



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HOUSE JOINT RESOLUTION

CONSTITUTIONAL AMENDMENT

HC0010

Introduced , by Rep. Kelly M. Cassidy

SYNOPSIS AS INTRODUCED:

ILCON Art. VI, Sec. 12

ILCON Art. VI, Sec. 12.1 new

Proposes to amend the Judiciary Article of the Illinois Constitution concerning the retention of Supreme, Appellate, and Circuit Judges. Creates a Judicial Retention Commission in each Judicial District to evaluate the qualifications of Supreme and Appellate Court Judges seeking retention and creates a Judicial Retention Commission in each Judicial Circuit to determine the qualification for Judges for retention in the Circuit. Provides for the impaneling of additional Judicial Retention Commissions in a Circuit if more than 40 Judges have filed a declaration of candidacy for retention. Provides that Judges found unqualified by the Commissions may seek retention in retention elections. Provides that Judges found qualified are retained in office. Effective upon being declared adopted under Section 7 of the Illinois Constitutional Amendment Act.

LRB098 02627 HEP 39408 e

1 HOUSE JOINT RESOLUTION
2 CONSTITUTIONAL AMENDMENT

3 RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE
4 NINETY-EIGHTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE
5 SENATE CONCURRING HEREIN, that there shall be submitted to the
6 electors of the State for adoption or rejection at the general
7 election next occurring at least 6 months after the adoption of
8 this resolution a proposition to amend Section 12 of and to add
9 Section 12.1 to Article VI of the Illinois Constitution as
10 follows:

11 ARTICLE VI
12 THE JUDICIARY

13 (ILCON Art. VI, Sec. 12)

14 SECTION 12. ELECTION ~~AND RETENTION~~

15 (a) Supreme, Appellate and Circuit Judges shall be
16 nominated at primary elections or by petition. Judges shall be
17 elected at general or judicial elections as the General
18 Assembly shall provide by law. A person eligible for the office
19 of Judge may cause his name to appear on the ballot as a
20 candidate for Judge at the primary and at the general or
21 judicial elections by submitting petitions. The General
22 Assembly shall prescribe by law the requirements for petitions.

23 (b) The office of a Judge shall be vacant upon his death,
24 resignation, retirement, removal, or upon the conclusion of his

1 term without retention in office. Whenever an additional
2 Appellate or Circuit Judge is authorized by law, the office
3 shall be filled in the manner provided for filling a vacancy in
4 that office.

5 (c) A vacancy occurring in the office of Supreme, Appellate
6 or Circuit Judge shall be filled as the General Assembly may
7 provide by law. In the absence of a law, vacancies may be
8 filled by appointment by the Supreme Court. A person appointed
9 to fill a vacancy 60 or more days prior to the next primary
10 election to nominate Judges shall serve until the vacancy is
11 filled for a term at the next general or judicial election. A
12 person appointed to fill a vacancy less than 60 days prior to
13 the next primary election to nominate Judges shall serve until
14 the vacancy is filled at the second general or judicial
15 election following such appointment.

16 ~~(d) Not less than six months before the general election~~
17 ~~preceding the expiration of his term of office, a Supreme,~~
18 ~~Appellate or Circuit Judge who has been elected to that office~~
19 ~~may file in the office of the Secretary of State a declaration~~
20 ~~of candidacy to succeed himself. The Secretary of State, not~~
21 ~~less than 63 days before the election, shall certify the~~
22 ~~Judge's candidacy to the proper election officials. The names~~
23 ~~of Judges seeking retention shall be submitted to the electors,~~
24 ~~separately and without party designation, on the sole question~~
25 ~~whether each Judge shall be retained in office for another~~
26 ~~term. The retention elections shall be conducted at general~~

1 ~~elections in the appropriate Judicial District, for Supreme and~~
2 ~~Appellate Judges, and in the circuit for Circuit Judges. The~~
3 ~~affirmative vote of three fifths of the electors voting on the~~
4 ~~question shall elect the Judge to the office for a term~~
5 ~~commencing on the first Monday in December following his~~
6 ~~election.~~

7 ~~(c) A law reducing the number of Appellate or Circuit~~
8 ~~Judges shall be without prejudice to the right of the Judges~~
9 ~~affected to seek retention in office. A reduction shall become~~
10 ~~effective when a vacancy occurs in the affected unit.~~

11 (Source: Illinois Constitution.)

