

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE RESOLUTION

No. 783 Session of 2015

INTRODUCED BY HARPER AND MARSICO, APRIL 4, 2016

AS RE-REPORTED FROM COMMITTEE ON RULES, HOUSE OF REPRESENTATIVES, AS AMENDED, APRIL 5, 2016

A CONCURRENT RESOLUTION

1 Further providing for submission to the electorate of a
2 constitutional amendment on retirement for justices, judges
3 and justices of the peace.

4 WHEREAS, Pursuant to Article XI of the Constitution of
5 Pennsylvania, the General Assembly has proposed an amendment to
6 section 16(b) of Article V of the Constitution of Pennsylvania
7 providing that justices, judges and justices of the peace be
8 retired on the last day of the calendar year in which they
9 attain the age of 75; and

10 WHEREAS, In October 2013, a majority of both houses of the
11 General Assembly passed Joint Resolution No. 2013-JR3 and
12 presented it to the Secretary of the Commonwealth, who published
13 it pursuant to section 1 of Article XI of the Constitution of
14 Pennsylvania; and

15 WHEREAS, In November 2015, in the General Assembly next
16 afterwards chosen, a majority of both houses of the General
17 Assembly passed Joint Resolution No. 2015-JR1 and presented it
18 to the secretary; and

1 WHEREAS, Pursuant to ~~section~~ SECTIONS 201(c), 201.1 AND 605 <--
2 of the act of June 3, 1937 (P.L.1333, No.320), known as the
3 Pennsylvania Election Code, the secretary prepared a ballot
4 question as Proposed Constitutional Amendment 1, which was
5 approved by the Attorney General, and published along with the
6 proposed amendment and the plain English statement prepared by
7 the Office of Attorney General pursuant to section 1 of Article
8 XI of the Constitution of Pennsylvania; and

9 WHEREAS, Proposed Constitutional Amendment 1 is scheduled to
10 appear on the ballot for primary election on April 26, 2016; and

11 ~~WHEREAS, The General Assembly believes that the ballot~~ <--
12 ~~question as prepared by the secretary contains unnecessary~~
13 ~~language and consequently may be confusing to electors; and~~

14 ~~WHEREAS, On March 6, 2016, the General Assembly filed an~~
15 ~~application asking the Pennsylvania Supreme Court to order that~~
16 ~~the ballot question be amended; and~~

17 ~~WHEREAS, On March 23, 2016, the Supreme Court denied approval~~
18 ~~of a stipulated resolution between the parties, noting that~~
19 ~~"such denial shall not be construed as condoning or constraining~~
20 ~~any future legislative or executive action by the parties"; and~~

21 WHEREAS, The General Assembly has prepared a revised ballot
22 question for Proposed Constitutional Amendment 1 which ~~avoids~~ <--
23 ~~confusion and,~~ IN THE VIEW OF THE GENERAL ASSEMBLY, more <--
24 accurately reflects the language of Joint Resolution No. 2013-
25 JR3 and Joint Resolution No. 2015-JR1; and

26 WHEREAS, There is insufficient time to publish the revised
27 ballot question before primary election on April 26, 2016, as
28 required by section 1 of Article XI of the Constitution of
29 Pennsylvania; and

30 WHEREAS, Under section 802 of the Pennsylvania Election Code,

1 only persons registered and enrolled as members of a political
2 party are entitled to vote in any primary election of that
3 party; and

4 WHEREAS, More than 1 million Pennsylvania registered voters
5 are not registered and enrolled as members of one of the two
6 major political parties and therefore are not entitled to vote
7 in the primary election of either of those political parties;
8 and

9 WHEREAS, Many of those registered voters may be unaware of
10 their right to vote on Proposed Constitutional Amendment 1
11 during the primary election on April 26, 2016, and consequently
12 may not cast a vote on the ballot question; and

13 WHEREAS, Proposed Constitutional Amendment 1 is a matter of
14 Statewide importance to all citizens of the Commonwealth, not
15 merely registered members of the two major political parties;
16 and

17 WHEREAS, If Proposed Constitutional Amendment 1 were to be
18 placed on the ballot for the general election on November 8,
19 2016, the secretary will have sufficient time to publish the
20 revised ballot question as required under the Constitution of
21 Pennsylvania and registered voters who are not members of one of
22 the two major political parties will be more likely to
23 participate in the decision to approve or disapprove Proposed
24 Constitutional Amendment 1; and

25 WHEREAS, Under section 1 of Article XI of the Constitution of
26 Pennsylvania, it is within the authority of the General Assembly
27 to prescribe the manner and time at which proposed amendments to
28 the Constitution are submitted to the qualified electors of the
29 Commonwealth for approval; therefore be it

30 RESOLVED (the Senate concurring), That ~~the General Assembly~~ <--

1 ~~direct~~ the Secretary of the Commonwealth ~~to~~ remove the ballot <--
2 question for Proposed Constitutional Amendment 1 from the ballot
3 certification for the primary election on April 26, 2016; and be
4 it further

5 RESOLVED, That ~~the General Assembly direct the secretary to~~ <--
6 ~~direct~~ the county boards of election ~~to~~ remove, to the extent <--
7 possible, the ballot question for Proposed Constitutional
8 Amendment 1 from the ballot; and be it further

9 RESOLVED, That ~~the General Assembly direct the secretary to~~ <--
10 disregard any vote on Proposed Constitutional Amendment 1 in the
11 primary election on April 26, 2016, and ~~prohibit the secretary~~ <--
12 ~~from making~~ THE SECRETARY NOT MAKE a tally of votes cast on <--
13 Proposed Constitutional Amendment 1; and be it further

14 RESOLVED, That the General Assembly direct the secretary to
15 place Proposed Constitutional Amendment 1 on the ballot for the
16 general election on November 8, 2016, in the following form:

17 Shall the Pennsylvania Constitution be amended to require
18 that justices of the Supreme Court, judges, and
19 magisterial district judges be retired on the last day of
20 the calendar year in which they attain the age of 75
21 years?;

22 and be it further

23 RESOLVED, That, to ensure compliance with section 1 of
24 Article XI of the Constitution of Pennsylvania, the General
25 Assembly direct the secretary to publish the ballot question for
26 Proposed Constitutional Amendment 1 as revised along with the
27 proposed amendment and the plain English statement previously
28 prepared by the Office of Attorney General, in each of the three
29 months prior to the general election on November 8, 2016; and be
30 it further

1 RESOLVED, That, upon passage by a majority of both houses of
2 the General Assembly, this concurrent resolution be transmitted
3 to the Secretary of the Commonwealth for implementation.