant to section six of article one. The suspension shall continue upon conviction and, if the conviction becomes final, the judge or justice shall be removed from office. The suspension shall be terminated upon reversal of the conviction and dismissal of the accusatory instrument. Nothing in this subdivision shall prevent the commission on judicial conduct from determining that a judge or justice be admonished, censured, removed, or retired pursuant to subdivision a of this section.

f. Upon the recommendation of the commission on judicial conduct or on its own motion, the **supreme** court [~~**of appeals**~~] may suspend a judge or justice from office when he or she is charged with a crime punishable as a felony under the laws of this state, or any other crime which involves moral turpitude. The suspension shall continue upon conviction and, if the conviction becomes final, the judge or justice shall be removed from office. The suspension shall be terminated upon reversal of the conviction and dismissal of the accusatory instrument. Nothing in this subdivision shall prevent the commission on judicial conduct from determining that a judge or justice be admonished, censured, removed, or retired pursuant to subdivision a of this section.

g. A judge or justice who is suspended from office by the **supreme** court [~~**of appeals**~~] shall receive his or her judicial salary during such period of suspension, unless the court directs otherwise. If the court has so directed and such suspension is thereafter terminated, the court may direct that the judge or justice shall be paid his or her salary for such period of suspension.

h. A judge or justice retired by the **supreme** court [~~**of appeals**~~] shall be considered to have retired voluntarily. A judge or justice removed by the **supreme** court [~~**of appeals**~~] shall be ineligible to hold other judicial office.

i. Notwithstanding any other provision of this section, the legislature may provide by law for review of determinations of the commission on judicial conduct with respect to justices of town and village courts by an appellate division of the [~~**supreme**~~] **superior** court. In such event, all references in this section to the **supreme** court [~~**of appeals**~~] and the chief judge thereof shall be deemed references to an appellate division and the presiding justice thereof, respectively.

j. If a court on the judiciary shall have been convened before the effective date of this section and the proceeding shall not be concluded by that date, the court on the judiciary shall have continuing jurisdiction beyond the effective date of this section to conclude the proceed-

ing. All matters pending before the former commission on judicial conduct on the effective date of this section shall be disposed of in such manner as shall be provided by law.

§ 18. Resolved (if the Assembly concur), That subdivisions a and b of section 23 of article 6 of the constitution be amended to read as follows:

a. Judges of the **supreme** court [~~of appeals~~] and justices of the [~~supreme~~] **superior** court may be removed by concurrent resolution of both houses of the legislature, if two-thirds of all the members elected to each house concur therein.

b. Judges of the court of claims, the county court, the surrogate's court, the family court, the courts for the city of New York established pursuant to section fifteen of this article, the district court and such other courts as the legislature may determine may be removed by the senate, on the recommendation of the governor, if two-thirds of all the members elected to the senate concur therein.

§ 19. Resolved (if the Assembly concur), That section 24 of article 6 of the constitution be amended to read as follows:

§ 24. The assembly shall have the power of impeachment by a vote of a majority of all the members elected thereto. The court for the trial of impeachments shall be composed of the president of the senate, the senators, or the major part of them, and the judges of the **supreme** court [~~of appeals~~], or the major part of them. On the trial of an impeachment against the governor or lieutenant-governor, neither the lieutenant-governor nor the temporary president of the senate shall act as a member of the court. No judicial officer shall exercise his or her office after articles of impeachment against him or her shall have been preferred to the senate, until he or she shall have been acquitted. Before the trial of an impeachment, the members of the court shall take an oath or affirmation truly and impartially to try the impeachment according to the evidence, and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment in cases of impeachment shall not extend further than to removal from office, or removal from office and disqualification to hold and enjoy any public office of honor, trust, or profit under this state; but the party impeached shall be liable to indictment and punishment according to law.

§ 20. Resolved (if the Assembly concur), That subdivisions a and b of section 25 of article 6 of the constitution be amended to read as follows:

a. The compensation of a judge of the **supreme** court [~~of appeals~~], a justice of the [~~supreme~~] **superior** court, a judge of the court of claims, a judge of the county court, a judge of the surrogate's court, a judge of the family court, a judge of a court for the city of New York established pursuant to section fifteen of this article, a judge of the district court or of a retired judge or justice shall be established by law and shall not be diminished during the term of office for which he or she was elected or appointed. Any judge or justice of a court abolished by section thirty-five of this article, who pursuant to that section becomes a judge or justice of a court established or continued by this article, shall receive without interruption or diminution for the remainder of the term for which he or she was elected or appointed to the abolished court the compensation he or she had been receiving upon the effective date of this article together with any additional compensation that may be prescribed by law.

