

HOUSE BILL 1975

By Casada

AN ACT to amend Tennessee Code Annotated, Title 17, Chapter 4, Part 2 and Title 17, Chapter 4, Part 1, relative to the composition and role of the judicial selection commission and judicial evaluation commission, and role of the governor and legislature in the selection of judges.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 17-4-101, is amended by deleting subsection (b).

SECTION 2. Tennessee Code Annotated, Section 17-4-102, is amended by deleting the section in its entirety and by substituting instead the following:

17-4-102.

(a) There is established as a part of the judicial branch of the state a judicial selection commission to be comprised of fifteen (15) members as follows:

(1) Five (5) members from each grand division of Tennessee with five (5) members of the fifteen (15) being nonlawyers.

(b)

(1) The speaker of the senate shall appoint seven (7) members to the commission.

(2) The speaker of the house of representatives shall appoint seven (7) members to the commission.

(3) Jointly, the speakers shall appoint one (1) member.

(c) Each subsequent appointment to the judicial selection commission shall be made in the same manner as prescribed by subsection (b), but shall be subject to the requirements set forth in § 17-4-106.

SECTION 3: Tennessee Code Annotated, Section 17-4-106, is amended by deleting the section in its entirety and by substituting instead the following:

17-4-106.

(a) Each member of the commission shall serve a term of four (4) years.

(b) No member of the commission is eligible for reappointment.

SECTION 4. Tennessee Code Annotated, Section 17-4-109, is amended by deleting subsection (e) and substituting instead the following:

(e) As soon as practicable and not later than sixty (60) days from receipt of written notice from the governor that a vacancy has occurred, the commission shall submit to the governor a list containing the names of each applicant for the judicial vacancy and state next to the name of the applicant whether that applicant is "highly qualified", "qualified" or "not qualified" for the judicial vacancy based on the commission's review of each applicant's qualifications for the vacant judicial position.

SECTION 5. Tennessee Code Annotated, Section 17-4-112, is amended by deleting subsection (a) and substituting instead the following:

(a) When a vacancy occurs in the office of an appellate court for any reason, the governor shall fill the vacancy by nominating one (1) person from the list of applicants for the vacant judicial position and submitting the nominee's name to the state senate. The governor shall review the written list of applicants from the judicial selection commission which shall contain the commissions' ratings of each applicant as provided in § 17-4-109(e) prior to making a nomination, but shall have the right to select any applicant and submit the applicant's name to the senate for confirmation. The senate shall promptly vote on the governor's nominee and the nominee must be approved by a majority vote. In the event the governor's first nominee is not affirmed by the senate, the governor shall select a new nominee from the list of applicants who applied for the vacancy and the

senate shall promptly vote on the governor's second nominee who must be approved by a majority vote. The governor shall have the right to submit nominees for the judicial vacancy to the senate for confirmation until such time as a nominee receives a majority vote.

SECTION 6. Tennessee Code Annotated, Section 17-4-114, is amended by adding a new subdivision (b)(2) and redesignating the former subdivision (b)(2) as (b)(3):

(b)

(2) To be retained for an additional term in office, the candidate must receive not less than sixty percent (60%) of the votes cast in the retention election.

SECTION 7. Tennessee Code Annotated, Section 17-4-115, is amended by adding a new subdivision (b)(2) and renumbering the former subdivision (b)(2) as (b)(3):

(b)

(2) To be retained for an additional term in office, the candidate must receive not less than sixty percent (60%) of the votes cast in the retention election.

SECTION 8. Tennessee Code Annotated, Section 17-4-201, is amended by deleting subdivisions (b)(3), (b)(4) and (b)(9) and substituting instead the following:

(b)

(3) The speaker of the senate shall appoint three (3) members one (1) from each grand division and at least one (1) member shall be a non-lawyer.

(4) The speaker of the house of representatives shall appoint three (3) members one (1) from each grand division and at least one (1) member shall be a non-lawyer.

(9) No commission member shall serve more than one (1) term.

SECTION 9. Sections 1, 2 and 3 of this act shall take effect September 1, 2009, the public welfare requiring it, and the terms of the current membership of the judicial selection commission shall expire at such time. All remaining provisions of this act shall take effect upon becoming a law, the public welfare requiring it.