12 (ILCON Art. VI, Sec. 12.1 new)

13 SECTION 12.1. JUDICIAL RETENTION PROCEDURES

14 (a) There shall be a Judicial Retention Commission in each
15 Judicial District to determine qualifications for retention of
16 Judges of the Supreme and Appellate Courts for each District
17 and a separate Judicial Retention Commission to determine
18 qualifications for retention of Circuit Judges for each
19 Circuit. A combined Judicial Retention Commission shall be
20 impaneled to consider the qualifications of judges seeking
21 retention in the First Judicial District and the Cook County
22 Circuit. If more than 40 Judges in a Circuit, or in Cook County
23 in the combined District and Circuit, have filed declarations
24 of candidacy for retention under this Section, one or more
25 additional Judicial Retention Commissions shall be impaneled

1 so that not more than 40 Judges are assigned to a single
2 Judicial Retention Commission. When more than one Commission is
3 impaneled in a Circuit or in a combined District and Circuit,
4 the Administrative Director of the Illinois Courts shall divide
5 the candidates for retention by lot into equal groups or groups
6 that are as close to equal as possible and shall by lot
7 designate the groups for assignment to each Judicial Retention
8 Commission.

9 (b) Each Judicial Retention Commission shall consist of 11
10 members. Six members shall be non-lawyers and 5 members shall
11 be lawyers. All members shall be residents of the appropriate
12 District or Circuit.

13 (c) Two non-lawyer members of each Judicial Retention
14 Commission shall be appointed by the Governor and 2 non-lawyer
15 members shall be appointed by the State official or officer
16 first in the order indicated who was elected to office and is
17 not affiliated with the same political party as the Governor:
18 the Attorney General, the Secretary of State, the Comptroller,
19 the Treasurer, the President of the Senate, the Speaker of the
20 House of Representatives. If all of those State officials and
21 officers are affiliated with the same political party as the
22 Governor, one non-lawyer member shall be appointed by the
23 Minority Leader of the Senate and one non-lawyer member shall
24 be appointed by the Minority Leader of the House of
25 Representatives. If there is a vacancy in a position for which
26 the original appointment was made under this subsection (c), a

1 successor non-lawyer member shall be appointed by the same
2 person who appointed the predecessor non-lawyer member if that
3 person's office and political party affiliation have not
4 changed since the predecessor non-lawyer member was appointed.
5 If that person's office or political party affiliation have
6 changed since the predecessor non-lawyer member was appointed,
7 the successor non-lawyer member shall be appointed: (i) by the
8 Governor if the Governor is affiliated with the same political
9 party as the predecessor non-lawyer member; or (ii) otherwise
10 by the State official or officer first in the order indicated
11 in this subsection (c) who was elected to office and is not
12 affiliated with the same political party as the Governor.

13 (d) If a Circuit or a District comprises a single county,
14 one non-lawyer member of each Judicial Retention Commission
15 shall be appointed by the county board chairman and one
16 non-lawyer member shall be appointed by the county board member
17 with the longest service on the county board who is not
18 affiliated with the same political party as the chairman. If 2
19 or more county board members who are not affiliated with the
20 same political party as the chairman are tied for the longest
21 service, one of them shall be chosen by lot to make the
22 appointment. If the county board consists only of members of
23 the same political party, the county board shall appoint 2
24 non-lawyer members of the Judicial Retention Commission, but
25 those appointees may not both be affiliated with the same
26 political party. If there is a vacancy in a position for which

1 the original appointment was made under this subsection (d) and
2 the county board does not consist only of members of the same
3 political party, a successor non-lawyer member shall be
4 appointed by the same person who appointed the predecessor
5 non-lawyer member if that person's office and political party
6 affiliation have not changed since the predecessor non-lawyer
7 member was appointed. If that person's office or political
8 party affiliation have changed since the predecessor
9 non-lawyer member was appointed, the successor non-lawyer
10 member shall be appointed: (i) by the county board chairman if
11 the county board chairman is affiliated with the same political
12 party as the predecessor non-lawyer member; or (ii) otherwise
13 by the county board member with the longest service on the
14 county board as determined under this subsection (d) who is not
15 affiliated with the same political party as the chairman. If
16 there is a vacancy in a position for which the original
17 appointment was made under this subsection (d) and the county
18 board consists only of members of the same political party, the
19 county board shall appoint a successor non-lawyer member and
20 the member appointed may not be affiliated with the same
21 political party as the other non-lawyer member appointed under
22 this subsection (d).

