

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## SENATE BILL

No. 3

Session of  
2001

INTRODUCED BY JUBELIRER, PICCOLA, LEMMOND, CONTI, MOWERY,  
WENGER, SCHWARTZ, M. WHITE, THOMPSON, TILGHMAN, HOLL AND  
BRIGHTBILL, MARCH 27, 2001

REFERRED TO JUDICIARY, MARCH 27, 2001

## A JOINT RESOLUTION

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

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

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

8 (1) That sections 12, 13, 14 and 15 of Article V be amended  
9 to read:

10 § 12. Qualifications of justices, judges and justices of the  
11 peace.

12 (a) Justices, judges and justices of the peace shall be  
13 citizens of [the] this Commonwealth. Justices and judges, except  
14 the judges of the traffic court in the City of Philadelphia,  
15 shall be members of the bar of the Supreme Court. Justices and  
16 judges of statewide courts, for a period of one year preceding  
17 their [election or] appointment and during their continuance in

1 office, shall reside within [the] this Commonwealth. Other  
2 judges and justices of the peace, for a period of one year  
3 preceding their election or appointment and during their  
4 continuance in office, shall reside within their respective  
5 districts, except as provided in this article for temporary  
6 assignments.

7 (b) Judges of the traffic court in the City of Philadelphia  
8 and justices of the peace shall be members of the bar of the  
9 Supreme Court or shall complete a course of training and  
10 instruction in the duties of their respective offices and pass  
11 an examination prior to assuming office. Such courses and  
12 examinations shall be as provided by law.

13 § 13. [Election] Selection of justices, judges and justices of  
14 the peace; vacancies.

15 (a) [Justices, judges] Justices of the Supreme Court and  
16 judges of the Superior Court and the Commonwealth Court shall be  
17 appointed to their initial term by the Governor, with the advice  
18 and consent of a majority of the members elected to the Senate.  
19 Within 30 days after receipt of a list submitted by the Judicial  
20 Nominating Commission, the Governor shall nominate one person  
21 for each vacancy for which a list of recommendations has been  
22 submitted. The Senate shall act on each nomination within 25  
23 legislative days of its submission. If the Senate has not voted  
24 upon a nomination within 15 legislative days following such  
25 submission, any five members of the Senate may in writing  
26 request the presiding officer of the Senate to place the  
27 nomination before the entire Senate whereby the nomination must  
28 be voted upon prior to the expiration of five legislative days  
29 or 25 legislative days following submission by the Governor,  
30 whichever occurs first. If the nomination is made during a

1 recess or after adjournment sine die, the Senate shall act upon  
2 such nomination within 25 legislative days after its return or  
3 reconvening. If the Senate for any reason fails to act upon a  
4 nomination submitted to it within the required 25 legislative  
5 days, the nominee shall take office as if the appointment had  
6 been consented to by the Senate. The Governor shall make a  
7 substitute nomination from the list within 30 days after  
8 receiving notification from the Senate of the rejection of a  
9 prior nominee. If the Senate rejects each person on the list,  
10 the Judicial Nominating Commission shall prepare and submit to  
11 the Governor a new list of three persons per remaining vacancy.  
12 Selection by the Governor and confirmation by the Senate shall  
13 proceed as prescribed in this subsection until one nominee is  
14 confirmed.

15 (b) A vacancy in the office of justice of the Supreme Court  
16 or judge of the Superior Court or the Commonwealth Court shall  
17 be filled by the procedure provided in section 13(a).

18 (c) Judges, other than judges of the Superior Court and the  
19 Commonwealth Court, and justices of the peace shall be elected  
20 at the municipal election next preceding the commencement of  
21 their respective terms of office by the electors of the  
22 [Commonwealth or the] respective districts in which they are to  
23 serve.

24 [(b)] (d) A vacancy in the office of [justice,] judge, other  
25 than judge of the Superior Court or the Commonwealth Court, or  
26 justice of the peace shall be filled by appointment by the  
27 Governor. The appointment shall be with the advice and consent  
28 of two-thirds of the members elected to the Senate, except in  
29 the case of justices of the peace which shall be by a majority.  
30 The person so appointed shall serve for a term ending on the

1 first Monday of January following the next municipal election  
2 more than ten months after the vacancy occurs or for the  
3 remainder of the unexpired term whichever is less[, except in  
4 the case of persons selected as additional judges to the  
5 Superior Court, where the General Assembly may stagger and fix  
6 the length of the initial terms of such additional judges by  
7 reference to any of the first, second and third municipal  
8 elections more than ten months after the additional judges are  
9 selected]. The manner by which any additional judges are  
10 selected shall be provided by section 13(b) and this section for  
11 the filling of vacancies in judicial offices.

12 [(c)] (e) The provisions of section 13(b) and (d) shall not  
13 apply [either] in the case of a vacancy to be filled by  
14 retention election as provided in section 15(b)[, or]. Section  
15 13(d) shall not apply in the case of a vacancy created by  
16 failure of a [justice or] judge to file a declaration for  
17 retention election as provided in section 15(b). In the case of  
18 a vacancy occurring at the expiration of an appointive term  
19 under section [13(b)] 13(d), the vacancy shall be filled by  
20 election as provided in section [13(a)] 13(c).

