

Journal of the Joint Assembly

IN JOINT ASSEMBLY, SEPTEMBER 14 AND 21, 2020

5:00 P.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. 63. Joint resolution scheduling the Joint Assembly to vote on the retention of six Superior Judges.

Whereas, the Joint Assembly to vote on the retention of six Superior Judges has been scheduled and postponed; and

Whereas, the Joint Assembly on Judicial Retention needs to occur during the 2020 adjourned session of the General Assembly; and

Whereas, Vermont has been declared by the Governor to be in a State of Emergency as a result of a pandemic known as “COVID-19”; and

Whereas, it is critical to take steps to control outbreaks of COVID-19 to minimize the risk to the public, maintain the health and safety of Vermonters and limit the spread of infection in our community; and

Whereas, technology exists which would enable the General Assembly to conduct a Joint Assembly during this time of a declared emergency in a manner: consistent with public access to, and transparency of, its proceedings, as demanded by the Vermont Constitution; and, consistent with and in compliance with statutory and legislative rule requirements regarding Judicial Retention, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Monday, September 14, 2020, at five o'clock in the afternoon to vote on the retention of six Superior Judges, *and be it further*

Resolved: That the Joint Assembly shall be concurrently conducted electronically at which members of the General Assembly may participate and debate from a remote location; that voting by ballot shall be conducted, as practicable, consistent with Vermont’s “Early or Absentee Voters” statute at

17 V.S.A. §2531, et. seq.; that after the reports of the Committee on Judicial Retention, the Joint Assembly shall recess until Monday, September 21, 2020 at 5:00 pm (or as otherwise ordered by the Joint Assembly) so that ballots may be submitted; and, that upon reconvening the results of the vote shall be announced or the Joint Assembly shall 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 six Superior Judges.

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 require the retention of magistrates.

The procedures to be followed requires the vote be by written ballot. I will explain later the written ballots and submitting your vote.

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 offices 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 Rebecca A. Balint, of Windham District, as Chief Teller
Senator Andrew Perchlik, of Washington District
Representative Warren F. Kitzmiller, of Montpelier
Representative Kenneth W. Goslant, of Northfield

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:

David A. Barra
Michael J. Harris
Katherine Anne Hayes
Martin A. Maley
John William Valente
Thomas G. Walsh

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

"Shall Superior Judge David A. Barra be retained in office?"

Yes_____No_____.

"Shall Superior Judge Michael J. Harris be retained in office?"

Yes_____No_____.

"Shall Superior Judge Katherine Anne Hayes be retained in office?"

Yes_____No_____.

"Shall Superior Judge Martin A. Maley be retained in office?"

Yes_____No_____.

"Shall Superior Judge John William Valente be retained in office?"

Yes_____No_____.

"Shall Superior Judge Thomas G. Walsh 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, 2020, and until their successors are elected and qualified.

To facilitate the procedure for this evening, the Chair will rule, unless there is objection, that debate on these six Judges will be received separately. At the end of the debates for the six 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 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 David A. Barra.

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 Michael J. Harris.

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 Katherine Anne Hayes.

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 Martin A. Maley.

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 John William Valente.

The Chair then recognized the member from Burlington, Selene Colburn, who delivered the report of the Joint Committee on Judicial Retention with respect to the candidacy of Superior Judge Thomas G. Walsh.

Statement of Presiding Officer

Pursuant to J.R.S. 63, the vote on the retention of the Superior Judges shall be conducted, as practicable, consistent with Vermont’s “early or absentee voters” statute. In conformance with this requirement, ballots and related documents were sent to you last week, prior to this Joint Assembly. In the envelope you received you should have a ballot, certification envelope, an addressed, postage prepaid return envelope and an instruction sheet. As explained on the instruction sheet you are to:

- (1) Vote your ballot;
- (2) Place your voted ballot inside the certification envelope;
- (3) Print your name in the space provided on the front of certification envelope and sign the certification on the certification envelope;

- (4) Seal the certification envelope with your voted ballot inside;
- (5) Put the certification envelope inside the pre-paid, pre-addressed mailing envelope; and,
- (6) Mail back the envelope. Return your ballot by mail or in person so it is received by noon, September 21, 2020.

Recess

Pursuant to J.R.S. 63 the Chair declared a recess until Monday, September 21, 2020 at 5:00 P.M.

Called to Order

At 5:00 P.M. on Monday, September 21, 2020 pursuant to J.R.S. 63, the Joint Assembly was called to order by the Honorable David E. Zuckerman, in the Chair.

Results of Balloting

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

For Superior Judge David A. Barra

Total votes cast	150
Necessary for a majority	76
For retention	148
Against retention	2

Whereupon the Chair declared that

DAVID A. BARRA

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, 2020, and until his successor is elected and has qualified.

For Superior Judge Michael J. Harris

Total votes cast	150
Necessary for a majority	76
For retention	149
Against retention	1

Whereupon the Chair declared that

MICHAEL J. HARRIS

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, 2020, and until his successor is elected and has qualified.

For Superior Judge Katherine Anne Hayes

Total votes cast	150
Necessary for a majority	76
For retention	148
Against retention	2

Whereupon the Chair declared that

KATHERINE ANNE HAYES

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, 2020, and until her successor is elected and has qualified.

For Superior Judge Martin A. Maley

Total votes cast	150
Necessary for a majority	76
For retention	148
Against retention	2

Whereupon the Chair declared that

MARTIN A. MALEY

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, 2020, and until his successor is elected and has qualified.

For Superior Judge John William Valente

Total votes cast	150
Necessary for a majority	76
For retention	149
Against retention	1

Whereupon the Chair declared that

JOHN WILLIAM VALENTE

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, 2020, and until his successor is elected and has qualified.

For Superior Judge Thomas G. Walsh

Total votes cast150
Necessary for a majority76
For retention149
Against retention1

Whereupon the Chair declared that

THOMAS G. WALSH

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, 2020, and until his 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