

HOUSE BILL 2141

By Lundberg

AN ACT to amend Tennessee Code Annotated, Title 2;  
Title 4; Title 16 and Title 17, relative to the  
selection and election 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 composed of five (5) members from each grand division of the state with five (5) members of the total fifteen (15) members 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 to the commission.

(c) To stagger the terms of the commission members, the speakers shall make the initial appointments from the listed groups in the following manner:

(1) The initial terms of the members from the western grand division shall be for two (2) years;

(2) The initial terms of the members from the middle grand division shall be for four (4) years; and

(3) The initial terms of the members from the eastern grand division shall be for six (6) years.

(d) 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 17-4-105, is amended by deleting the section in its entirety and substituting instead the following:

(a) Effective July 31, 2009, the entire membership of the judicial selection commission is vacated and shall be replaced by new appointments made pursuant to this part. The term of office of each newly appointed member of the judicial selection commission shall begin on August 1, 2009. The term of office of each member appointed after July 1, 2009, but prior to August 1, 2009, shall end on March 31 of the year such term is to expire pursuant to § 17-4-102. The term of office of each member of the judicial selection commission appointed after August 1, 2009, shall begin on April 1 of each year of such appointment.

(b)

(1) As soon as practicable after August 1, 2009, the commission shall meet in organizational session as convened by the chief justice of the supreme court.

(2) At the first organizational meeting, the chief justice shall preside as temporary chair, and a permanent chair shall be elected from the membership of the commission.

(3) If the chief justice is unable to convene the commission or serve as temporary chair, the chief justice may designate another member of the supreme court to so serve.

(c) The commission may elect such other officers as it deems necessary and proper and may adopt and from time to time amend bylaws and rules of procedure for the conduct of its business and discharge of its duties.

(d) The commission may employ such secretarial and clerical assistance as it deems necessary.

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

(a) After the initial terms as prescribed by § 17-4-102(a), each subsequent term of a commission member is six (6) years.

(b) A commission member is eligible for reappointment.

(c)

(1) No commission member shall serve more than two (2) terms.

(2) For purposes of the two-year limitation in this section, any member who has served any portion of a six-year term shall be considered to have served a term.

SECTION 5. 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.

However, if an incumbent judge fails to file a written declaration of candidacy as required by § 17-4-114 or § 17-4-115, or if the commission is reliably informed that a vacancy is impending for another reason, then the commission may meet and submit the names of such nominees to the governor prior to actual receipt of written notice from the governor that a vacancy has occurred.

SECTION 6. Tennessee Code Annotated, Section 17-4-112, is amended by deleting the section in its entirety and substituting instead the following:

(a)

(1)

(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 received from the judicial selection commission and submitting the nominee's name to the state senate for confirmation. Prior to making a nomination, 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), but shall have the right to select any applicant on the list and submit the applicant's name to the senate for confirmation.

(B) The nomination shall be submitted to the senate no later than thirty (30) days from the date the governor receives the list of applicants from the judicial selection commission.

(2) In any year, if the governor fills the vacancy between January 1 and April 1, then the nomination is subject to senate confirmation within thirty (30) days.

(3) In any year, if the governor fills the vacancy after April 1, the nomination is subject to senate confirmation within thirty (30) days after the senate next convenes in regular session; provided, however, in even-numbered years, the governor shall not fill any such vacancy during the period running from April 1 through the conclusion of the biennial August election.

(b) The term of a judge appointed under this section shall expire on August 31 after the next regular biennial August election occurring more than thirty (30) days after the vacancy occurs.

SECTION 7. Tennessee Code Annotated, Section 17-4-114(d), is amended by deleting the subsection in its entirety and substituting instead the following:

(d)

(1) 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. If sixty percent (60%) or more of those voting on the question vote in favor of electing the candidate, the candidate is duly elected to the office for the remainder of the term of the predecessor and given a certificate of election.

(2) If less than sixty percent (60%) of those voting on the question vote against retaining the candidate in office, then a vacancy exists as of September 1 after the regular August election. The vacancy shall be filled as provided in § 17-4-112.

SECTION 8. Tennessee Code Annotated, Section 17-4-115(d), is amended by deleting the subsection in its entirety and substituting instead the following:

(d)

(1) 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. If sixty percent (60%) or more of those voting on the question vote in favor of electing the candidate, the candidate is duly elected to the office for the remainder of the term of the predecessor and given a certificate of election.

(2) If less than sixty percent (60%) of those voting on the question vote against retaining the candidate in office, then a vacancy exists as of September 1 after the regular August election. The vacancy shall be filled as provided in § 17-4-112.

SECTION 9. Tennessee Code Annotated, Section 17-4-118, is amended by deleting the section in its entirety and substituting instead the following:

(a)

(1) After July 1, 2009, when a vacancy occurs in the office of a state trial court judge by death, resignation or otherwise, the governor shall fill the vacancy by nominating one (1) person from the list of applicants received from the judicial selection commission and submitting the nominee's name to the state senate for confirmation. Prior to making a nomination, 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), but shall have the right to select any applicant on the list and submit the applicant's name to the senate for confirmation.

(2) The nomination shall be submitted to the senate no later than thirty (30) days from the date the governor receives the list of applicants from the judicial selection commission.

(b)

(1) In any year, if the governor fills the vacancy between January 1 and April 1, then the nomination is subject to senate confirmation within thirty (30) days.

(2) In any year, if the governor fills the vacancy after April 1, the nomination is subject to senate confirmation within thirty (30) days after the senate next convenes in regular session; provided, however, in even-numbered years, the governor shall not fill any such vacancy during the period running from April 1 through the conclusion of the biennial August election.

(c) The term of a judge appointed under this section shall expire on August 31 after the next regular biennial August election recurring more than thirty (30) days after the vacancy occurs.

(d) The judicial selection commission shall follow the process established in § 17-4-109, except that the commission shall hold a public meeting in the judicial district from which such vacancy is to be filled.

(e) If the judicial district is one (1) of the five (5) smallest judicial districts according to the 1990 federal census or any subsequent federal census, the judicial selection commission may submit two (2) names to the governor.

(f) At the next regular August election recurring more than thirty (30) days after the vacancy occurs, the electorate shall elect a candidate to fill the remainder of the unexpired term or a complete term, as provided in the general election law in title 2.

SECTION 10. 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 of the state, 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 of the state, and at least one (1) member shall be a non-lawyer.

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

SECTION 11. Tennessee Code Annotated, Section 4-29-229(a), is amended by deleting subdivisions (46) and (47).

SECTION 12. Tennessee Code Annotated, Section 4-29-232(a), is amended by adding the following new appropriately designated subdivisions thereto:

( ) Judicial evaluation commission, created by § 17-4-201;

( ) Judicial selection commission, created by § 17-4-102;

SECTION 13. Sections 11 and 12 of this act shall take effect upon becoming a law, the public welfare requiring it. All remaining sections of this act shall take effect July 1, 2009, the public welfare requiring it.