

April 6, 2023 - Senate Bill 1.2 Constitutional Amendment

Constitution:

Section 5 separation of powers “so that neither exercise the powers properly belong to the others.”

Section 15: residence of Representatives and Senators reside in state 2 years, “the last year of which shall be in the legislative district for which the person is elected.”

Section 23: residence of Governor 4 years.

Section 30 Supreme Court “shall have administrative control of all courts of the state, and disciplinary authority concerning all judicial officers and attorneys at law in the state.”

Section 32: Governor shall fill vacancy of all judges, (with advice and consent of the Senate) “except the office of Assistant Judge and of Judge of Probate,…” Said appointment is from list from Judicial nominating body having authority to apply reasonable standards of selection. That application is for the judicial nominating board.

Section 33: When Senate not in session, Governor may fill judicial vacancy “except the office of Assistant Judge and Judge of Probate…”

Section 36: Suspension and removal... Supreme Court “in the exercise of its disciplinary power over the judiciary of the state may suspend justices and judges “from the judicial function for such cause and in such manner as may be provided by law.” Continues: The General Assembly may est. procedures for the implementation of the provisions of sections thirty-two through thirty-six.”

State’s Attorney v. Attorney General (1979) 138 Vt. 10, 409 A.2d 599. The election and terms set forth in constitution “did not make the powers and prerogatives of a State’s Attorneys constitution function that could not be taken away except by constitutional amendment, for the powers of State’s Attorneys are set forth in the statutes, not the Constitution.”

Section 50 election of Ass. Judges, Sheriffs and State’s Attorneys. Source constitution of 1793. Section again references State’s Attorney v. Attorney General.

Section 54 Incompatible offices: In re Hodgdon, 2011 VT 18, 189 Vt. 265, 19 A3d 598. “the Judicial Conduct Code can provide a more exacting restriction for judges than is provided in the Constitution.”

Section 57 Impeachments: House may order. Covers “every officer of the State”

Section 64: punishment by hard labor still there!

Title 4

Section 3 The Supreme Court shall have administrative and disciplinary control of all judicial officers of the State “in addition to and not inconsistent with the constitutional powers of the General Assembly in those matters.” Section creates judicial conduct board, including when appropriate suspension from judicial duties for the balance of the term of the judicial officer. Code of Ethics is binding on all judicial officers.

In re Boardman, “there is little question that the Vermont Constitution, statutes and Code of Judicial Conduct vest plenary authority in the Supreme Court to exercise disciplinary control over all functions of assistant judges, administrative, adjudicative and otherwise.”

Admin judge may appoint and assign a judge to special assignment. Section provides for training and, In making an appointment ...the Admin. Judge shall apply the criteria and standards for judicial appointment contained in section 601 of title 4.”

Supreme court can remove assistant judge from judicial duties. BUT, not administrative duties of administration of budgets, etc. for county.

Section 30: probate is specified as a division of the superior court.

Section 272 qualifications for probate judge: admitted to practice law.

Section 457: participation of assistant judges in cases.

Section 461a. special provision for Essex County assistant judges... training

Section 602: Qualifications for judges. (**no mention of Probate Judges**) inconsistent. List of attributes. Creates judicial nominating Board.