

SENATE CONCURRENT RESOLUTION No. 49

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 26, 1996

By Senator CARDINALE

1 A CONCURRENT RESOLUTION proposing an amendment to Article VI,
2 section VI, paragraph 3 of the Constitution of the State of New Jersey.

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4 BE IT RESOLVED by the Senate of the State of New Jersey (the General
5 Assembly concurring):

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7 1. The following proposed amendment to the Constitution of the State of
8 New Jersey is hereby agreed to:

9 Amend Article VI, Section VI, paragraph 3 to read as follows:

10 3. The Justices of the Supreme Court and the Judges of the Superior
11 Court shall hold their offices for [initial] terms of [7] 4 years and upon
12 reappointment [shall hold their offices during good behavior; provided
13 however, that, upon the abolition of the juvenile and domestic relations courts
14 or family court and county district courts as provided by law, the judges in
15 office in those former courts who have acquired tenure and the Judges of the
16 Superior Court who have acquired tenure as a judge in those former courts
17 prior to appointment to the Superior Court, shall have tenure as Judges of the
18 Superior Court. Judges of the juvenile and domestic relations courts or family
19 court and county district courts who have not acquired tenure as a judge of
20 those former courts shall hold their offices for the period of their respective
21 terms which remain unexpired and shall acquire tenure upon reappointment to
22 the Superior Court] by the Judicial Commission as provided in paragraph 4 of
23 Article VI, Section IX and approved by the voters as provided in paragraph
24 5 of Article VI, Section IX. Such justices and judges shall be retired upon
25 attaining the age of 70 years. Provisions for the [pensioning] salaries and
26 pensions of the Justices of the Supreme Court and the Judges of the Superior
27 Court shall be made by statutory law.

28 (cf. Art.VI sec.VI as amended Nov. 8, 1983)

29 b. Amend Article VI of the Constitution by the addition of the following
30 section:

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Section IX

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3 1. There is hereby established a Judicial Commission which shall consist
4 of nine members, no more than five of whom shall be of the same political
5 party, who shall serve for a term of five years and until the appointment and
6 qualification of their successors. Members of the Judicial Commission shall be
7 appointed as follows: four by the Governor, no more than two of whom shall
8 be of the same political party; one by the Chief Justice of the Supreme Court,
9 one by the President of the Senate; one by the Senate Minority Leader; one
10 by the Speaker of the General Assembly and one by the Assembly Minority
11 Leader. The person appointed by the Chief Justice shall be an attorney-at-law
12 but none of the other members of the Commission shall be attorneys.

13 2. Of the persons initially appointed to the commission, two of the
14 members appointed by the Governor and the member appointed by the
15 Senate President shall serve five year terms; the member appointed by the
16 Chief Justice and the member appointed by the Speaker of the Assembly shall
17 serve four year terms; the remaining two members appointed by the Governor
18 shall serve three year terms; the member appointed by the Senate Minority
19 Leader and the member appointed by the Assembly Minority Leader shall
20 serve two year terms.

21 3. Any vacancy occurring in the membership of the commission shall be
22 filled in the same manner as the original appointment but for the unexpired term
23 only; provided, however, that with regard to appointments by legislative
24 leaders, if as the result of a vacancy on the commission a legislative leader
25 would be required to appoint a member of the opposite political party, that
26 appointment shall be made by the legislative leader in that house of the
27 Legislature of the same party affiliation as the member of the commission
28 whose vacancy is being filled.

29 4. A Justice of the Supreme Court or a Judge of the Superior Court shall
30 be reappointed upon the affirmative vote of a majority of the members of the
31 Judicial Commission. The member appointed by the Chief Justice shall not be
32 eligible to vote on the reappointment of any Chief Justice.

33 5. a. Whenever a Justice of the Supreme Court or a Judge of the Superior
34 Court has been reappointed by the Judicial Commission, the question of
35 whether that justice or judge shall be retained in office shall be submitted by
36 referendum to the people at the general election next following that
37 reappointment.

38 The question of whether a justice or judge should be retained in office shall
39 be included on the ballot as follows:

1 "Shall of the Supreme Court

2 (insert name of justice)

3 be retained in office? Yes No

4 (Mark an X in the box you prefer)

5 "Shall of the Superior Court

6 (insert name of judge)

7 be retained in office? Yes No

8 (Mark an X in the box you prefer)

9

10 b. If a majority of those voting on the question vote against retaining a
11 justice or judge in office, a vacancy shall exist as of the date the results of the
12 election are certified by the Secretary of State.

13 c. If a majority of voters vote against retaining a justice or judge in office,
14 that justice or judge shall not be eligible for any other subsequent judicial
15 position requiring nomination and appointment by the Governor.

16 6. No attorney-at-law or law firm shall, directly or indirectly, pay or
17 contribute any money or thing of value to the retention campaign of a judge or
18 justice.

