

## A JOINT RESOLUTION

1 Proposing integrated amendments to the Constitution of the  
2 Commonwealth of Pennsylvania, changing and adding provisions  
3 relating to selection of justices and judges.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby resolves as follows:

6 Section 1. The following integrated amendments to the  
7 Constitution of Pennsylvania are proposed in accordance with  
8 Article XI:

9 (1) That section 8(b) of Article IV be amended to read:

10 § 8. Appointing power.

11 \* \* \*

12 (b) [The] Except as provided in Article V, the Governor  
13 shall fill vacancies in offices to which he appoints by  
14 nominating to the Senate a proper person to fill the vacancy  
15 within 90 days of the first day of the vacancy and not  
16 thereafter. The Senate shall act on each executive nomination  
17 within 25 legislative days of its submission. If the Senate has

1 not voted upon a nomination within 15 legislative days following  
2 such submission, any five members of the Senate may, in writing,  
3 request the presiding officer of the Senate to place the  
4 nomination before the entire Senate body whereby the nomination  
5 must be voted upon prior to the expiration of five legislative  
6 days or 25 legislative days following submission by the  
7 Governor, whichever occurs first. If the nomination is made  
8 during a recess or after adjournment sine die, the Senate shall  
9 act upon it within 25 legislative days after its return or  
10 reconvening. If the Senate for any reason fails to act upon a  
11 nomination submitted to it within the required 25 legislative  
12 days, the nominee shall take office as if the appointment had  
13 been consented to by the Senate. [The] Except as provided in  
14 Article V, the Governor shall in a similar manner fill vacancies  
15 in the offices of Auditor General, State Treasurer, [justice,  
16 judge, justice of the peace] judge, magisterial district judge  
17 and in any other elective office he is authorized to fill. In  
18 the case of a vacancy in an elective office, a person shall be  
19 elected to the office on the next election day appropriate to  
20 the office unless the first day of the vacancy is within two  
21 calendar months immediately preceding the election day in which  
22 case the election shall be held on the second succeeding  
23 election day appropriate to the office.

24 \* \* \*

25 (2) That section 13 of Article V be amended to read:

26 § 13. [Election] Selection of justices, judges and [justices of  
27 the peace] magisterial district judges; vacancies.

28 (a) [Justices, judges] Judges, other than judges of the  
29 Superior Court and the Commonwealth Court, and [justices of the  
30 peace] magisterial district judges shall be elected at the

1 municipal election next preceding the commencement of their  
2 respective terms of office by the electors of the [Commonwealth  
3 or the] respective districts in which they are to serve.

4 (b) A vacancy in the office of [justice, judge or justice of  
5 the peace] judge, other than judge of the Superior Court and the  
6 Commonwealth Court, or magisterial district judge shall be  
7 filled by appointment by the Governor. The appointment shall be  
8 with the advice and consent of two-thirds of the members elected  
9 to the Senate, except in the case of [justices of the peace]  
10 magisterial district judges which shall be by a majority. The  
11 person so appointed shall serve for a term ending on the first  
12 Monday of January following the next municipal election more  
13 than ten months after the vacancy occurs or for the remainder of  
14 the unexpired term whichever is less. [, except in the case of  
15 persons selected as additional judges to the Superior Court,  
16 where the General Assembly may stagger and fix the length of the  
17 initial terms of such additional judges by reference to any of  
18 the first, second and third municipal elections more than ten  
19 months after the additional judges are selected.] The manner by  
20 which any additional judges are selected shall be provided by  
21 this section for the filling of vacancies in judicial offices.

22 (b.1) (1) The Governor shall appoint each justice of the  
23 Supreme Court and judge of the Superior Court and the  
24 Commonwealth Court to the initial term of that justice or judge.  
25 The Governor shall nominate to the Senate individuals for  
26 appointment exclusively from the list of individuals recommended  
27 for appointment by the Appellate Court Nominating Commission  
28 described under section 14(a), and the appointment shall be with  
29 the advice and consent of a majority of the members elected to  
30 the Senate. Within 30 days after receiving a list of

1 recommendations from the commission, the Governor shall nominate  
2 to the Senate one person from the list to fill the vacancy for  
3 which the list was submitted. The Senate shall act on each  
4 nomination of a justice of the Supreme Court or judge of the  
5 Superior Court and the Commonwealth Court within 15 legislative  
6 days after receiving the nomination from the Governor and shall  
7 notify the Governor of the action it took within 24 hours of  
8 taking it. If the nomination is made during a recess or after  
9 adjournment sine die, the Senate shall act upon it within 15  
10 legislative days after its return or reconvening and notify the  
11 Governor as provided in this subsection.

