

1                    H.780; JUDICIAL NOMINATIONS AND APPOINTMENTS

2                    SENATE CHANGES TO HOUSE BILL

3                    Sec. 1. 4 V.S.A. § 601 is amended to read:

4                    § 601. JUDICIAL NOMINATING BOARD CREATED; COMPOSITION

5                    (a) The Judicial Nominating Board is created for the nomination of  
6                    Supreme Court Justices, Superior judges, magistrates, and the Chair and  
7                    members of the Public Utility Commission.

8                    (b)(1) The Board shall consist of ~~44~~ 12 members who shall be selected as  
9                    follows:

10                    ~~(1)(A)~~ The Governor shall appoint two members, one of whom may be  
11                    an attorney who are not attorneys at law.

12                    ~~(2)(B)~~ The Senate shall elect three of its members, not all of whom shall  
13                    be members of the same party, and only one of whom may be an attorney at  
14                    law.

15                    ~~(3)(C)~~ The House shall elect three of its members, not all of whom shall  
16                    be members of the same party, and only one of whom may be an attorney at  
17                    law.

18                    ~~(4)(D)~~ Attorneys at law admitted to practice before the Supreme Court  
19                    of Vermont, and residing in the State, shall elect three of their number as  
20                    members of the Board. The Supreme Court shall regulate the manner of their  
21                    nomination and election.



1           (2) From the list of candidates, the Judicial Nominating Board shall  
2 select by **three-fourths** majority vote, provided that a quorum is present, well-  
3 qualified candidates for the position to be filled.

4           (b)(1) Whenever a vacancy occurs in the office of a Supreme Court Justice,  
5 a Superior Court judge, magistrate, or Chair of the Public Utility Commission,  
6 or when an incumbent does not declare that ~~he or she~~ the incumbent will be a  
7 candidate to succeed ~~himself or herself~~ themselves, the Board shall submit to  
8 the Governor the names of as many persons as it deems well qualified to be  
9 appointed to the office.

10           (2)(A) A person may nominate another person to fill a vacancy in the  
11 office of a Supreme Court Justice, a Superior Court judge, magistrate, or Chair  
12 of the Public Utility Commission by submitting a form developed by the Court  
13 Administrator pursuant to subdivision (B) of this subdivision (2).

14           (B) The Court Administrator shall make available on the Judiciary  
15 website a form that permits a person to nominate another person to fill a  
16 vacancy in the office of a Supreme Court Justice, a Superior Court judge,  
17 magistrate, or Chair of the Public Utility Commission. If a person is  
18 nominated pursuant to this subdivision (2), the Court Administrator shall  
19 provide the person nominated with information about the application process.

20           (c)(1) A candidate for judge or Justice shall be a Vermont resident and an  
21 experienced lawyer who has practiced law ~~in Vermont~~ for a minimum of

1 ~~ten~~ 10 years, with at least ~~five~~ ~~three~~ years in Vermont immediately preceding  
2 ~~his or her~~ the candidate's application to the Board. The Board may make  
3 exceptions to the ~~five-year~~ requirement ~~for absences from practice~~ that the  
4 candidate's ~~three~~ ~~five~~ years of practice in Vermont be contiguous and  
5 immediately preceding the candidate's application for reasons including  
6 family, military, academic, or medical leave.

7 (2) A candidate for magistrate shall be a Vermont resident and an  
8 experienced lawyer who has practiced law ~~in Vermont~~ for at least five years;  
9 ~~with at least three years in Vermont~~ immediately preceding ~~his or her~~ the  
10 candidate's application to the Board. The Board may make exceptions to the  
11 requirement that the candidate's ~~three~~ ~~five~~ years of practice in Vermont be  
12 contiguous and immediately preceding the candidate's application for reasons  
13 including family, military, academic, or medical leave.

14 (3) A candidate for Chair of the Public Utility Commission shall not be  
15 required to be an attorney; however, if the candidate is admitted to practice law  
16 in Vermont, the Judicial Nominating Board shall submit the candidate's name  
17 to the Court Administrator, and ~~he or she~~ the Court Administrator shall  
18 disclose to the Board information solely about professional disciplinary action  
19 taken or pending concerning the candidate. If a candidate is not admitted to  
20 practice law in Vermont, but practices a profession requiring licensure,  
21 certification, or other professional regulation by the State, the Judicial

1 Nominating Board shall submit the candidate's name to the State professional  
2 regulatory entity and that entity shall disclose to the Board any professional  
3 disciplinary action taken or pending concerning the candidate.

4 (d) A candidate shall possess the following attributes:

5 (1) Integrity. A candidate shall possess a record and reputation for  
6 excellent character and integrity.

7 (2) Legal knowledge and ability. A candidate shall possess a high  
8 degree of knowledge of established legal principles and procedures and have  
9 demonstrated a high degree of ability to interpret and apply the law to specific  
10 factual situations.

11 (3) Judicial temperament. A candidate shall possess an appropriate  
12 judicial temperament.

13 (4) Impartiality. A candidate shall exhibit an ability to make judicial  
14 determinations in a manner free of bias.

15 (5) Communication capability. A candidate shall possess demonstrated  
16 oral and written capacities, with reasonable accommodations, required by the  
17 position.

18 (6) Financial integrity. A candidate shall possess demonstrated financial  
19 probity.

20 (7) Work ethic. A candidate shall demonstrate diligence.

1           (8) Administrative capabilities. A candidate shall demonstrate  
2 management and organizational skills or experience required by the position.

3           (9) Courtroom experience. For Superior Court, a candidate shall have  
4 sufficient trial or other comparable experience that ensures knowledge of the  
5 Vermont Rules of Evidence and courtroom procedure. For the Environmental  
6 Division of the Superior Court, a candidate shall have experience in  
7 environmental and zoning law.

8           (10) Other. A candidate shall possess other attributes the Board deems  
9 relevant as identified through its rules.

10           (e) The Board shall consider the candidate's ties to the Vermont legal  
11 community and the candidate's familiarity with the Vermont legal system.

12           (f) The Board shall consider the extent to which a candidate would  
13 contribute to a Judicial branch that has diverse backgrounds and a broad range  
14 of lived experience.

15           Sec. 3. 4 V.S.A. § 603 is amended to read:

16           § 603. APPOINTMENT OF JUSTICES, JUDGES, MAGISTRATES,  
17           PUBLIC UTILITY COMMISSION CHAIR, AND MEMBERS

18           (a) Whenever the Governor appoints a Supreme Court Justice, a Superior  
19 Judge, a magistrate, the Chair of the Public Utility Commission, or a member  
20 of the Public Utility Commission, ~~he or she~~ the Governor shall select from the  
21 list of names of ~~qualified~~ well-qualified persons submitted by the Judicial

1 Nominating Board pursuant to law. The names of candidates submitted and  
2 not selected shall remain confidential.

3 (b) If the Judicial Nominating Board submits a list of candidates to the  
4 Governor contains less than three names, the Board shall, upon ~~Upon~~ request  
5 from the Governor, the Judicial Nominating Board shall reopen the search and  
6 provide the Governor with an additional list of persons it deems well qualified  
7 to be appointed to the office. A request from the Governor for additional  
8 names pursuant to this subsection shall not be made more than once.

9 Sec. 4. EFFECTIVE DATE

10 This act shall take effect on July 1, 2024.