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S.36

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Introduced by Senators Sears, Mullin and Cummings

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Referred to Committee on

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Date:

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Subject: Judiciary; judicial retention

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Statement of purpose: This bill proposes to require that judicial retention votes

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are public through voice vote or roll call.

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An act relating to voting procedures for judicial retention

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It is hereby enacted by the General Assembly of the State of Vermont:

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Sec. 1. 4 V.S.A. § 4 is amended to read:

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§ 4. JUSTICES

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* * *

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(c) A supreme court justice may file in the office of the secretary of state,

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on or before September 1 of the year preceding the expiration of the term for

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which he or she was appointed or retained, a declaration that he or she will be a

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candidate for retention. However, a justice appointed and having taken the

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oath of office after September 1 of the year preceding the expiration of the

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term of office shall automatically be a candidate for retention without filing

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notice. When a justice files such a declaration, his or her name shall be

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submitted to the general assembly for a vote on retention. ~~The general~~

1 ~~assembly shall vote upon one ballot on the question “Shall the following~~
2 ~~supreme court justices be retained in office?” The names of the justices shall~~
3 ~~be followed by “Yes ___ No ___.”~~ The vote may be taken by voice or, if at least
4 ten members so request, by roll call. If a majority of those voting on the
5 question vote against retention, upon expiration of the term of office a vacancy
6 shall exist which shall be filled by appointment in accordance with the
7 constitution and chapter 15 of this title; if the majority vote is in favor of
8 retention, the justice shall, unless removed for cause, remain in office for
9 another term, and, at its end, shall be eligible for retention in office in the
10 manner herein prescribed.

11 * * *

12 Sec. 2. 4 V.S.A. § 71 is amended to read:

13 § 71. APPOINTMENT AND TERM OF SUPERIOR JUDGES

14 * * *

15 (b) A superior judge may file in the office of the secretary of state, on or
16 before September 1 of the year preceding the expiration of the term for which
17 he or she was appointed or retained, a declaration that he or she will be a
18 candidate for retention. However, a superior judge appointed and having taken
19 the oath of office after September 1 of the year preceding the expiration of the
20 term of office shall automatically be a candidate for retention without filing
21 notice. When a judge files such a declaration, his or her name shall be

1 submitted to the general assembly for a vote on retention. ~~The general~~
2 ~~assembly shall vote upon one ballot on the question~~ “Shall the following
3 superior judges be retained in office?” ~~The names of the judges shall be listed~~
4 ~~followed by “Yes ___ No ___.”~~ The vote may be taken by voice or, if at least
5 ten members so request, by roll call. If a majority of those voting on the
6 question vote against retention, upon expiration of the term of office a vacancy
7 shall exist which shall be filled by appointment in accordance with the
8 constitution and chapter 15 of this title; if the majority vote is in favor of
9 retention, the judge shall, unless removed for cause, remain in office for
10 another term and, at its end, shall be eligible for retention in office in the
11 manner herein prescribed.

12 * * *

13 Sec. 3. 4 V.S.A. § 604(a) is amended to read:

14 § 604. DISTRICT JUDGES; CONTINUANCE IN OFFICE

15 (a) A district judge may file in the office of the secretary of state, on or
16 before September 1 of the year preceding the expiration of the term for which
17 he or she was appointed or retained, a declaration that he or she will be a
18 candidate to succeed himself or herself. However, a district judge appointed
19 and having taken the oath of office after September 1 of the year preceding the
20 expiration of the term of office shall automatically be a candidate for retention
21 without filing notice. When a judge files such a declaration, his or her name

1 shall be submitted to the general assembly for a vote on retention. ~~The general~~
2 ~~assembly shall vote upon one ballot on the question~~ “Shall the following
3 ~~district judges be retained in office?”~~ The names of the judges shall be listed
4 ~~followed by “Yes— No—.”~~ The vote may be taken by voice or, if at least ten
5 members so request, by roll call. If a majority of those voting on the question
6 vote against retaining a judge in office, upon the expiration of the term a
7 vacancy shall exist which shall be filled in accordance with the constitution
8 and chapter 15 of this title. If the majority vote is in favor of retention, the
9 judge shall, unless removed for cause, remain in office for another term, and at
10 its end, shall be eligible for retention in office in the manner herein prescribed.

11 * * *

12 Sec. 4. 4 V.S.A. § 608(c) is amended to read:

13 (c)(1) For the purpose of receiving information and hearing testimony, the
14 joint committee responsible for the recommendation of retention shall hold
15 hearings which, if possible, shall not commence until the general assembly is
16 in session. On or before the eighth Thursday after the convening of each
17 biennial and adjourned session, the joint committee shall hold a public hearing
18 using interactive television and broadcast it to all available sites.

19 (2) Information obtained under subsection ~~(e) of section 607~~ 607(c) of
20 this title, shall be confidential until the committee commences its hearings
21 under this subsection.