23 (e) If a Circuit or a District is comprised of more than a
24 single county, the chairmen of the county boards within that
25 Circuit or District shall select 2 non-lawyer members of the
26 Judicial Retention Commission, but both of those appointees may

1 not be affiliated with the same political party. If there is a
2 vacancy in a position for which the original appointment was
3 made under this subsection (e), the vacancy shall be filled by
4 the county board chairmen, and the member appointed may not be
5 affiliated with the same political party as the other
6 non-lawyer member appointed under this subsection (e).

7 (f) If any official, group of officials, or body fails to
8 appoint a non-lawyer member to a Judicial Retention Commission
9 or fill a vacancy, the Supreme Court shall make the appointment
10 or fill the vacancy. When a Judge of the Supreme Court is
11 seeking retention, he or she shall not participate in the
12 appointment of any member of his or her District's Judicial
13 Retention Commission under this subsection (f) or under
14 subsection (h).

15 (g) For purposes of filling a non-lawyer vacancy on a
16 Judicial Retention Commission under this Section, the
17 political affiliation of the predecessor non-lawyer member
18 shall be deemed to be his or her political affiliation at the
19 time of his or her appointment.

20 (h) The lawyer members of each Judicial Retention
21 Commission shall be selected by secret ballot, without
22 political party or other designation, by the lawyers who are
23 admitted to practice in Illinois and who reside in the
24 appropriate District or Circuit, in a manner provided by
25 Supreme Court Rule. The lawyer members of the Judicial
26 Retention Commission shall be admitted to practice in Illinois

1 and reside in the appropriate District or Circuit. If an
2 inadequate number of lawyers is selected in the manner set
3 forth in this Section, the Supreme Court shall appoint the
4 other lawyer members. If there is a vacancy in a position for
5 which the original appointment was made under this subsection
6 (h), the currently eligible lawyer who was not selected in the
7 most recent election held under this subsection (h) in the
8 appropriate District or Circuit but who received more votes
9 than the other currently eligible lawyers who were not selected
10 shall be appointed; however, if no lawyer is eligible to fill a
11 vacancy in this manner, the Supreme Court shall appoint a
12 lawyer to fill the vacancy.

13 (i) To ensure racial diversity in any District or Circuit
14 where African-Americans, Asian-Americans, or
15 Hispanic-Americans exceed 3% of the population and are not
16 represented on a Judicial Retention Commission, the Supreme
17 Court shall appoint a lawyer-member from the listed racial
18 group that exceeds 3% of the population so that that group has
19 no less than one member on that Commission.

20 (j) The term of each member of a Judicial Retention
21 Commission shall begin 8 months before the general election in
22 each year in which a general election is held, and shall expire
23 on the first Monday in November of the same year. Appointments
24 and elections to a Judicial Retention Commission may not take
25 place earlier than 45 days before the term is to commence. A
26 member appointed to fill a vacancy shall serve for the

1 unexpired portion of the term.

2 (k) The chairman of each Judicial Retention Commission
3 shall be selected by its members.

4 (l) Any person who holds any office under the United States
5 or this State or any political subdivision or unit of local
6 government of this State and receives compensation for services
7 rendered in that office, or who holds any office or official
8 position in a political party, is ineligible to serve on a
9 Judicial Retention Commission. Compensation for service in the
10 State militia or the armed services of the United States for a
11 period of time as determined by Supreme Court Rule is not a
12 disqualification to service on a Judicial Retention
13 Commission.

14 (m) Members of a Judicial Retention Commission may not
15 serve consecutive terms on a Commission. No person may serve on
16 more than one Judicial Retention Commission at the same time.

17 (n) All members of a Judicial Retention Commission are
18 subject to ethics and economic disclosure requirements as
19 provided by law, and lawyer members are subject to campaign
20 financing disclosure requirements as provided by law.