12 (2) If the Senate fails to act upon a nomination submitted  
13 to it within the required number of legislative days after  
14 submission by the Governor, the nominee shall take office as if  
15 the appointment had been consented to by the Senate. The  
16 Governor shall make a substitute nomination from the  
17 commission's list within 30 days after receiving notification  
18 from the Senate of the rejection of a prior nominee, and the  
19 Senate shall act upon the nomination in the manner prescribed in  
20 this subsection. If the Senate rejects a total of three  
21 nominations made for a specific vacancy, the commission shall  
22 appoint any other person on the list and the appointee shall  
23 take office upon notification of the appointment by the  
24 commission and neither the Governor nor the Senate shall  
25 participate further in the appointment process for that vacancy.

26 (b.2) A vacancy in the office of justice of the Supreme  
27 Court or judge of the Superior Court or the Commonwealth Court  
28 shall be filled by the procedure provided in section 13(b.1)(1).  
29 Additional judges to the Superior Court or the Commonwealth  
30 Court shall be selected as provided in section 13(b.1)(1).

1 (c) The provisions of section 13(b) and (b.2) shall not  
2 apply [either] in the case of a vacancy to be filled by  
3 retention election as provided in section 15(b) [, or]. Section  
4 13(b) shall not apply in the case of a vacancy created by  
5 failure of a [justice or] judge to file a declaration for  
6 retention election as provided in section 15(b). In the case of  
7 a vacancy occurring at the expiration of an appointive term  
8 under section 13(b), the vacancy shall be filled by election as  
9 provided in section 13(a).

10 [(d) At the primary election in 1969, the electors of the  
11 Commonwealth may elect to have the justices and judges of the  
12 Supreme, Superior, Commonwealth and all other statewide courts  
13 appointed by the Governor from a list of persons qualified for  
14 the offices submitted to him by the Judicial Qualifications  
15 Commission. If a majority vote of those voting on the question  
16 is in favor of this method of appointment, then whenever any  
17 vacancy occurs thereafter for any reason in such court, the  
18 Governor shall fill the vacancy by appointment in the manner  
19 prescribed in this subsection. Such appointment shall not  
20 require the consent of the Senate.]

21 (e) Each justice or judge of the Superior Court or the  
22 Commonwealth Court appointed by the Governor under section  
23 [13(d)] 13(b.1) or (b.2) shall hold office for an initial term  
24 ending the first Monday of January following the next municipal  
25 election more than [24] 48 months following the appointment.

26 (3) That section 14 of Article V be amended to read:  
27 § 14. [Judicial Qualifications] Appellate Court Nominating  
28 Commission.

29 [(a) Should the method of judicial selection be adopted as  
30 provided in section 13 (d), there shall be a Judicial

1 Qualifications Commission, composed of four non-lawyer electors  
2 appointed by the Governor and three non-judge members of the bar  
3 of the Supreme Court appointed by the Supreme Court. No more  
4 than four members shall be of the same political party. The  
5 members of the commission shall serve for terms of seven years,  
6 with one member being selected each year. The commission shall  
7 consider all names submitted to it and recommend to the Governor  
8 not fewer than ten nor more than 20 of those qualified for each  
9 vacancy to be filled.

10 (b) During his term, no member shall hold a public office or  
11 public appointment for which he receives compensation, nor shall  
12 he hold office in a political party or political organization.

13 (c) A vacancy on the commission shall be filled by the  
14 appointing authority for the balance of the term.]

15 (a) There shall be established an independent commission  
16 within the Executive Department known as the Appellate Court  
17 Nominating Commission. The commission shall consist of 15  
18 Pennsylvania residents who are 18 years of age or older. Seven  
19 members shall be public members who shall be selected as  
20 provided by law. Four members shall be appointed by the Governor  
21 and four members shall be appointed by the General Assembly. The  
22 members appointed by the General Assembly shall be appointed as  
23 follows: one each shall be appointed by the President pro  
24 tempore of the Senate, the Minority Leader of the Senate, the  
25 Speaker of the House of Representatives and the Minority Leader  
26 of the House of Representatives.

