

**SENATE CONCURRENT
RESOLUTION No. 47**

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JANUARY 30, 2020

Sponsored by:

Senator CHRISTOPHER "KIP" BATEMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

SYNOPSIS

Proposes constitutional amendment to permit Supreme Court justices and certain other judges, if approved solely by advice and consent of Senate, to continue in office upon expiration of term otherwise resulting in mandatory retirement.

CURRENT VERSION OF TEXT

As introduced.



1 **A CONCURRENT RESOLUTION** proposing to amend Article IV,
2 Section V, paragraph 5 and Article VI, Section VI, paragraph 3
3 of the New Jersey Constitution.

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

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

10
11 PROPOSED AMENDMENT

12
13 a. Amend Article IV, Section V, paragraph 5 to read as
14 follows:

15 5. Neither the Legislature nor either house thereof shall elect or
16 appoint any executive, administrative or judicial officer except the
17 State Auditor; provided that the Senate, pursuant to any law enacted
18 by the Legislature, may reapprove solely by advice and consent any
19 judicial officers or judges serving as administrative officers in the
20 executive branch to continue in office after the expiration of any
21 term that would otherwise result in mandatory retirement as set
22 forth in this Constitution or by law.

23 (cf: Art. IV, Sec. V, par. 5)

24
25 b. Amend Article VI, Section VI, paragraph 3 to read as follows:

26 3. The Justices of the Supreme Court and the Judges of the
27 Superior Court shall all hold their offices for initial terms of **[7]**
28 seven years and upon reappointment shall hold their offices **[during**
29 good behavior] until the age of 70 years, after which the justices
30 and judges shall continue to hold their offices for additional terms
31 of two years, if for each two-year term, the justices and judges are
32 reapproved solely by the advice and consent of the Senate pursuant
33 to any law enacted by the Legislature; provided however, that, upon
34 the abolition of the juvenile and domestic relations courts or family
35 court and county district courts as provided by law, the judges in
36 office in those former courts who have acquired tenure and the
37 Judges of the Superior Court who have acquired tenure as a judge in
38 those former courts prior to appointment to the Superior Court,
39 shall have tenure as Judges of the Superior Court. Judges of the
40 juvenile and domestic relations courts or family court and county
41 district courts who have not acquired tenure as a judge of those
42 former courts shall hold their offices for the period of their
43 respective terms which remain unexpired and shall acquire tenure
44 upon reappointment to the Superior Court. **[Such]** All justices and
45 judges shall be retired upon attaining the age of 70 years, except for

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.

1 any justices and judges reapproved by the Senate to continue in
2 office, after which the justices and judges shall be retired upon the
3 anniversary of reaching the age of 70 years following the terms for
4 which the justices and judges were reapproved. Provisions for the
5 pensioning of the Justices of the Supreme Court and the Judges of
6 the Superior Court shall be made by law.
7 (cf: Art. VI, Sec. VI, par. 3; amended effective December 8, 1983)
8

9 2. When this proposed amendment to the Constitution is finally
10 agreed to pursuant to Article IX, paragraph 1 of the Constitution, it
11 shall be submitted to the people at the next general election
12 occurring more than three months after the final agreement and
13 shall be published at least once in at least one newspaper of each
14 county designated by the President of the Senate, the Speaker of the
15 General Assembly and the Secretary of State, not less than three
16 months prior to the general election.
17

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

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

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

25 If you favor the proposition printed below make a cross (X), plus
26 (+), or check (✓) in the square opposite the word "Yes." If you are
27 opposed thereto make a cross (X), plus (+) or check (✓) in the
28 square opposite the word "No."

29 b. In every municipality the following question:

1

	YES	<p>CONSTITUTIONAL AMENDMENT TO ALLOW JUSTICES AND JUDGES TO STAY IN OFFICE PAST RETIREMENT AGE IF AGREED TO BY THE SENATE</p> <p>Do you approve amending the Constitution to allow justices and judges to stay in office past the required retirement age of 70 in some circumstances?</p> <p>The judges subject to the amendment would include Supreme Court justices and Superior Court judges. Other judges facing retirement at age 70 would also be affected. The Senate would have to agree to allow a judge to stay in office. The judge would serve a new term of two years, and would then have to retire unless the Senate agreed to another term of two years.</p> <p>The amendment would not take effect until a law is passed to allow judges to remain in office past their required retirement age.</p>
	NO	<p>INTERPRETIVE STATEMENT</p> <p>Various judges are required to retire at age 70. This includes Supreme Court justices. The amendment would allow these judges to remain in office after age 70 and serve one or more additional two-year terms. The Senate would have to approve, every two years, each judge to remain in office. Any judge not approved by the Senate would have to retire.</p> <p>This amendment would affect Supreme Court justices, judges who hear appellate court matters, and trial court and family court matters. It would also affect judges who hear tax court matters, workers' compensation matters, and administrative law matters. In addition, it may affect any new type of judge created by the Legislature by a future law.</p> <p>The amendment would not take effect until a law is enacted allowing judges to remain in office past their required retirement age.</p>

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SCHEDULE

This constitutional amendment shall take effect on January 1 next following the general election at which it was approved, and apply to all types of judges described in the amendment, subject to enabling legislation, in office on or after that day.

STATEMENT

Under the Constitution and current law, several types of judges must retire at age 70: Justices of the Supreme Court – N.J. Const. Art. VI, Sec. VI, par. 3; Judges of the Superior Court and Tax Court – N.J. Const. Art. VI, Sec. VI, par. 3 and N.J.S.2B:13-7; Workers’ Compensation Judges – R.S.34:15-49; and Administrative Law Judges – P.L.1978, c.67, s.4 (C.52:14F-4). This concurrent resolution proposes a constitutional amendment that would allow these judges to stay in office past their retirement age for one or more additional two-year terms if unilaterally agreed to by an advice and consent vote in the Senate, based on new laws enacted by the Legislature. Any judge not reapproved by an advice and consent vote would have to retire at the end of the two-year term for which the judge was reapproved.

The amendment could also apply to any new type of judge created by law with a required retirement age, subject to staying in office with Senate approval.