**South Carolina General Assembly**

121st Session, 2015-2016

**H. 3123**

**STATUS INFORMATION**

Joint Resolution

Sponsors: Reps. Putnam, Long and Pitts

Document Path: l:\council\bills\nl\13445sd15.docx

Companion/Similar bill(s): 111

Introduced in the House on January 13, 2015

Currently residing in the House Committee on **Judiciary**

Summary: Appointment of Judges

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/11/2014 House Prefiled

12/11/2014 House Referred to Committee on **Judiciary**

1/13/2015 House Introduced and read first time ([House Journal‑page 104](file:///h:\HJ%20Archive\2015\01-13-15.docx))

1/13/2015 House Referred to Committee on **Judiciary** ([House Journal‑page 104](file:///h:\HJ%20Archive\2015\01-13-15.docx))

1/15/2015 House Member(s) request name added as sponsor: Pitts

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**VERSIONS OF THIS BILL**

[12/11/2014](file:///p:\pprever\2015-16\3123_20141211.docx)

**A** **JOINT RESOLUTION**

TO AMEND SECTION 3, ARTICLE V OF THE CONSTITUTION OF THIS STATE, RELATING TO SUPREME COURT JUSTICES, SECTION 8, ARTICLE V, RELATING TO JUDGES OF THE COURT OF APPEALS, SECTION 13, ARTICLE V, RELATING TO JUDICIAL CIRCUITS AND CIRCUIT COURT JUDGES, AND SECTION 18, ARTICLE V, RELATING TO VACANCIES IN THESE JUDICIAL OFFICES, SO AS TO PROVIDE THAT SUPREME COURT JUSTICES, JUDGES OF THE COURT OF APPEALS, AND CIRCUIT COURT JUDGES, SHALL BE APPOINTED BY THE GOVERNOR UPON THE ADVICE AND CONSENT OF THE GENERAL ASSEMBLY BY A ROLL CALL VOTE IN EACH HOUSE RATHER THAN ELECTED BY THE GENERAL ASSEMBLY; TO DELETE THE PROVISIONS OF SECTION 27, ARTICLE V, REQUIRING THE GENERAL ASSEMBLY TO ESTABLISH A JUDICIAL MERIT SELECTION COMMISSION; AND TO ADD SECTION 28 TO ARTICLE V SO AS TO PROVIDE THAT FAMILY COURT JUDGES PROVIDED FOR BY GENERAL LAW MUST BE APPOINTED BY THE GOVERNOR UPON THE ADVICE AND CONSENT OF THE GENERAL ASSEMBLY BY A ROLL CALL VOTE IN EACH HOUSE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. A. It is proposed that Section 3, Article V of the Constitution be amended to read:

“Section 3. The members of the Supreme Court shall be ~~elected by a joint public vote of the General Assembly~~ appointed by the Governor, upon the advice and consent of the General Assembly by a roll call vote in each house, for a term of ten years, and shall continue in office until their successors shall be ~~elected and qualified~~ appointed and confirmed, and shall be classified so that the term of one of them shall expire every two years. ~~In any contested election, the vote of each member of the General Assembly present and voting shall be recorded.~~

The provisions of this section providing for the appointment of Supreme Court Justices by the Governor, upon the advice and consent of the General Assembly by a roll call vote in each house, shall apply beginning with the expiration of the individual terms of current Supreme Court Justices who have been elected by the General Assembly.”

B. It is proposed that Section 8, Article V of the Constitution be amended to read:

“Section 8. The members of the Court of Appeals shall be ~~elected by a joint public vote of the General Assembly~~ appointed by the Governor upon the advice and consent of the General Assembly by a roll call vote in each house for a term of six years and shall continue in office until their successors shall be ~~elected and qualify~~ appointed and confirmed. ~~In any contested election, the vote of each member of the General Assembly present and voting shall be recorded. Provided, that for the first election of members of the Court of Appeals, the General Assembly shall by law provide for staggered terms.~~

The provisions of this section providing for the appointment of Court of Appeals Judges by the Governor, upon the advice and consent of the General Assembly by a roll call vote in each house, shall apply beginning with the expiration of the individual terms of current Court of Appeals Judges who have been elected by the General Assembly.”

