**South Carolina General Assembly**

124th Session, 2021-2022

**S. 374**

**STATUS INFORMATION**

Joint Resolution

Sponsors: Senators Talley, Kimbrell and Rice

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Companion/Similar bill(s): 292, 597, 3284

Introduced in the Senate on January 12, 2021

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

Summary: Constitutional amendment, Judicial Department

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/9/2020 Senate Prefiled

12/9/2020 Senate Referred to Committee on **Judiciary**

1/12/2021 Senate Introduced and read first time ([Senate Journal‑page 289](file:///h:\sj\20210112.docx))

1/12/2021 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 289](file:///h:\sj\20210112.docx))

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**VERSIONS OF THIS BILL**

[12/9/2020](file:///p:\pprever\2021-22\374_20201209.docx)

**A** **JOINT RESOLUTION**

TO AMEND SECTION 3, ARTICLE V OF THE CONSTITUTION OF THIS STATE, RELATING TO THE ELECTION OF MEMBERS OF THE SUPREME COURT, SECTION 8, ARTICLE V, RELATING TO THE ELECTION OF JUDGES OF THE COURT OF APPEALS, SECTION 13, ARTICLE V, RELATING TO JUDICIAL CIRCUITS AND CIRCUIT COURT JUDGES, SECTION 18, ARTICLE V, RELATING TO VACANCIES IN THESE JUDICIAL OFFICES, AND SECTION 27, ARTICLE V, RELATING TO THE JUDICIAL MERIT SELECTION COMMISSION, TO PROVIDE THAT SUPREME COURT JUSTICES, JUDGES OF THE COURT OF APPEALS, AND CIRCUIT COURT JUDGES SHALL BE APPOINTED BY THE GOVERNOR, SUBJECT TO THE ADVICE AND CONSENT OF THE SENATE, AND TO PROVIDE FOR THE COMPOSITION OF THE JUDICIAL MERIT SELECTION COMMISSION.

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

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

“Section 3. The members of the Supreme Court shall ~~be elected by a joint public vote of the General Assembly~~ serve for a term of ten years, ~~and~~ shall continue in office until their successors ~~shall be elected and qualified~~ take the oath of office, 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.~~”

SECTION 2. It is proposed that Section 8, Article V of the Constitution of this State 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~~ serve for a term of six years and shall continue in office until their successors ~~shall be elected and qualify~~ take the oath of office. ~~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.~~”

SECTION 3. It is proposed that Section 13, Article V of the Constitution of this State 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~~ shall hold office for a term of six years, and at the time of ~~his~~ a judge’s ~~election~~ taking the oath of office, 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 or elected, as the case may be, in the ~~same~~ manner prescribed in Section 27 of this article 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.”

SECTION 4. It is proposed that Section 18, Article V of the Constitution of this State 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~~ Section 27 of this article~~; provided, that if the unexpired term does not exceed one year such vacancy may be filled by the Governor~~. When a vacancy is filled ~~by either appointment or election~~, the incumbent shall hold office only for the unexpired term of his predecessor.”

SECTION 5. It is proposed that Section 27, Article V of the Constitution of this State be amended to read:

“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~~ Governor ~~must elect~~ may appoint only ~~the~~ judges and justices from among the nominees of the commission to fill a vacancy on these courts within thirty days of receiving nominees from the commission. The Governor’s appointment of a judge or justice is subject to the advice and consent of the Senate.

No person may be appointed and confirmed or elected, as the case may be, 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~~ of two years. 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.

The commission shall consist of the following:

(1) five members appointed by the Speaker of the House of Representatives and, of these appointments:

(a) three members must be serving members of the General Assembly; and

(b) two members must be selected from the general public;

(2) three members appointed by the Chairman of the Senate Judiciary Committee and two members appointed by the President of the Senate and, of these appointments:

(a) three members must be serving members of the General Assembly; and

(b) two members must be selected from the general public;

(3) three members appointed by the Governor;

(4) one member appointed by the Chief Justice of the Supreme Court of South Carolina, who shall be a retired member of the Judiciary; and

(5) the President of the South Carolina Bar Association.”

SECTION 6. The proposed amendment 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 on the ballot:

“Must Section 3, Article V of the Constitution of this State, relating to the election of members of the Supreme Court, Section 8, Article V, relating to the election of judges of the Court of Appeals, Section 13, Article V, relating to judicial circuits and circuit court judges, Section 18, Article V, relating to vacancies in these judicial offices, and Section 27, Article V, relating to the Judicial Merit Selection Commission, be amended so as to provide that these justices or judges be appointed by the Governor from among the nominees of the Judicial Merit Selection Commission, subject to the advice and consent of the Senate, and to provide for the membership of the Judicial Merit Selection Commission?

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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