

Journal of the Joint Assembly

IN JOINT ASSEMBLY, MARCH 27, 2013

9:00 A.M.

The Senate and House of Representatives met in the Hall of the House of Representatives pursuant to a Joint Resolution which was read by the Clerk and is as follows:

By Senator Nitka,

J.R.S. 22. Joint resolution providing for a Joint Assembly to vote on the retention of seven Superior Judges and one Magistrate.

Whereas, by virtue of the provisions of 4 V.S.A. § 608 and of J.R.S. 17, the vote on the retention of seven Superior Court Judges, and one Magistrate who have submitted declarations seeking retention was deferred until March 28, 2013,

Whereas, the General Assembly desires to schedule the Joint Assembly earlier, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Wednesday, March 27, 2013, at nine o'clock in the forenoon to vote on the retention of seven Superior Court Judges, and one Magistrate. In case the vote to retain said Judges and Magistrate shall not be made on that day, the two Houses shall meet in Joint Assembly at ten o'clock and thirty minutes in the forenoon, on each succeeding day, Saturdays and Sundays excepted, and proceed until the above is completed.

Presiding Officer

Honorable Philip B. Scott, President of the Senate, in the Chair.

Clerk

John H. Bloomer, Jr., Secretary of the Senate, Clerk.

Statement of Presiding Officer

Pursuant to our Constitution and statutes we are assembled here today in Joint Assembly to cast our votes on the retention of seven Superior Judges, and one Magistrate.

This year we are again operating under the Judicial Retention Act passed in 1976, as amended in subsequent sessions of the General Assembly, which establishes the procedure for retention of incumbent Superior Judges and Magistrates. Amendments made in 2010 requires the retention of magistrates. The date for holding joint assemblies for the retention of judges is set by statute to be the eleventh Thursday of the session, which date may be deferred pursuant to 4 V.S.A. § 608(g).

The procedure to be followed requires the vote be by written ballot. There will be two separate written ballots: one containing the names of all of the candidates for retention as superior judges; and one containing the name of the candidate for retention as magistrate.

Retention of Superior Judges

We shall now proceed to the matter of retention of the incumbent Superior Judges. Under the Judicial Retention Act which establishes the procedure for the retention of Superior Judges, nominations may not be received from the floor; rather, each judge seeking retention must file a declaration of intention to seek retention with the Secretary of State or if a Superior Judge is appointed after September 1 of the year preceding the expiration of the term of office shall automatically be a candidate for retention without filing notice. The name of each judge seeking retention is automatically voted on pursuant to the terms of the Judicial Retention Act.

In addition, the Judicial Retention Act provides that when a candidate does so declare for retention, the question to be decided is:

"Shall the following Superior Judges be retained in office?"

Tellers Appointed

Accordingly, we will need tellers, and the Chair will now appoints as tellers:

Senator Jeanette K. White, of Windham District, as Chief Teller
Senator Mark A. MacDonald, of Orange District
Senator Diane B. Snelling, of Chittenden District
Representative Sarah E. Buxton, of Tunbridge
Representative Martha Feltus, of Lyndon
Representative Michelle Fay, of St. Johnsbury
Representative Mike McCarthy, of St. Albans

We shall now proceed to the matter of retention of the incumbent Superior Judges. For these positions we have received declarations of intention to seek retention to the office of Superior Judge from the following:

William D. Cohen
James R. Crucitti
Robert P. Gerety, Jr.
Kevin William Griffin
M. Kathleen Manley
Timothy B. Tomasi
Thomas A. Zonay

The question to be decided in each of these cases shall be as follows:

"Shall Superior Judge William D. Cohen be retained in office?"

Yes _____ No _____.

"Shall Superior Judge James R. Crucitti be retained in office?"

Yes _____ No _____.

"Shall Superior Judge Robert P. Gerety, Jr. be retained in office?"

Yes _____ No _____.

"Shall Superior Judge Kevin William Griffin be retained in office?"

Yes _____ No _____.

"Shall Superior Judge M. Kathleen Manley be retained in office?"

Yes _____ No _____.

"Shall Superior Judge Timothy B. Tomasi be retained in office?"

Yes _____ No _____.

"Shall Superior Judge Thomas A. Zonay be retained in office?"

Yes _____ No _____.

The ballot which you will receive will contain these questions in printed form on one single ballot. The term of these Superior Judges are for six years, from and including the first day of April, 2013, and until their successors are elected and qualified.

To facilitate the procedure for this morning, the Chair will rule, unless there is objection, that debate on these seven Judges will be received separately. At the end of the debates for the seven Judges, any general debate on the entire question shall be in order.

Committee Reports

Prior to any debate, we will receive the report of the Joint Committee on Judicial Retention. The Chair now recognizes the Chair of this Committee, the Member from Barre Town, Thomas F. Koch, for the purpose of receiving his report.

Representative Thomas F. Koch, then delivered a general report for the Joint Committee on Judicial Retention with respect to the candidacy of all the Judges.

The Chair then recognized Senator Margaret K. Flory, of Rutland District, who delivered the report of the Joint Committee on Judicial Retention with respect to the candidacy of Superior Judge William D. Cohen.

