



**STATE OF NEW YORK
STATE BOARD OF ELECTIONS**

FORM OF SUBMISSION OF PROPOSAL NUMBER SIX, AN AMENDMENT

Increasing Age until which Certain State Judges Can Serve

The proposed amendment to the Constitution, amending sections 2 and 25 of article 6, would increase the maximum age until which certain state judges may serve as follows: (a) a Justice of the Supreme Court would be eligible for five additional two-year terms after the present retirement age of 70, instead of the three such terms currently authorized; and (b) a Judge of the Court of Appeals who reaches the age of 70 while in office would be permitted to remain in service on the Court for up to 10 years beyond the present retirement age of 70 in order to complete the term to which that Judge was appointed. Shall the proposed amendment be approved?

ABSTRACT OF PROPOSAL NUMBER SIX, AN AMENDMENT

The purpose of the proposed amendment to sections 2 and 25 of article 6 of the Constitution is to increase to the age of 80 the maximum age until which Justices of the Supreme Court and Judges of the Court of Appeals may serve in the following circumstances: (a) Justices of the Supreme Court are currently required to retire in the year they turn 70 years old, but are eligible to continue to perform the duties of a Justice of the Supreme Court for three additional two-year terms upon a certificate that their services are needed by the courts and that they are competent to perform the full duties of the office. The proposed amendment would make them eligible for two additional such two-year terms, upon the same certification of need and competence; (b) Judges of the Court of Appeals are currently required to retire in the year they turn 70 years old. The proposed amendment would permit a Judge who reaches the age of 70 while in office to remain in service on the Court for up to 10 additional years in order to complete the term to which that Judge was appointed.

TEXT OF PROPOSAL NUMBER SIX, AN AMENDMENT

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

proposing an amendment to section 2 of article 6 of the constitution, in relation to persons appointed to the court of appeals, and proposing an amendment to section 25 of article 6 of the constitution, in relation to service by retired justices and requiring judges of the court of appeals to retire at age 80

Section 1. RESOLVED (if the Senate concur), That subdivision e of section 2 of article 6 of the constitution be amended to read as follows:

e. The governor shall appoint, with the advice and consent of the senate, from among those recommended by the judicial nominating commission, a person to fill the office of chief judge or associate judge, as the case may be, whenever a vacancy occurs in the court of appeals; provided, however, that no person may be appointed a judge of the court of appeals unless such person is a resident of the state [and], has been admitted to the practice of law in this state for at least ten years **and who has not reached the last day of December in the year in which he or she reaches the age of seventy**. The governor shall transmit to the senate the written report of the commission on judicial nomination relating to the nominee.

§ 2. RESOLVED (if the Senate concur), That subdivision b of section 25 of article 6 of the constitution be amended to read as follows:

b. Each [judge of the court of appeals,] justice of the supreme court, judge of the court of claims, judge of the county court, judge of the surrogate's court, judge of the family court, judge of a court for the city of New York established pursuant to section fifteen of this article and judge of the district court shall retire on the last day of December in the year in which he or she reaches the age of seventy. **Each judge of the court of appeals shall retire on the last day of December in the year in which he or she reaches the age of eighty**. Each [such] former [judge of the court of appeals and] justice of the supreme court may thereafter perform the duties of a justice of the supreme court, with power to hear and determine actions and proceedings, provided, however, that it shall be certificated in the manner provided by law that the services of such [judge or] justice are necessary to expedite the business of the court and that he or she is mentally and physically able and competent to perform the full duties of such office. Any such certification shall be valid for a term of two years and may be extended as provided by law for additional terms of two years. A [retired judge or] justice shall serve no longer than until the last day of December in the year in which he or she reaches the age of [seventy-six] **eighty**. A retired judge or justice shall be subject to assignment by the appellate division of the supreme court of the judicial department of his or her residence. Any retired justice of the supreme court who had been designated to and served as a justice of any appellate division immediately preceding his or her reaching the age of seventy shall be eligible for designation by the governor as a temporary or additional justice of the appellate division. A retired judge or justice shall not be counted in determining the number of justices in a judicial district for purposes of subdivision d of section six of this article.

§ 3. RESOLVED (if the Senate concur), That the foregoing amendment be submitted to the people for approval at the general election to be held in the year 2013 in accordance with the provisions of the election law.