**South Carolina General Assembly**

118th Session, 2009-2010

**H. 4151**

**STATUS INFORMATION**

Joint Resolution

Sponsors: Rep. Gunn

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Introduced in the House on June 16, 2009

Currently residing in the House Committee on **Judiciary**

Summary: Judges

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

6/16/2009 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2009\06-16-09.docx)‑72

6/16/2009 House Referred to Committee on **Judiciary** [HJ](file:///h:\HJ%20Archive\2009\06-16-09.docx)‑73

**VERSIONS OF THIS BILL**

[6/16/2009](file:///p:\pprever\2009-10\4151_20090616.docx)

**A** **JOINT RESOLUTION**

PROPOSING AN AMENDMENT TO ARTICLE V, SECTION 3 OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, SO AS TO PROVIDE MEMBERS OF THE SUPREME COURT MUST BE APPOINTED BY THE GOVERNOR AND CONFIRMED BY THE HOUSE JUDICIARY COMMITTEE AND SENATE JUDICIARY COMMITTEE; PROPOSING AN AMENDMENT TO ARTICLE V, SECTION 8 SO AS TO PROVIDE JUDGES OF THE COURT OF APPEALS MUST BE APPOINTED BY THE GOVERNOR AND CONFIRMED BY THE HOUSE JUDICIARY COMMITTEE AND SENATE JUDICIARY COMMITTEE; PROPOSING AN AMENDMENT TO ARTICLE V, SECTION 13 SO AS TO PROVIDE CIRCUIT COURT JUDGES MUST BE APPOINTED BY THE GOVERNOR AND CONFIRMED BY THE HOUSE JUDICIARY COMMITTEE AND SENATE JUDICIARY COMMITTEE; AND PROPOSING AN AMENDMENT TO ARTICLE V, SECTION 27 SO AS TO PROVIDE THE GOVERNOR MUST APPOINT JUDGES AND JUSTICES FROM AMONG THE NOMINEES OF THE JUDICIAL MERIT SELECTION COMMISSION AND THAT THE COMMISSION MUST NOMINATE ALL QUALIFIED CANDIDATES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. It is proposed that Article V, Section 3 of the Constitution of this State be amended to read:

“Section 3. The members of the Supreme Court ~~shall be elected by a joint public vote of the General Assembly~~ must be appointed by the Governor and confirmed by a two‑thirds majority of the House Judiciary Committee and the Senate Judiciary Committee for a term of ten years, and shall continue in office until their successors shall be elected and qualified, and shall be classified so that the term of one of them shall expire every two years. In any contested election, the vote of each member of the General Assembly present and voting shall be recorded.”

SECTION 2. The proposed amendment in Section 1 of this joint resolution must be submitted to the qualified electors at the next general election for representatives. Ballots must be provided at the various voting precincts with the following words printed or written on the ballot:

“Must Article V, Section 3 of the Constitution of this State be amended so as to provide the members of the Supreme Court be appointed by the Governor and confirmed by a two‑thirds majority of the House Judiciary Committee and the Senate Judiciary Committee rather than elected by the General Assembly?

Yes 

No 

Those voting in favor of the question shall deposit a ballot with a check or cross mark in the square after the word ‘Yes’, and those voting against the question shall deposit a ballot with a check or cross mark in the square after the word ‘No’.”

SECTION 3. It is proposed that Article V, Section 8 of the Constitution of this State be amended to read:

“Section 8. The members of the Court of Appeals ~~shall be elected by a joint public vote of the General Assembly~~ must be appointed by the Governor and confirmed by a two‑thirds majority of the House Judiciary Committee and the Senate Judiciary Committee for a term of six years and shall continue in office until their successors shall be elected and ~~qualify~~ qualified. In any contested election, the vote of each member of the General Assembly present and voting shall be recorded. Provided, that for the first election of members of the Court of Appeals, the General Assembly shall by law provide for staggered terms.”

