

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 123

Session of
1985

INTRODUCED BY FRYER, GALLEN, DeLUCA, GAMBLE, A. C. FOSTER, JR.,
SALOOM, LIVENGOD AND PETRARCA, JANUARY 29, 1985

REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 29, 1985

A JOINT RESOLUTION

1 Proposing an amendment to the Constitution of the Commonwealth
2 of Pennsylvania, eliminating judicial retention of judges of
3 courts of common pleas; and forbidding Supreme Court rules or
4 canons from inhibiting judicial expression of opinions on
5 legal and political issues.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby resolves as follows:

8 Section 1. The following amendment to the Constitution of
9 Pennsylvania is proposed in accordance with Article XI:

10 That sections 13(c), 15 and 17(b) of Article V be amended to
11 read:

12 § 13. Election of justices, judges and justices of the peace;
13 vacancies.

14 * * *

15 (c) The provisions of section 13(b) shall not apply either
16 in the case of a vacancy to be filled by retention election as
17 provided in section 15(b), or in the case of a vacancy created
18 by failure of a justice or judge of an appellate court to file a
19 declaration for retention election as provided in section 15(b).

1 In the case of a vacancy occurring at the expiration of an
2 appointive term under section 13(b), the vacancy shall be filled
3 by election as provided in section 13(a).

4 * * *

5 § 15. Tenure of justices, judges and justices of the peace.

6 (a) The regular term of office of justices and judges shall
7 be ten years and the regular term of office for judges of the
8 municipal court and traffic court in the City of Philadelphia
9 and of justices of the peace shall be six years. The tenure of
10 any justice or judge shall not be affected by changes in
11 judicial districts or by reduction in the number of judges.

12 (b) A justice or judge of an appellate court elected under
13 section 13(a), appointed under section 13(d) or retained under
14 this section 15(b) may file a declaration of candidacy for
15 retention election with the officer of the Commonwealth who
16 under law shall have supervision over elections on or before the
17 first Monday of January of the year preceding the year in which
18 his term of office expires. If no declaration is filed, a
19 vacancy shall exist upon the expiration of the term of office of
20 such justice or judge, to be filled by election under section
21 13(a) or by appointment under section 13(d) if applicable. If a
22 justice or judge of an appellate court files a declaration, his
23 name shall be submitted to the electors without party
24 designation, on a separate judicial ballot or in a separate
25 column on voting machines, at the municipal election immediately
26 preceding the expiration of the term of office of the justice or
27 judge, to determine only the question whether he shall be
28 retained in office. If a majority is against retention, a
29 vacancy shall exist upon the expiration of his term of office,
30 to be filled by appointment under section 13(b) or under section

1 13(d) if applicable. If a majority favors retention, the justice
2 or judge shall serve for the regular term of office provided
3 herein, unless sooner removed or retired. At the expiration of
4 each term a justice or judge of an appellate court shall be
5 eligible for retention as provided herein, subject only to the
6 retirement provisions of this article.

7 § 17. Prohibited activities.

8 * * *

9 (b) Justices and judges shall not engage in any activity
10 prohibited by law and shall not violate any canon of legal or
11 judicial ethics prescribed by the Supreme Court. Justices of the
12 peace shall be governed by rules or canons which shall be
13 prescribed by the Supreme Court. However, no rule or canon shall
14 prohibit or restrict any justice, judge or justice of the peace
15 from expressing an opinion on a legal or political issue.

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