**South Carolina General Assembly**

125th Session, 2023-2024

**H. 4295**

**STATUS INFORMATION**

Joint Resolution

Sponsors: Reps. White, McCabe, A.M. Morgan, T.A. Morgan and Cromer

Companion/Similar bill(s): 476, 3529

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Introduced in the House on April 6, 2023

Currently residing in the House

Summary: Constitutional amendment, judicial elections

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 4/6/2023 House Introduced and read first time (House Journal‑page 10)

 4/6/2023 House Referred to Committee on **Judiciary** (House Journal‑page 10)

 4/26/2023 House Member(s) request name added as sponsor: Cromer

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**VERSIONS OF THIS BILL**

[04/06/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/4295_20230406.docx)

A joint Resolution

TO AMEND SECTIONS 3, 8, and 18 of ARTICLE V OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO THE JUDICIAL DEPARTMENT and specific courts, SO AS TO PROVIDE THAT SUPREME COURT JUSTICES, JUDGES ON THE COURT OF APPEALS, AND ADMINISTRATIVE law COURT JUDGES SHALL BE APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE general assembly RATHER THAN BEING ELECTED BY THE GENERAL ASSEMBLY; to amend section 13 of Article V, relating to the judicial department and specific courts, so as to provide that circuit court judges shall be popularly elected; and to repeal section 27 of article v relating to the judicial DEPARTMENT and the judicial merit selection commission.

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 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 appointed by the Governor, upon the advice and consent of the General Assembly, 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.Advice and consent of the General Assembly means fifty percent plus one of the members of the Senate present and voting and fifty percent plus one of the members of the House of Representatives present and voting, such vote shall be recorded. Notwithstanding the ten-year term, members of the Supreme Court are subject to a merit retention vote during the first even-numbered year general election following their appointment and another merit retention vote every second even-numbered year thereafter prior to the expiration of their term of office. Vacancies occurring during the term of office of each judge must be filled by appointment of the Governor in accordance with the provisions of this section.

B. 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 appointed by the Governor upon the advice and consent of the General Assembly 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.Advice and consent of the General Assembly means fifty percent plus one of the members of the Senate present and voting and fifty percent plus one of the members of the House of Representatives present and voting, such vote shall be recorded. Notwithstanding the six-year term, members of the Supreme Court are subject to a merit retention vote during the first even-numbered year general election following their appointment and another merit retention vote every second even-numbered year thereafter prior to the expiration of their term of office. Vacancies occurring during the term of office of each judge must be filled by appointment of the Governor in accordance with the provisions of this section.

C. 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 recordedpopular election as provided by law. He shall hold office for a term of six years, and at the time of his election 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 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 officeas provided by law.

D. 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 CourtAdministrative Law 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. 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 of this State, 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.

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 Article V of the Constitution of this State, relating to the Judicial Department, be amended to provide that justices on Supreme Court, judges on the Court of Appeals, and judges on the Administrative Law Court be appointed by the Governor upon the advice and consent of the General Assembly rather than being elected by the General Assembly, to provide that Supreme Court and Court of Appeals judges are subject to merit retention votes, to provide that circuit court judges must be popularly elected, and to repeal the provision regarding judicial screening by 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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