SECTION 4. The proposed amendment in Section 3 of this joint resolution must be submitted to the qualified electors at the next general election for representatives. Ballots must be provided at the various voting precincts with the following words printed or written on the ballot:

“Must Article V, Section 8 of the Constitution of this State be amended so as to provide members of the Court of Appeals be appointed by the Governor and confirmed by a two‑thirds majority of the House Judiciary Committee and the Senate Judiciary Committee rather than elected by the General Assembly?

Yes 

No 

Those voting in favor of the question shall deposit a ballot with a check or cross mark in the square after the word ‘Yes’, and those voting against the question shall deposit a ballot with a check or cross mark in the square after the word ‘No’.”

SECTION 5. It is proposed that Article V, Section 13 of the Constitution of this State be amended to read:

“Section 13. The General Assembly shall divide the State into judicial circuits of compact and contiguous territory. For each circuit a judge or judges ~~shall be elected by a joint public vote of the General Assembly; provided, that in any contested election, the vote of each member of the General Assembly present and voting shall be recorded~~ must be appointed by the Governor and confirmed by a two‑thirds majority of the House Judiciary Committee and the Senate Judiciary Committee. He shall hold office for a term of six years, and at the time of his election he shall be an elector of a county of, and during his continuance in office he shall reside in, the circuit of which he is judge.

The General Assembly may by law provide for additional circuit judges, to be assigned by the Chief Justice. Such additional circuit judges shall be elected in the same manner and for the same term as provided in the preceding paragraph of this section for other circuit judges, except that residence in a particular county or circuit shall not be a qualification for office.”

SECTION 6. The proposed amendment in Section 5 of this joint resolution must be submitted to the qualified electors at the next general election for representatives. Ballots must be provided at the various voting precincts with the following words printed or written on the ballot:

“Must Article V, Section 13 of the Constitution of this State be amended so as to provide each circuit court judge be appointed by the Governor and confirmed by a two‑thirds majority of the House Judiciary Committee and the Senate Judiciary Committee rather than elected by the General Assembly?

Yes 

No 

Those voting in favor of the question shall deposit a ballot with a check or cross mark in the square after the word ‘Yes’, and those voting against the question shall deposit a ballot with a check or cross mark in the square after the word ‘No’.”

SECTION 7. It is proposed that Article V, Section 27 of the Constitution of this State be amended to read:

“Section 27. In addition to the qualifications for circuit court and court of appeals judges and Supreme Court justices contained in this article, the General Assembly by law shall establish a Judicial Merit Selection Commission to consider the qualifications and fitness of candidates for all judicial positions on these courts and on other courts of this State which are filled by ~~election of the General Assembly~~ appointment by the Governor and confirmed by a two‑thirds majority of the House Judiciary Committee and the Senate Judiciary Committee. The ~~General Assembly~~ Governor must ~~elect~~ appoint the judges and justices from among the nominees of the commission to fill a vacancy on these courts. The commission must nominate all candidates it finds qualified for the office sought.

No person may be elected to these judicial positions unless he or she has been found qualified by the commission. Before a sitting member of the General Assembly may submit an application with the commission for his nomination to a judicial office, and before the commission may accept or consider such an application, the member of the General Assembly must first resign his office and have been out of office for a period established by law. Before a member of the commission may submit an application with the commission for his nomination to a judicial office, and before the commission may accept or consider such an application, the member of the commission must not have been a member of the commission for a period to be established by law.”

SECTION 8. The proposed amendment in Section 7 of this joint resolution must be submitted to the qualified electors at the next general election for representatives. Ballots must be provided at the various voting precincts with the following words printed or written on the ballot:

“Must Article V, Article 27 of the Constitution of this State be amended so as to provide judges and justices must be appointed by the Governor and confirmed by a two‑thirds majority of the House Judiciary Committee and the Senate Judiciary Committee rather than elected by the General Assembly and that the Judicial Merit Selection Commission must nominate all candidates it finds qualified for the office sought?

Yes 

No 

Those voting in favor of the question shall deposit a ballot with a check or cross mark in the square after the word ‘Yes’, and those voting against the question shall deposit a ballot with a check or cross mark in the square after the word ‘No’.”

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