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20 2. When this proposed amendment to the Constitution is finally agreed to
21 pursuant to Article IX, paragraph 1 of the Constitution, it shall be submitted
22 to the people at the next general election occurring more than three months
23 after the final agreement and shall be published at least once in at least one
24 newspaper of each county designated by the President of the Senate, the
25 Speaker of the General Assembly and the Secretary of State, not less than
26 three months prior to the general election.

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28 3. This proposed amendment to the Constitution shall be submitted to the
29 people at that election in the following manner and form:

30 There shall be printed on each official ballot to be used at the general
31 election, the following:

32 a. In every municipality in which voting machines are not used, a legend
33 which shall immediately precede the question, as follows:

34 If you favor the proposition printed below make a cross (X), plus (+) or
35 check (O) in the square opposite the word "Yes." If you are opposed thereto
36 make a cross (X), plus (+) or check (O) in the square opposite the word "No."

37 b. In every municipality the following question:

1		ESTABLISHMENT OF JUDICIAL
2		COMMISSION AND RETENTION
3		ELECTIONS FOR THE PURPOSE OF
4		DETERMINING WHETHER JUSTICES OF
5		THE SUPREME COURT AND JUDGES OF
6		THE SUPERIOR COURT SHALL BE
7		REAPPOINTED; CLARIFICATION OF
8		AUTHORITY FOR JUDICIAL SALARIES
9		AND PENSIONS.
10		
11		Shall the amendment to Article VI of the State
12		Constitution, agreed to by the Legislature
13		establishing a Judicial Commission and retention
14		elections as the method for re-appointing Justices
15	YES	of the Supreme Court and Judges of the Superior
16		Court and clarifying that provisions establishing
17		judicial salaries and pensions are governed by
18		statutory enactments, be approved?
19		
20		INTERPRETIVE STATEMENT
21		Presently, Supreme Court justices and Superior
22		Court judges receive tenure, after serving an initial
23		seven year term, upon reappointment by the
24		Governor with the advice and consent of the
25		Senate. This amendment would provide that
26		Supreme Court justices and Superior Court judges
27		would serve four year terms and grants authority
28		for determining whether a justice or judges should
29		be reappointed by a nine-member bi-partisan
30		Judicial Commission. Under the amendment, when
31	NO	the commission votes to reappoint a justice or
32		judge, the question of whether that justice or judge
33		remains in office shall be submitted by referendum
34		to the voters. The amendment also clarifies that
35		provisions for establishing judicial salaries and
36		pensions are to be governed by statutes enacted
37		through the legislative process.
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1 This constitutional amendment shall, if approved, take effect on January 1,
2 next following the general election at which it was approved and shall be
3 applicable to Supreme Court justices or Superior Court judges whose initial
4 term expires on or after that date.

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7 STATEMENT

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9 Presently, Supreme Court justices and Superior Court judges serve an
10 initial seven year term and receive tenure upon reappointment by the Governor
11 with the advice and consent of the Senate. This concurrent resolution
12 proposes a constitutional amendment providing that Supreme Court justices
13 and Superior Court judges would have four year terms with no provision for
14 tenure in office.

15 In order to remove the reappointment of jurists from the political process,
16 the proposed amendment would also establish a nine-member bi-partisan
17 Judicial Commission which would be responsible for determining whether
18 Supreme Court justices and Superior Court judges should be reappointed.
19 Four members of the Commission would be appointed by the Governor and
20 one member each by the Chief Justice, by the President of the Senate, the
21 Speaker of the Assembly and the minority leaders in each house of the
22 Legislature. The member appointed by the Chief Justice must be an attorney
23 but none of the other members could be attorneys. In order to be
24 reappointed, the justice or judge would have to receive the affirmative vote of
25 a majority of the commission. The member appointed by the Chief Justice
26 would not be eligible to vote on the reappointment of any Chief Justice.

27 Under the proposed amendment, if the Judicial Commission reappoints a
28 justice or judge, the question of whether that justice or judge would be
29 retained in office would be submitted by referendum to the voters at the next
30 general election. If the voters do not approve the reappointment, the judge or
31 justice would be out of office. Attorneys would not be permitted to contribute
32 to the campaign of any justice or judge seeking reappointment.

33 In addition to eliminating tenure and establishing the Judicial Commission
34 and retention referendums, the proposed constitutional amendment clarifies
35 that the language in the Constitution indicating that provisions for the salaries
36 and pensions of justices and judges shall be made "by law" means by statutory
37 enactment and not court rule or judicial decision.

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41 Proposes a constitutional amendment establishing 4 year terms of offices and
42 a new reappointment process for members of the judiciary; clarifies authority
43 for establishing provisions governing judicial salaries and pensions.