The Chair then recognized the member from Burlington, Suzi Wizowaty, who delivered the report of the Joint Committee on Judicial Retention with respect to the candidacy of Superior Judge James R. Crucitti.

The Chair then recognized the member from Essex Junction, Linda J. Waite-Simpson, who delivered the report of the Joint Committee on Judicial Retention with respect to the candidacy of Superior Judge Robert Gerety, Jr.

The Chair then recognized Senator Alice W. Nitka, of Windsor District, who delivered the report of the Joint Committee on Judicial Retention with respect to the candidacy of Superior Judge Kevin William Griffin.

The Chair then recognized the member from Newbury, Chip Conquest, who delivered the report of the Joint Committee on Judicial Retention with respect to the candidacy of Superior Judge M. Kathleen Manley.

The Chair then recognized Senator Peter W. Galbraith, of Windham District, who delivered the report of the Joint Committee on Judicial Retention with respect to the candidacy of Superior Judge Timothy B. Tomasi.

The Chair then recognized Senator Joseph C. Benning, of Caledonia District, who delivered the report of the Joint Committee on Judicial Retention with respect to the candidacy of Superior Judge Thomas A. Zonay.

Results of Balloting

Balloting then proceeded for the office of Superior Judges, with the following results:

For Superior Judge William D. Cohen

Total votes cast	165
Necessary for a majority	83
For retention	161
Against retention	4

Whereupon the Chair declared that

WILLIAM D. COHEN, of RUTLAND

having received a majority of the total votes cast was duly elected to the office of Superior Judge for a term of six years, from and including the first day of April, 2013, and until his successor is elected and has qualified.

For Superior Judge James R. Crucitti

Total votes cast164
Necessary for a majority83
For retention162
Against retention2

Whereupon the Chair declared that

JAMES R. CRUCITTI, of ESSEX

having received a majority of the total votes cast was duly elected to the office of Superior Judge for a term of six years, from and including the first day of April, 2013, and until his successor is elected and has qualified.

For Superior Judge Robert Gerety, Jr.

Total votes cast162
Necessary for a majority82
For retention160
Against retention2

Whereupon the Chair declared that

ROBERT GERETY, JR., of WHITE RIVER JUNCTION

having received a majority of the total votes cast was duly elected to the office of Superior Judge for a term of six years, from and including the first day of April, 2013, and until his successor is elected and has qualified.

For Superior Judge Kevin William Griffin

Total votes cast162
Necessary for a majority82
For retention161
Against retention1

Whereupon the Chair declared that

KEVIN WILLIAM GRIFFIN, of NORWICH

having received a majority of the total votes cast was duly elected to the office of Superior Judge for a term of six years, from and including the first day of April, 2013, and until his successor is elected and has qualified.

For Superior Judge M. Kathleen Manley

Total votes cast	163
Necessary for a majority	82
For retention	159
Against retention	4

Whereupon the Chair declared that

M. KATHLEEN MANLEY, of LYNDONVILLE

having received a majority of the total votes cast was duly elected to the office of Superior Judge for a term of six years, from and including the first day of April, 2013, and until her successor is elected and has qualified.

For Superior Judge Timothy B. Tomasi

Total votes cast	163
Necessary for a majority	82
For retention	160
Against retention	3

Whereupon the Chair declared that

TIMOTHY B. TOMASI, of MONTPELIER

having received a majority of the total votes cast was duly elected to the office of Superior Judge for a term of six years, from and including the first day of April, 2013, and until his successor is elected and has qualified.

For Superior Judge Thomas A. Zonay

Total votes cast	164
Necessary for a majority	83
For retention	162
Against retention	3

Whereupon the Chair declared that

THOMAS A. ZONAY, of TAFTSVILLE

having received a majority of the total votes cast was duly elected to the office of Superior Judge for a term of six years, from and including the first day of April, 2013, and until his successor is elected and has qualified.

Retention of Magistrate**Statement of Presiding Officer**

We shall now proceed to the matter of retention of the incumbent Magistrate. For this position we have received a declaration of intention to seek retention to the office of Magistrate from the following:

Barbara Zander

The name of each magistrate seeking retention is automatically voted on, and the question to be decided is:

"Shall District Magistrate Barbara Zander be retained in office?"

Yes_____No_____.

The vote on this question shall again be by one single written ballot. The term of this Magistrate is for six years, from and including the first day of April, 2013, and until his successor is elected and qualified.

Committee Report

The Chair then recognized, Representative Thomas F. Koch of Barre, who delivered the report of the Joint Committee on Judicial Retention with respect to the candidacy of Magistrate Barbara Zander.

Results of Balloting

Balloting then proceeded for the office of Magistrate, with the following results:

For Magistrate Barbara Zander

Total votes cast163
Necessary for a majority82
For retention132
Against retention31

Whereupon the Chair declared that

BARBARA ZANDER, of ST. JOHNSBURY

having received a majority of the total votes cast was duly elected to the office of Magistrate for a term of six years, from and including the first day of April, 2013, and until her successor is elected and has qualified.

Dissolution

The purposes for which the Joint Assembly was convened having been accomplished, the Chair then declared the Joint Assembly dissolved.

JOHN H. BLOOMER, JR.
Secretary of the Senate
Clerk of the Joint Assembly