21 (o) Not less than 10 months before the general election
22 next preceding the expiration of his or her term of office, a
23 Supreme, Appellate, or Circuit Judge who has been elected to
24 that office may file in the office of the Secretary of State a
25 declaration of candidacy for retention in that office. The
26 Secretary of State shall, within 14 days of receipt of the

1 declaration of candidacy, submit the Judge's name to the
2 Administrative Director of the Illinois Courts. The
3 Administrative Director of the Illinois Courts shall certify
4 the number of Judicial Retention Commissions that are
5 necessary. Not less than 7 and not more than 8 months before
6 the general election next preceding the expiration of the term
7 of office of the Judge, the Administrative Director of the
8 Illinois Courts shall notify the chairman of the appropriate
9 Judicial Retention Commission of the Judge's candidacy. The
10 chairman shall then promptly convene the Commission.

11 (p) A Judicial Retention Commission may conduct
12 investigations, meetings, and hearings, all of which may be
13 confidential, and employ staff members as may be necessary to
14 perform its duties. Each Commission shall determine its own
15 rules, which shall be broadly disseminated and at a minimum
16 shall contain provisions affording judges seeking retention
17 the opportunity to appear before it and, when it finds that a
18 Judge is not qualified to serve another term, an opportunity
19 for rehearing. Members of Commissions may not receive any
20 compensation for their services but are entitled to
21 reimbursement for necessary expenses. The General Assembly
22 shall appropriate funds to the Supreme Court for expense
23 reimbursement and for all other administrative expenses of the
24 Commissions.

25 (q) If, by concurrence of not less than three-fifths of its
26 members, the Commission finds the candidate to be qualified to

1 serve another term, the candidate shall be retained in office
2 for a full term commencing on the first Monday in December
3 following the general election. The standard for determining
4 qualifications to serve another term is that the person who by
5 his or her character, background, temperament, professional
6 aptitude, experience, and commitment to justice is deemed by
7 the Commission to be qualified to be retained in office. Each
8 qualified person may be considered for retention by a Judicial
9 Retention Commission free from discrimination on the basis of
10 race, color, creed, national ancestry, or sex.

11 (r) Not less than 84 days before the election, the
12 Commission shall prepare and submit to each candidate its
13 finding as to whether the Commission finds or fails to find
14 that the candidate is qualified to serve another term. Not less
15 than 77 days before the election, the Commission shall submit
16 to the Secretary of State a list stating by name which
17 candidates: (i) it has found qualified to serve another term;
18 (ii) it has found to be not qualified; and (iii) have withdrawn
19 their candidacy by written notification to the Commission.

20 (s) If a Judicial Retention Commission finds that a Judge
21 is not qualified for retention, the Judge has the right to be
22 informed of the reason or reasons for the finding. That judge
23 may stand for retention by the electorate at the general
24 election by filing in the office of the Secretary of State, not
25 less than 70 days before the election, a declaration of
26 candidacy for retention by the electorate. Not less than 63

1 days before the election, the Secretary of State shall certify
2 the Judge's candidacy to the proper election officials. When a
3 Judge files a declaration of candidacy for retention by the
4 electorate, the reason or reasons for the Commission's finding
5 that the Judge is not qualified for retention shall be made
6 public by the Commission. At the election, the name of each
7 Judge who has timely filed a declaration of candidacy for
8 retention by the electorate shall be submitted to the electors,
9 separately and without party designation, on the sole question
10 of retention in office for another term. Retention elections
11 shall be conducted at general elections in the appropriate
12 Judicial Districts and Circuits. The affirmative vote of
13 three-fifths of the electors on the question of retention shall
14 elect a Judge to that office for a full term commencing on the
15 first Monday in December following the election.

16 (t) A Judge eligible to file a declaration of candidacy for
17 retention who fails to do so within the time specified in this
18 Section, or having filed, fails of retention, shall vacate the
19 office on the first Monday in December following the election,
20 whether or not a successor is qualified. If an incumbent Judge,
21 eligible to do so, does not timely file a declaration of
22 candidacy for retention, the selection of a successor, if any,
23 shall proceed in the manner provided in Section 12.

24 (u) An authorized reduction in the number of Judges shall
25 be without prejudice to the right of Judges in office at the
26 time to seek retention in accordance with this Section. The

1 reduction shall become effective when a vacancy occurs in the
2 affected unit.

3 SCHEDULE

4 This Constitutional Amendment takes effect upon being
5 declared adopted in accordance with Section 7 of the Illinois
6 Constitutional Amendment Act.