27 (b) The General Assembly shall provide for the nomination of  
28 public members by groups located in this Commonwealth. No one  
29 holding elective or appointive public office, or designees or  
30 appointees of anyone holding elective or appointive public

1 office, may participate in the nomination or appointment of  
2 public members, except that the Secretary of the Commonwealth  
3 may be designated to facilitate the process of nominating and  
4 appointing public members.

5 (c) (1) Each of the members appointed by the General  
6 Assembly shall be members of the bar of the Supreme Court who  
7 are not justices, judges or magisterial district judges. The  
8 members appointed under this paragraph shall be residents of at  
9 least four different counties at the time of appointment and  
10 during their terms. If a member becomes a resident of a county  
11 of that of another member appointed by the General Assembly, the  
12 member shall forfeit his or her membership and the General  
13 Assembly shall appoint another member under this section.

14 (2) The members appointed by the Governor shall not be  
15 attorneys licensed to practice law in any state and shall not be  
16 justices, judges or magisterial district judges. The members  
17 appointed under this paragraph shall be residents of at least  
18 four different counties at the time of appointment and during  
19 their terms. If a member becomes a resident of a county of that  
20 of another member appointed by the Governor, the member shall  
21 forfeit his or her membership and the Governor shall appoint  
22 another member under this section. No more than two of the  
23 members appointed by the Governor may be registered in the same  
24 political party.

25 (d) Each member of the commission shall have been a resident  
26 of this Commonwealth for one year prior to that member's  
27 appointment and shall reside in this Commonwealth during that  
28 member's term. In making appointments to the commission, each  
29 nominating or appointing authority shall take into consideration  
30 that the commission should include men and women as well as

1 individuals who come from racially and ethnically diverse  
2 backgrounds and who reflect the geographic diversity of this  
3 Commonwealth.

4 (e) Except for the initial members of the commission, whose  
5 terms shall be provided by law, each member shall be appointed  
6 for a four-year term. Each member shall serve only until the end  
7 of that member's term. A member who has served a full term shall  
8 not be permitted to serve on the commission until four years  
9 have elapsed from the end of that member's term. An appointment  
10 of two years or less, whether by initial appointment or by  
11 appointment to fill an unexpired term, shall not be deemed a  
12 full term. A vacancy shall be filled for the remainder of the  
13 term to which the member was appointed in the same manner as the  
14 vacating member was appointed, except that the General Assembly  
15 may provide for a different manner for filling the vacancy of a  
16 public member.

17 (f) No member, during the member's term, may hold office in  
18 any political party or political organization or hold elected or  
19 appointed public office, compensated or uncompensated, except  
20 that members may serve as part-time solicitors to political  
21 subdivisions. Neither any employee of the unified judicial  
22 system nor any lobbyist may be eligible for appointment to the  
23 commission. Members shall not be compensated for their services  
24 as members of the commission, but shall be reimbursed for  
25 expenses necessarily incurred in the discharge of their official  
26 duties in accordance with Commonwealth policy in effect for the  
27 Executive Department. Members of the General Assembly shall not  
28 be eligible for appointment to the commission for a period of  
29 one year following their service in the General Assembly.  
30 Members of the Judiciary shall not be eligible for appointment

1 to the commission for a period of one year following their  
2 service on the Judiciary. Governors and Lieutenant Governors  
3 shall not be eligible for appointment to the commission for a  
4 period of one year following their service as Governor or  
5 Lieutenant Governor.

6 (g) The General Assembly may provide for additional  
7 qualifications of members of the commission, not inconsistent  
8 with this article, as it deems appropriate in furthering the  
9 purposes of this article.

10 (h) Whenever a vacancy occurs in the office of justice of  
11 the Supreme Court or judge of the Superior Court or the  
12 Commonwealth Court, the commission shall publicly announce the  
13 vacancy and solicit applications. When it is known that a  
14 vacancy on the Supreme Court, the Superior Court or the  
15 Commonwealth Court will occur in the future on a date certain,  
16 the selection process shall begin no later than 90 days prior to  
17 that date. From the applications received, the commission shall  
18 agree, by the affirmative votes from at least eight of the  
19 members, on a list of five individuals most qualified to hold  
20 the office and shall submit the list to the Governor. Only one  
21 list may be supplied by the commission for each vacancy. In  
22 making their selection, the members shall consider each  
23 applicant's qualifications and each person whose name is  
24 submitted to the Governor shall:

25 (i) be a licensed member of the bar of the Supreme Court in  
26 good standing;

27 (ii) have practiced law, served as a judge of a Federal  
28 court, served on a court or courts of record of this  
29 Commonwealth or been engaged in a law-related occupation for an  
30 aggregate of at least ten years prior to the date of the

1 nomination; and

2 (iii) have demonstrated integrity, judicial temperament,  
3 professional competence and experience and commitment to the  
4 community.