C. It is proposed that Section 13, Article V of the Constitution be amended to read:

“Section 13. The General Assembly shall divide the State into judicial circuits of compact and contiguous territory. For each circuit a judge or judges shall be ~~elected by a joint public vote of the General Assembly; provided, that in any contested election, the vote of each member of the General Assembly present and voting shall be recorded. He~~ appointed by the Governor, upon the advice and consent of the General Assembly by a roll call vote in each house. A circuit judge shall hold office for a term of six years, and at the time of his ~~election~~ appointment he shall be an elector of a county of, and during his continuance in office he shall reside in, the circuit of which he is judge.

The General Assembly may by law provide for additional circuit judges, to be assigned by the Chief Justice. Such additional circuit judges shall be ~~elected~~ appointed in the same manner and for the same term as provided in the preceding paragraph of this section for other circuit judges, except that residence in a particular county or circuit shall not be a qualification for office.

The provisions of this section providing for the appointment of circuit judges by the Governor, upon the advice and consent of the General Assembly by a roll call vote in each house, shall apply beginning with the expiration of the individual terms of current circuit judges who have been elected by the General Assembly.”

D. It is proposed that Section 18, Article V of the Constitution be amended to read:

“Section 18. All vacancies in the Supreme Court, Court of Appeals, or Circuit Court shall be filled by ~~elections as prescribed in Sections 3, 8, and 13 of this article; provided, that if the unexpired term does not exceed one year such vacancy may be filled by~~ the Governor upon the advice and consent of the General Assembly by a roll call vote in each house. When a vacancy is filled ~~by either appointment or election~~, the incumbent shall hold office only for the unexpired term of his predecessor.”

E. It is proposed that Section 27, Article V of the Constitution, relating to the Judicial Merit Selection Commission, be deleted which reads:

“Section 27. In addition to the qualifications for circuit court and court of appeals judges and Supreme Court justices contained in this article, the General Assembly by law shall establish a Judicial Merit Selection Commission to consider the qualifications and fitness of candidates for all judicial positions on these courts and on other courts of this State which are filled by election of the General Assembly. The General Assembly must elect the judges and justices from among the nominees of the commission to fill a vacancy on these courts.

No person may be elected to these judicial positions unless he or she has been found qualified by the commission. Before a sitting member of the General Assembly may submit an application with the commission for his nomination to a judicial office, and before the commission may accept or consider such an application, the member of the General Assembly must first resign his office and have been out of office for a period established by law. Before a member of the commission may submit an application with the commission for his nomination to a judicial office, and before the commission may accept or consider such an application, the member of the commission must not have been a member of the commission for a period to be established by law.”

F. It is proposed that Article V of the Constitution of this State be amended by adding:

“Section 28. Upon the expiration of the current terms of any Family Court judges provided for by general law who are serving in office on the effective date of this section, their successors must be appointed by the Governor upon the advice and consent of the General Assembly by a roll call vote in each house.”

SECTION 2. The proposed amendments in Section 1 must be submitted to the qualified electors at the next general election for representatives. Ballots must be provided at the various voting precincts with the following words printed or written on the ballot:

“Must Section 3, Article V of the Constitution of this State, relating to Supreme Court Justices, Section 8, Article V, relating to judges of the Court of Appeals, Section 13, Article V, relating to Judicial Circuits and circuit court judges, and Section 18, Article V, relating to vacancies in these judicial offices, be amended so as to provide that these justices or judges be appointed by the Governor upon the advice and consent of the General Assembly by a roll call vote in each house rather than elected by the General Assembly, to delete the provisions of Section 27, Article V, requiring the General Assembly to establish a Judicial Merit Selection Commission, and to add Section 28 to Article V so as to provide that Family Court judges provided for by general law must be appointed by the Governor upon the advice and consent of the General Assembly by a roll call vote in each house?

Yes ****

No ****

Those voting in favor of the question shall deposit a ballot with a check or cross mark in the square after the word ‘Yes’ and those voting against the question shall deposit a ballot with a check or cross mark in the square after the word ‘No’.”

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