b. Each judge of the **supreme** court [~~of appeals~~], justice of the [~~supreme~~] **superior** 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 in the year in which he or she reaches the age of seventy. Each such former judge of the **supreme** court [~~**of appeals**~~] and justice of the [~~**supreme**~~] **superior** court may thereafter perform the duties of a justice of the [~~**supreme**~~] **superior** 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. A retired judge or justice shall be subject to assignment by the appellate division of the [~~**supreme**~~] **superior** court of the judicial department of his or her residence. Any retired justice of the [~~**supreme**~~] **superior** 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.

§ 21. Resolved (if the Assembly concur), That subdivisions a, b, c, d, e, f and g of section 26 of article 6 of the constitution be amended to read as follows:

a. A justice of the [~~**supreme**~~] **superior** court may perform the duties of office or hold court in any county and may be temporarily assigned to the [~~**supreme**~~] **superior** court in any judicial district or to the court of claims. A justice of the [~~**supreme**~~] **superior** court in the city of New York may be temporarily assigned to the family court in the city of New York or to the surrogate's court in any county within the city of New York when required to dispose of the business of such court.

b. A judge of the court of claims may perform the duties of office or hold court in any county and may be temporarily assigned to the [~~**supreme**~~] **superior** court in any judicial district.

c. A judge of the county court may perform the duties of office or hold court in any county and may be temporarily assigned to the [~~**supreme**~~] **superior** court in the judicial department of his or her residence or to the county court or the family court in any county or to the surrogate's court in any county outside the city of New York or to a court for the city of New York established pursuant to section fifteen of this article.

d. A judge of the surrogate's court in any county within the city of New York may perform the duties of office or hold court in any county and may be temporarily assigned to the [~~**supreme**~~] **superior** court in the judicial department of his or her residence.

e. A judge of the surrogate's court in any county outside the city of New York may perform the duties of office or hold court in any county and may be temporarily assigned to the [~~**supreme**~~] **superior** court in the judicial department of his or her residence or to the county court or the family court in any county or to a court for the city of New York established pursuant to section fifteen of this article.

f. A judge of the family court may perform the duties of office or hold court in any county and may be temporarily assigned to the [~~supreme~~] **superior** court in the judicial department of his or her residence or to the county court or the family court in any county or to the surrogate's court in any county outside of the city of New York or to a court for the city of New York established pursuant to section fifteen of this article.

g. A judge of a court for the city of New York established pursuant to section fifteen of this article may perform the duties of office or hold court in any county and may be temporarily assigned to the [~~supreme~~] **superior** court in the judicial department of his or her residence or to the county court or the family court in any county or to the other court for the city of New York established pursuant to section fifteen of this article.

§ 22. Resolved (if the Assembly concur), That section 27 of article 6 of the constitution be amended to read as follows:

§ 27. The governor may, when in his or her opinion the public interest requires, appoint extraordinary terms of the [~~supreme~~] **superior** court. The governor shall designate the time and place of holding the term and the justice who shall hold the term. The governor may terminate the assignment of the justice and may name another justice in his or her place to hold the term.

§ 23. Resolved (if the Assembly concur), That subdivisions a and c of section 28 of article 6 of the constitution be amended to read as follows:

a. The chief judge of the **supreme** court [~~of appeals~~] shall be the chief judge of the state of New York and shall be the chief judicial officer of the unified court system. There shall be an administrative board of the courts which shall consist of the chief judge of the **supreme** court [~~of appeals~~] as chairperson and the presiding justice of the appellate division of the [~~supreme~~] **superior** court of each judicial department. The chief judge shall, with the advice and consent of the administrative board of the courts, appoint a chief administrator of the courts who shall serve at the pleasure of the chief judge.

c. The chief judge, after consultation with the administrative board, shall establish standards and administrative policies for general application throughout the state, which shall be submitted by the chief judge to the **supreme** court [~~of appeals~~], together with the recommendations, if any, of the administrative board. Such standards and administrative policies shall be promulgated after approval by the **supreme** court [~~of appeals~~].

§ 24. Resolved (if the Assembly concur), That subdivision a of section 29 of article 6 of the constitution be amended to read as follows:

a. The legislature shall provide for the allocation of the cost of operating and maintaining the **supreme** court [~~of appeals~~], the appellate division of the [~~supreme~~] **superior** court in each judicial department, the [~~supreme~~] **superior** court, the court of claims, the county court, the surrogate's court, the family court, the courts for the city of New York established pursuant to section fifteen of this article and the district court, among the state, the counties, the city of New York and other political subdivisions.