5 The commission shall consider that each of the appellate courts  
6 should include both men and women who come from racially and  
7 ethnically diverse backgrounds and who reflect the geographic  
8 diversity of this Commonwealth.

9 (i) The General Assembly may provide for other procedural  
10 provisions relating to the nomination of justices and judges,  
11 not inconsistent with this article, as it may deem necessary to  
12 carry out the purposes of this article.

13 (j) The commission shall be provided with staff and its  
14 budget administered as provided by law. The budget request for  
15 the commission shall be made as a separate item in the  
16 Governor's budget submitted pursuant to section 12(a) of Article  
17 VII.

18 (4) That section 15 of Article V be amended to read:

19 § 15. Tenure of justices, judges and [justices of the peace]  
20 magisterial district judges.

21 (a) [The] Except as provided in section 13(e), the regular  
22 term of office of justices and judges shall be ten years and the  
23 regular term of office for judges of the municipal court and  
24 traffic court in the City of Philadelphia and of [justices of  
25 the peace] magisterial district judges shall be six years. The  
26 tenure of any justice or judge shall not be affected by changes  
27 in judicial districts or by reduction in the number of judges.

28 (b) A justice or judge [elected under section 13(a),] of the  
29 Superior Court or the Commonwealth Court appointed under section  
30 [13(d)] 13(b.1) or (b.2) or retained under this section 15(b) or

1 a judge elected under section 13(a) or retained under this  
2 section 15(b) may file a declaration of candidacy for retention  
3 election with the officer of the Commonwealth who under law  
4 shall have supervision over elections on or before the first  
5 Monday of January of the year preceding the year in which [his]  
6 the term of office of the justice or judge expires. If no  
7 declaration is filed, a vacancy shall exist upon the expiration  
8 of the term of office of such justice or judge, to be filled by  
9 [election under section 13(a) or by appointment under section  
10 13(d) if applicable] appointment under section 13(b.1) or by  
11 election under section 13(a). If a justice or judge files a  
12 declaration, [his name] the name of the justice or judge shall  
13 be submitted to the electors without party designation, on a  
14 separate judicial ballot or in a separate column on voting  
15 machines, at the municipal election immediately preceding the  
16 expiration of the term of office of the justice or judge, to  
17 determine only the question whether [he] the justice or judge  
18 shall be retained in office. If a majority is against retention,  
19 a vacancy shall exist upon the expiration of [his] the term of  
20 office of that justice or judge, to be filled by appointment  
21 under section 13(b) or [under section 13(d) if applicable]  
22 (b.2). If a majority favors retention, the justice or judge  
23 shall serve for the regular term of office provided herein,  
24 unless sooner removed or retired. At the expiration of each term  
25 a justice or judge shall be eligible for retention as provided  
26 herein, subject only to the retirement provisions of this  
27 article.

28 Section 2. (a) Upon the first passage by the General  
29 Assembly of these proposed constitutional amendments, the  
30 Secretary of the Commonwealth shall proceed immediately to

1 comply with the advertising requirements of section 1 of Article  
2 XI of the Constitution of Pennsylvania and shall transmit the  
3 required advertisements to two newspapers in every county in  
4 which such newspapers are published in sufficient time after  
5 passage of these proposed constitutional amendments.

6 (b) Upon the second passage by the General Assembly of these  
7 proposed constitutional amendments, the Secretary of the  
8 Commonwealth shall proceed immediately to comply with the  
9 advertising requirements of section 1 of Article XI of the  
10 Constitution of Pennsylvania and shall transmit the required  
11 advertisements to two newspapers in every county in which such  
12 newspapers are published in sufficient time after passage of  
13 these proposed constitutional amendments. The Secretary of the  
14 Commonwealth shall submit the proposed constitutional amendments  
15 under section 1 to the qualified electors of this Commonwealth  
16 as a single ballot question at the first primary, general or  
17 municipal election which meets the requirements of and is in  
18 conformance with section 1 of Article XI of the Constitution of  
19 Pennsylvania and which occurs at least three months after the  
20 proposed constitutional amendments are passed by the General  
21 Assembly.