21 [(d) At the primary election in 1969, the electors of the  
22 Commonwealth may elect to have the justices and judges of the  
23 Supreme, Superior, Commonwealth and all other statewide courts  
24 appointed by the Governor from a list of persons qualified for  
25 the offices submitted to him by the Judicial Qualifications  
26 Commission. If a majority vote of those voting on the question  
27 is in favor of this method of appointment, then whenever any  
28 vacancy occurs thereafter for any reason in such court, the  
29 Governor shall fill the vacancy by appointment in the manner  
30 prescribed in this subsection. Such appointment shall not

1 require the consent of the Senate.

2 (e)] (f) Each justice or judge of the Superior Court or  
3 Commonwealth Court appointed by the Governor under section  
4 [13(d)] 13(a) or (b) shall hold office for an initial term  
5 ending the first Monday of January following the next municipal  
6 election more than [24] 48 months following the appointment.

7 [§ 14. Judicial Qualifications Commission.

8 (a) Should the method of judicial selection be adopted as  
9 provided in section 13 (d), there shall be a Judicial  
10 Qualifications Commission, composed of four non-lawyer electors  
11 appointed by the Governor and three non-judge members of the bar  
12 of the Supreme Court appointed by the Supreme Court. No more  
13 than four members shall be of the same political party. The  
14 members of the commission shall serve for terms of seven years,  
15 with one member being selected each year. The commission shall  
16 consider all names submitted to it and recommend to the Governor  
17 not fewer than ten nor more than 20 of those qualified for each  
18 vacancy to be filled.

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

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

24 § 14. Judicial Nominating Commission.

25 (a) There shall be a Judicial Nominating Commission, which  
26 shall evaluate the qualifications of applicants for appointment  
27 to the office of justice of the Supreme Court or judge of the  
28 Superior Court or the Commonwealth Court.

29 (b) The commission shall consist of 16 Commonwealth  
30 residents, of whom eight shall be appointed by the Governor and

1 two each by the President pro tempore of the Senate, the Speaker  
2 of the House of Representatives, the Minority Leader of the  
3 Senate and the Minority Leader of the House of Representatives.  
4 Of the eight members appointed by the Governor, four shall be  
5 lawyers who are members of the bar of the Supreme Court and four  
6 shall be non-lawyer electors. Included in the four lawyers, the  
7 Governor shall have the option of selecting no more than two  
8 active judges of the courts of common pleas. No more than four  
9 of the members appointed by the Governor shall be enrolled in  
10 the same political party. One of the two members appointed by  
11 the President pro tempore of the Senate, the Speaker of the  
12 House of Representatives, the Minority Leader of the Senate and  
13 the Minority Leader of the House of Representatives shall be a  
14 non-judge member of the bar of the Supreme Court and the other  
15 shall be a non-lawyer elector. The commission should include men  
16 and women and should reflect the geographical, ethnic and racial  
17 diversity of this Commonwealth.

18 (c) Except for the initial appointees, whose terms shall be  
19 provided by the schedule to this article, each member shall  
20 serve for a term of four years. All members must be residents of  
21 this Commonwealth. Each member shall serve only until the end of  
22 that member's term. A vacancy shall be filled by the respective  
23 appointing authority for the remainder of the term to which the  
24 member was appointed. Except for the initial appointees and  
25 members who have been appointed to fill a vacancy, each of whom  
26 may be reappointed to one four-year term, no member may serve  
27 more than four consecutive years but may be reappointed after a  
28 lapse of one year. The Governor shall convene the commission for  
29 its first meeting. At that meeting and annually thereafter, the  
30 members of the commission shall elect a chairperson.

1     (d) Members of the commission, not including judicial  
2 appointments by the Governor, shall not hold office in a  
3 political party or political organization or hold a compensated  
4 public office or public appointment, except that members may  
5 serve as part-time solicitors to units of local government. No  
6 member of the commission shall be recommended to the Governor  
7 for appointment to any statewide court during the term for which  
8 the member has been appointed and for a period of two years  
9 thereafter.

10    (e) Adequate funds for the operation of the commission, and  
11 for staff as needed, shall be appropriated by the General  
12 Assembly. All members shall be reimbursed for expenses  
13 necessarily incurred in the discharge of their official duties.

14    (f) The commission shall establish its own rules of  
15 procedure and shall have the power to issue subpoenas to compel  
16 testimony under oath of witnesses concerning the qualifications  
17 of any applicant for judicial office within the jurisdiction of  
18 the commission. The commission shall prescribe general rules  
19 governing the conduct of members. A member may be removed by the  
20 commission for a violation of the rules governing the conduct of  
21 members. Materials filed with the commission shall not be public  
22 information, and all proceedings of the commission shall be  
23 confidential.