§ 25. Resolved (if the Assembly concur), That subdivisions a and b of section 34 of article 6 of the constitution be amended to read as follows:

a. The **supreme** court [~~of appeals~~], the appellate division of the [~~supreme~~] **superior** court, the [~~supreme~~] **superior** court, the court of

claims, the county court in counties outside the city of New York, the surrogate's court and the district court of Nassau county shall hear and determine all appeals, actions and proceedings pending therein on the effective date of this article except that the appellate division of the [~~supreme~~] **superior** court in the first and second judicial departments or the appellate term in such departments, if so directed by the appropriate appellate division of the supreme court, shall hear and determine all appeals pending in the appellate terms of the [~~supreme~~] **superior** court in the first and second judicial departments and in the court of special sessions of the city of New York and except that the county court or an appellate term shall, as may be provided by law, hear and determine all appeals pending in the county court or the [~~supreme~~] **superior** court other than an appellate term. Further appeal from a decision of the county court, the appellate term or the appellate division of the [~~supreme~~] **superior** court, rendered on or after the effective date of this article, shall be governed by the provisions of this article.

b. The justices of the [~~supreme~~] **superior** court in office on the effective date of this article shall hold their offices as justices of the [~~supreme~~] **superior** court until the expiration of their respective terms.

§ 26. Resolved (if the Assembly concur), That subdivisions b, m and n of section 35 of article 6 of the constitution be amended to read as follows:

b. The judges of the county court of the counties of Bronx, Kings, Queens and Richmond and the judges of the court of general sessions of the county of New York in office on the effective date of this article shall, for the remainder of the terms for which they were elected or appointed, be justices of the [~~supreme~~] **superior** court in and for the judicial district which includes the county in which they resided on that date. The salaries of such justices shall be the same as the salaries of the other justices of the [~~supreme~~] **superior** court residing in the same judicial district and shall be paid in the same manner. All actions and proceedings pending in the county court of the counties of Bronx, Kings, Queens and Richmond and in the court of general sessions of the county of New York on the effective date of this article shall be transferred to the [~~supreme~~] **superior** court in the county in which the action or proceedings was pending, or otherwise as may be provided by law.

m. In the event that a judgment or order was entered before the effective date of this article and a right of appeal existed and notice of appeal therefrom is filed after the effective date of this article, such appeal shall be taken from the [~~supreme~~] **superior** court, the county courts, the surrogate's courts, the children's courts, the court of general sessions of the county of New York and the domestic relations court of the city of New York to the appellate division of the [~~supreme~~] **superior** court in the judicial department in which such court was located; from the court of claims to the appellate division of the [~~supreme~~] **superior** court in the third judicial department, except for those claims which arose in the fourth judicial department, in which case the appeal shall be to the appellate division of the [~~supreme~~] **superior** court in the fourth judicial department; from the city court of the city of New York, the municipal court of the city of New York, the court of special sessions of the city of New York and the city magistrates' courts of the city of New York to the appellate division of the [~~supreme~~] **superior** court in the judicial department in which such court was located, provided, however, that such appellate division of the

[~~supreme~~] **superior** court may transfer any such appeal to an appellate term, if such appellate term be established; and from the district court, town, village and city courts outside the city of New York to the county court in the county in which such court was located, provided, however, that the legislature may require the transfer of any such appeal to an appellate term, if such appellate term be established. Further appeal from a decision of a county court or an appellate term or the appellate division of the [~~supreme~~] **superior** court shall be governed by the provisions of this article. However, if in any action or proceeding decided prior to the effective date of this article, a party had a right of direct appeal from a court of original jurisdiction to the **supreme** court [~~of appeals~~], such appeal may be taken directly to the **supreme** court [~~of appeals~~].

n. In the event that an appeal was decided before the effective date of this article and a further appeal could be taken as of right and notice of appeal therefrom is filed after the effective date of this article, such appeal may be taken from the appellate division of the [~~supreme~~] **superior** court to the **supreme** court [~~of appeals~~] and from any other court to the appellate division of the [~~supreme~~] **superior** court. Further appeal from a decision of the appellate division of the [~~supreme~~] **superior** court shall be governed by the provisions of this article. If a further appeal could not be taken as of right, such appeal shall be governed by the provisions of this article.

