



# Ohio Legislative Service Commission

## Final Analysis

Lisa Sandberg

### Am. H.J.R. 1

129th General Assembly  
(As Adopted by the General Assembly)

**Reps.** Huffman and Fende, Slaby, Grossman, Gardner, Sears, Maag, Derickson, McKenney, Amstutz, Brenner, Combs, Blessing, McClain, Thompson, Blair, Dovilla, Coley, Anielski, Baker, Beck, Boose, Carey, Duffey, Gonzales, Hollington, Martin, McGregor, Mecklenborg, Newbold, Rosenberger, Schuring, Stebelton, Uecker, Batchelder

**Sens.** Wagoner, Faber, Seitz, Turner, Bacon, Brown, Coley, Daniels, Hite, Lehner, Manning, Patton, Schiavoni, Smith, Widener, Wilson

**Adopted:** June 28, 2011; disapproved by voters on November 8, 2011

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## RESOLUTION SUMMARY

- Raises from 70 to 76 the age at which a person cannot assume judicial office pursuant to election or appointment.
- Sets the date of the election or appointment at which a judicial office is filled as the day as of which the age for assuming judicial office is measured.
- Repeals constitutional provisions that authorize the General Assembly to establish courts of conciliation and Supreme Court commissions.

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## CONTENT AND OPERATION

### Age limit for election or appointment to judicial office

The Ohio Constitution previously provided that no person may be elected or appointed to any judicial office if on or before the day when the person is to assume the office and enter upon the discharge of its duties the person will have attained the age of 70 years of age. Therefore the maximum age for assuming judicial office under prior law was 69 years of age. However, the Chief Justice or Acting Chief Justice could assign

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\* This update notes the disapproval by voters at the November 2011 General Election.

a retired judge who is beyond the age limit to active duty, with compensation paid on a *per diem* basis.

The joint resolution raises to 76 the age at which a person cannot assume judicial office pursuant to election or appointment. It also changes the time at which that age is measured from "the day the person is to take office" to "the date of the election at which the office is to be filled." Under the joint resolution, the Constitution would provide that no person may be elected or appointed to any judicial office if on or before the date of the election or appointment at which the office is to be filled the person exceeds the age of 75 years.<sup>1</sup>

## **Repeal of constitutional provisions**

The Ohio Constitution previously authorized the General Assembly to establish courts of conciliation and prescribe their powers and duties, not including the power to render a final judgment in any case except upon agreement of the parties.<sup>2</sup> The Constitution also authorized the General Assembly, at the request of the Supreme Court and with the concurrence of two-thirds of the members of each house, to appoint not more than once every ten years a commission to help the Supreme Court dispose of cases on its docket.<sup>3</sup> The joint resolution repeals these provisions of the Constitution.

Section 19 was part of the Constitution as it was adopted in 1851 and was meant to help ease judicial backlogs by providing a means of resolving disputes without going through the normal judicial process. The General Assembly has created conciliation procedures for marital controversies<sup>4</sup> and other forms of alternative dispute resolution for other types of cases (e.g., arbitration of contractual disputes and medical claims),<sup>5</sup> but it has never established courts of conciliation.<sup>6</sup>

Section 22 was adopted in 1875 in an effort to clear up the continuing backlog of Supreme Court cases. The section required the Governor to appoint a temporary, five-member commission to hear cases transferred to the commission by the Supreme Court, and it empowered the General Assembly to create similar temporary commissions in

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<sup>1</sup> Ohio Const., art. IV, § 6(C).

<sup>2</sup> Ohio Const., art. IV, § 19.

<sup>3</sup> Ohio Const., art. IV, § 22.

<sup>4</sup> R.C. 3117.01 to 3117.08.

<sup>5</sup> R.C. 2711.01 to 2711.24.

<sup>6</sup> Steven H. Steinglass and Gino J. Scarselli, *The Ohio State Constitution: A Reference Guide* (Westport, Conn.: Praeger, 2004), 193.

the future. The General Assembly has not established a commission under § 22 since 1883.<sup>7</sup>

### **Ballot date and effective date**

The joint resolution provides for its appearance on the ballot for the general election scheduled for November 8, 2011.

The joint resolution provides that if it is approved by the voters, it will take effect immediately.

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## **HISTORY**

| <b>ACTION</b>                                | <b>DATE</b> |
|--|-------------|
| Introduced                                   | 01-11-11    |
| Reported, H. Judiciary and Ethics            | 02-16-11    |
| Adopted House (70-26)                        | 04-12-11    |
| Reported, S. Judiciary – Civil Justice       | 06-23-11    |
| Passed Senate (32-0)                         | 06-28-11    |
| House concurred in Senate amendments (69-27) | 06-28-11    |

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<sup>7</sup> *Ibid.*, 193-94.