24    (g) Whenever a vacancy occurs in the office of justice of  
25 the Supreme Court or judge of the Superior Court or the  
26 Commonwealth Court, the commission shall publicly advertise such  
27 vacancy and solicit applications. When it is known that a  
28 vacancy on the Supreme Court, the Superior Court or the  
29 Commonwealth Court will occur in the future on a date certain,  
30 the selection process may begin 90 days prior to that date. From

1 the applications received, the commission shall prepare and  
2 submit to the Governor a list of five persons who are qualified  
3 to hold that judicial office. Each person recommended to the  
4 Governor shall be a member of the bar of the Supreme Court in  
5 good standing and shall for an aggregate of ten years have  
6 either practiced law or served as judge of a court or courts of  
7 record in this Commonwealth or have been engaged in a law-  
8 related occupation and shall be a person of demonstrated  
9 competence, judgment and integrity. The list shall be submitted  
10 to the Governor no later than 60 days after the vacancy occurs.  
11 When more than one vacancy on the same court exists at the time  
12 the commission is voting on recommendations to the Governor, the  
13 commission shall submit the names of three additional persons  
14 for each additional vacancy and the Governor may select any of  
15 the names submitted by the commission for any of the then-  
16 existing vacancies. Immediately following submission to the  
17 Governor, the list shall be filed with the Senate and made  
18 public by the commission.

19 (h) The list submitted to the Governor shall contain in  
20 alphabetical order the number of names required in subsection  
21 (g), each of whom shall have received the affirmative votes from  
22 at least ten of the members then serving.

23 [§ 15. Tenure of justices, judges and justices of the peace.

24 (a) The regular term of office of justices and judges shall  
25 be ten years and the regular term of office for judges of the  
26 municipal court and traffic court in the City of Philadelphia  
27 and of justices of the peace shall be six years. The tenure of  
28 any justice or judge shall not be affected by changes in  
29 judicial districts or by reduction in the number of judges.

30 (b) A justice or judge elected under section 13(a),



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

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

25 (a) Except as provided in section 13(f), the regular term of  
26 office of justices and judges shall be ten years and the regular  
27 term of office for judges of the municipal court and traffic  
28 court in the City of Philadelphia and of justices of the peace  
29 shall be six years. The tenure of any justice or judge shall not  
30 be affected by changes in judicial districts or by reduction in

1 the number of judges.

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

29     (2) That section 23 of the Schedule to Article V be amended  
30 to read:

1 [§ 23. Judicial Qualifications Commission.

2 The selection of the first members of the Judicial  
3 Qualifications Commission provided for in section 14 (a) of this  
4 article shall be made as follows: The Governor shall appoint the  
5 four non-lawyer members for terms of, respectively, one year,  
6 three years, five years and seven years, no more than two of  
7 whom shall be members of the same political party. The Supreme  
8 Court shall appoint the three non-judge members of the bar of  
9 the Supreme Court of Pennsylvania for terms, respectively, of  
10 two years, four years and six years, no more than two of whom  
11 shall be members of the same political party.]

12 § 23. Judicial Nominating Commission.

13 The initial members of the Judicial Nominating Commission  
14 shall serve as follows: Of the members appointed by the  
15 Governor, two lawyer members of the bar of the Supreme Court  
16 shall serve for one year, two non-lawyer electors shall serve  
17 for two years, two lawyer members of the bar of the Supreme  
18 Court shall serve for three years and two non-lawyer electors  
19 shall serve for four years. Of the members appointed by the  
20 President pro tempore of the Senate, the non-judge member of the  
21 bar of the Supreme Court shall serve for four years and the non-  
22 lawyer elector shall serve for one year. Of the members  
23 appointed by the Speaker of the House of Representatives, the  
24 non-judge member of the bar of the Supreme Court shall serve for  
25 four years and the non-lawyer elector shall serve for one year.  
26 Of the members appointed by the Minority Leader of the Senate,  
27 the non-judge member of the bar of the Supreme Court shall serve  
28 for two years and the non-lawyer elector shall serve for three  
29 years. Of the members appointed by the Minority Leader of the  
30 House of Representatives, the non-judge member of the bar of the

1 Supreme Court shall serve for two years and the non-lawyer  
2 elector shall serve for three years.

3       Section 2. (a) Upon the first passage by the General  
4 Assembly of this proposed constitutional amendment, the  
5 Secretary of the Commonwealth shall proceed immediately to  
6 comply with the advertising requirements of section 1 of Article  
7 XI of the Constitution of Pennsylvania and shall transmit the  
8 required advertisements to two newspapers in every county in  
9 which such newspapers are published in sufficient time after  
10 passage of this proposed constitutional amendment.

11       (b) Upon the second passage by the General Assembly of this  
12 proposed constitutional amendment, the Secretary of the  
13 Commonwealth shall proceed immediately to comply with the  
14 advertising requirements of section 1 of Article XI of the  
15 Constitution of Pennsylvania and shall transmit the required  
16 advertisements to two newspapers in every county in which such  
17 newspapers are published in sufficient time after passage of  
18 this proposed constitutional amendment. The Secretary of the  
19 Commonwealth shall submit this proposed constitutional amendment  
20 to the qualified electors of this Commonwealth at the first  
21 primary, general or municipal election occurring at least three  
22 months after the proposed constitutional amendment is passed by  
23 the General Assembly.