§ 27. Resolved (if the Assembly concur), That section 36-a of article 6 of the constitution be amended to read as follows:

§ 36-a. The amendments to the provisions of sections two, four, seven, eight, eleven, twenty, twenty-two, twenty-six, twenty-eight, twenty-nine and thirty of article six and to the provisions of section one of article seven, as first proposed by a concurrent resolution passed by the legislature in the year nineteen hundred seventy-six and entitled "Concurrent Resolution of the Senate and Assembly proposing amendments to articles six and seven of the constitution, in relation to the manner of selecting judges of the **supreme** court [~~of appeals~~], creation of a commission on judicial conduct and administration of the unified court system, providing for the effectiveness of such amendments and the repeal of subdivision c of section two, subdivision b of section seven, subdivision b of section eleven, section twenty-two and section twenty-eight of article six thereof relating thereto", shall become a part of the constitution on the first day of January next after the approval and ratification of the amendments proposed by such concurrent resolution by the people but the provisions thereof shall not become operative and the repeal of subdivision c of section two, section twenty-two and section twenty-eight shall not become effective until the first day of April next thereafter which date shall be deemed the effective date of such amendments and the chief judge and the associate judges of the **supreme** court [~~of appeals~~] in office on such effective date shall hold their offices until the expiration of their respective terms. Upon a vacancy in the office of any such judge, such vacancy shall be filled in the manner provided in section two of article six.

§ 28. Resolved (if the Assembly concur), That section 1 of article 7 of the constitution be amended to read as follows:

Section 1. For the preparation of the budget, the head of each department of state government, except the legislature and judiciary, shall furnish the governor such estimates and information in such form and at such times as the governor may require, copies of which shall forthwith be furnished to the appropriate committees of the legislature. The

governor shall hold hearings thereon at which the governor may require the attendance of heads of departments and their subordinates. Designated representatives of such committees shall be entitled to attend the hearings thereon and to make inquiry concerning any part thereof.

Itemized estimates of the financial needs of the legislature, certified by the presiding officer of each house, and of the judiciary, approved by the **supreme** court [~~**of appeals**~~] and certified by the chief judge of the **supreme** court [~~**of appeals**~~], shall be transmitted to the governor not later than the first day of December in each year for inclusion in the budget without revision but with such recommendations as the governor may deem proper. Copies of the itemized estimates of the financial needs of the judiciary also shall forthwith be transmitted to the appropriate committees of the legislature.

§ 29. Resolved (if the Assembly concur), That the fourth undesignated paragraph of subdivision C of section 5 of article 8 of the constitution be amended to read as follows:

Except as otherwise provided herein, the legislature shall prescribe the method by which and the terms and conditions under which the proportionate amount of any such indebtedness to be so excluded shall be determined and no proportionate amount of such indebtedness shall be excluded except in accordance with such determination. The legislature may provide that the state comptroller shall make such determination or it may confer appropriate jurisdiction on the appellate division of the [~~**supreme**~~] **superior** court in the judicial departments in which such counties, cities, towns or villages are located for the purpose of determining the proportionate amount of any such indebtedness to be so excluded.

§ 30. Resolved (if the Assembly concur), That subdivision A of section 7 of article 8 of the constitution be amended to read as follows:

A. Indebtedness contracted prior to the first day of January, nineteen hundred ten, for dock purposes proportionately to the extent to which the current net revenues received by the city therefrom shall meet the interest on and the annual requirements for the amortization of such indebtedness. The legislature shall prescribe the method by which and the terms and conditions under which the amount of any such indebtedness to be so excluded shall be determined, and no such indebtedness shall be excluded except in accordance with such determination. The legislature may confer appropriate jurisdiction on the appellate division of the [~~**supreme**~~] **superior** court in the first judicial department for the purpose of determining the amount of any such indebtedness to be so excluded.

§ 31. Resolved (if the Assembly concur), That the second undesignated paragraph of subdivision B of section 7-a of article 8 of the constitution be amended to read as follows:

In determining whether indebtedness for transit purposes may be excluded under this paragraph of this section, there shall first be deducted from the current net revenue received by the city from such railroads and facilities and properties used in connection therewith and rights therein and securities owned by the city: (a) an amount equal to the interest and amortization requirements on indebtedness for rapid transit purposes heretofore excluded by order of the appellate division, which exclusion shall not be terminated by or under any provision of this section; (b) an amount equal to the interest on indebtedness contracted pursuant to this section and of the annual requirements for amortization on any sinking fund bonds and for redemption of any serial bonds evidencing such indebtedness; (c) an amount equal to the sum of all taxes and bridge tolls accruing to the city in the fiscal year of

the city preceding the acquisition of the railroads or facilities or properties or rights therein or securities acquired by the city hereunder, from such railroads, facilities and properties; and (d) the amount of net operating revenue derived by the city from the independent subway system during such fiscal year. The legislature shall prescribe the method by which and the terms and conditions under which the amount of any indebtedness to be excluded hereunder shall be determined, and no indebtedness shall be excluded except in accordance with the determination so prescribed. The legislature may confer appropriate jurisdiction on the appellate division of the [~~supreme~~] **superior** court in the first judicial department for the purpose of determining the amount of any debt to be so excluded.

