

Journal of the Joint Assembly

IN JOINT ASSEMBLY, MARCH 27, 2019

10:30 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:

J.R.S. 17. Joint resolution providing for a Joint Assembly to vote on the retention of eight Superior Judges and one Magistrate.

Whereas, declarations have been submitted by the following eight Superior Judges that they be retained for another six-year term, Judge William D. Cohen, Judge Robert P. Gerety, Jr., Judge Kevin William Griffin, Judge Samuel Hoar, Jr., Judge Elizabeth D. Mann, Judge Megan J. Shafritz, Judge Timothy B. Tomasi, Judge Thomas A. Zonay and one Magistrate that she be retained for another six year term, Magistrate Alicia Humbert, and

Whereas, the procedures of the Joint Committee on Judicial Retention require at least one public hearing and the review of information provided by each candidate and the comments of members of the Vermont bar and the public, and

Whereas, the Committee was unable to fulfill its responsibilities under subsection 608(b) of Title 4 to evaluate the judicial performance of the candidates seeking to be retained in office by March 14, 2019, the date specified in subsection 608(e) of Title 4, and for a vote in Joint Assembly to be held on March 21, 2019, the date specified in subsection 10(b) of Title 2, and

Whereas, subsection 608(g) of Title 4 permits the General Assembly to defer action on the retention of judges to a subsequent Joint Assembly when the Committee is not able to make a timely recommendation, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Wednesday, March 27, 2019, at ten o'clock and thirty minutes in the forenoon to vote on the retention of eight Superior 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 Timothy R. Ashe, President *pro tempore* 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 eight 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). This year pursuant to statute which permits this, 4 V.S.A. § 608, we delayed the Joint Assembly from the eleventh Thursday to the present date, March 27th.

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 the Superior Judge 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 now appoints as tellers:

- Senator Jeanette K. White, of Windham District, as Chief Teller
- Senator Christopher A. Pearson, of Chittenden District
- Senator Brian P. Collamore, of Rutland District
- Representative Molly S. Burke, of Brattleboro
- Representative Cheren Fegard, of Berkshire
- Representative Kenneth Goslant, of Northfield
- Representative Patrick Seymour, of Sutton

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
- Robert P. Gerety, Jr.
- Kevin William Griffin
- Samuel Hoar, Jr.
- Elizabeth Mann
- Megan J. Shafritz
- 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 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 Samuel Hoar, Jr. be retained in office?"

Yes _____ No _____.

"Shall Superior Judge Elizabeth Mann be retained in office?"

Yes _____ No _____.

"Shall Superior Judge Megan J. Shafritz 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 terms of these Superior Judges are for six years, from and including the first day of April, 2019, 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 eight Judges will be received separately. At the end of the debates for the eight Judges, any general debate on the entire question shall be in order.

Committee Reports

First, we will receive the report of the Joint Committee on Judicial Retention. The Chair now recognizes the Chair of this Committee, the Senator from Windsor District, Senator Alice W. Nitka, for the purpose of receiving her report.

Senator Alice W. Nitka, then delivered a general report for the Joint Committee on Judicial Retention.

The Chair then recognized the member from West Rutland, Thomas Burditt, 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 Senator Ruth Ellen Hardy, of Addison District, who delivered the report of the Joint Committee on Judicial Retention with respect to the candidacy of Superior Judge Robert P. Gerety, Jr.

The Chair then recognized the member from Stannard, Joseph "Chip" Troiano, 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 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 Samuel Hoar, Jr.

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 Elizabeth Mann.

The Chair then recognized the member from Burlington, Barbara Rachelson, who delivered the report of the Joint Committee on Judicial Retention with respect to the candidacy of Superior Judge Megan J. Shafritz.

The Chair then recognized Senator Richard J. McCormack, of Windsor 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.....	170
Necessary for a majority.....	86
For retention.....	170
Against retention.....	0

Whereupon the Chair declared that

WILLIAM D. COHEN, of RUTLAND

having received a majority of the total votes cast was duly retained in the office of Superior Judge for a term of six years, from and including the first day of April, 2019, and until his successor is elected and has qualified.

For Superior Judge Robert Gerety, Jr.

Total votes cast.....	169
Necessary for a majority.....	85
For retention.....	169
Against retention.....	0

Whereupon the Chair declared that

ROBERT GERETY, JR., of WHITE RIVER JUNCTION

having received a majority of the total votes cast was duly retained in the office of Superior Judge for a term of six years, from and including the first day of April, 2019, and until his successor is elected and has qualified.

For Superior Judge Kevin William Griffin

Total votes cast.....	168
Necessary for a majority.....	85
For retention.....	168
Against retention.....	0

Whereupon the Chair declared that

KEVIN WILLIAM GRIFFIN, of NORWICH

having received a majority of the total votes cast was duly retained in the office of Superior Judge for a term of six years, from and including the first day of April, 2019, and until his successor is elected and has qualified.

For Superior Judge Samuel Hoar, Jr.

Total votes cast.....	165
Necessary for a majority.....	83
For retention.....	129
Against retention.....	36

Whereupon the Chair declared that

SAMUEL HOAR, JR., of SOUTH BURLINGTON

having received a majority of the total votes cast was duly retained in the office of Superior Judge for a term of six years, from and including the first day of April, 2019, and until his successor is elected and has qualified.

For Superior Judge Elizabeth Mann

Total votes cast.....	169
Necessary for a majority.....	85
For retention.....	169
Against retention.....	0

Whereupon the Chair declared that

ELIZABETH MANN, of NORWICH

having received a majority of the total votes cast was duly retained in the office of Superior Judge for a term of six years, from and including the first day of April, 2019, and until her successor is elected and has qualified.

For Superior Judge Megan J. Shaftritz

Total votes cast.....	167
Necessary for a majority.....	84
For retention.....	166
Against retention.....	1

Whereupon the Chair declared that

MEGAN J. SHAFTRITZ, of SOUTH BURLINGTON

having received a majority of the total votes cast was duly retained in the office of Superior Judge for a term of six years, from and including the first day of April, 2019, and until her successor is elected and has qualified.

For Superior Judge Timothy B. Tomasi

Total votes cast.....	168
Necessary for a majority.....	85
For retention.....	158
Against retention.....	10

Whereupon the Chair declared that

TIMOTHY B. TOMASI, of MONTPELIER

having received a majority of the total votes cast was duly retained in the office of Superior Judge for a term of six years, from and including the first day of April, 2019, and until his successor is elected and has qualified.

For Superior Judge Thomas A. Zonay

Total votes cast.....	169
Necessary for a majority.....	85
For retention.....	169
Against retention.....	0

Whereupon the Chair declared that

THOMAS A. ZONAY, of TAFTSVILLE

having received a majority of the total votes cast was duly retained in the office of Superior Judge for a term of six years, from and including the first day of April, 2019, 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:

Alicia Humbert

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

"Shall Magistrate Alicia Humbert 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, 2019, and until her successor is elected and qualified.

Committee Report

The Chair then recognized, Representative Selene Colburn of Burlington, who delivered the report of the Joint Committee on Judicial Retention with respect to the candidacy of Magistrate Alicia Humbert.

Results of Balloting

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

For Magistrate Alicia Humbert

Total votes cast.....	156
Necessary for a majority.....	84
For retention.....	156
Against retention.....	0

Whereupon the Chair declared that

ALICIA HUMBERT, of NORTHFIELD

having received a majority of the total votes cast was duly retained in the office of Magistrate for a term of six years, from and including the first day of April, 2019, 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