§ 32. Resolved (if the Assembly concur), That subdivision (d) of section 1 of article 9 of the constitution be amended to read as follows:

(d) No local government or any part of the territory thereof shall be annexed to another until the people, if any, of the territory proposed to be annexed shall have consented thereto by majority vote on a referendum and until the governing board of each local government, the area of which is affected, shall have consented thereto upon the basis of a determination that the annexation is in the over-all public interest. The consent of the governing board of a county shall be required only where a boundary of the county is affected. On or before July first, nineteen hundred sixty-four, the legislature shall provide, where such consent of a governing board is not granted, for adjudication and determination, on the law and the facts, in a proceeding initiated in the [~~supreme~~] **superior** court, of the issue of whether the annexation is in the over-all public interest.

§ 33. Resolved (if the Assembly concur), That subdivision (a) of section 13 of article 13 of the constitution be amended to read as follows:

(a) Except in counties in the city of New York and except as authorized in section one of article nine of this constitution, registers in counties having registers shall be chosen by the electors of the respective counties once in every three years and whenever the occurring of vacancies shall require; the sheriff and the clerk of each county shall be chosen by the electors once in every three or four years as the legislature shall direct. Sheriffs shall hold no other office. They may be required by law to renew their security, from time to time; and in default of giving such new security, their offices shall be deemed vacant. The governor may remove any elective sheriff, county clerk, district attorney or register within the term for which he or she shall have been elected; but before so doing the governor shall give to such officer a copy of the charges against him or her and an opportunity of being heard in his or her defense. In each county a district attorney shall be chosen by the electors once in every three or four years as the legislature shall direct. The clerk of each county in the city of New York shall be appointed, and be subject to removal, by the appellate division of the [~~supreme~~] **superior** court in the judicial department in which the county is located. In addition to his or her powers and duties as clerk of the [~~supreme~~] **superior** court, he or she shall have power to select, draw, summon and empanel grand and petit jurors in the manner and under the conditions now or hereafter prescribed by law, and shall have such other powers and duties as shall be prescribed by the city from time to time by local law.

§ 34. Resolved (if the Assembly concur), That section 5 of article 14 of the constitution be amended to read as follows:

§ 5. A violation of any of the provisions of this article may be restrained at the suit of the people or, with the consent of the [~~supreme~~] **superior** court in appellate division, on notice to the attorney-general at the suit of any citizen.

§ 35. Resolved (if the Assembly concur), That the opening paragraph of section 4 of article 18 of the constitution be amended to read as follows:

To effectuate any of the purposes of this article, the legislature may authorize any city, town or village to contract indebtedness to an amount which shall not exceed two per centum of the average assessed valuation of the real estate of such city, town or village subject to taxation, as determined by the last completed assessment roll and the four preceding assessment rolls of such city, town or village, for city, town or village taxes prior to the contracting of such indebtedness. In ascertaining the power of a city, or village having a population of five thousand or more as determined by the last federal census, to contract indebtedness pursuant to this article there may be excluded any such indebtedness if the project or projects aided by guarantees representing such indebtedness or by loans for which such indebtedness was contracted shall have yielded during the preceding year net revenue to be determined annually by deducting from the gross revenues, including periodic subsidies therefor, received from such project or projects, all costs of operation, maintenance, repairs and replacements, and the interest on such indebtedness and the amounts required in such year for the payment of such indebtedness; provided that in the case of guarantees such interest and such amounts shall have been paid, and in the case of loans an amount equal to such interest and such amounts shall have been paid to such city or village. The legislature shall prescribe the method by which the amount of any such indebtedness to be excluded shall be determined, and no such indebtedness shall be excluded except in accordance with such determination. The legislature may confer appropriate jurisdiction on the appellate division of the [~~supreme~~] **superior** court in the judicial departments in which such cities or villages are located for the purpose of determining the amount of any such indebtedness to be so excluded.

§ 36. 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 1 of article 19 of the constitution, be published for 3 months previous to the time of such election.