

Walter Judge
Public Comment on H.780
3/8/2024

Dear Senators,

As a lawyer who has practiced in Vermont for almost 32 years, and who has been very active in the Bar, and who served on the JNB, I must express my concern about H.780. The bill seems to represent an overhaul of the Judicial Nominating Board, and seems to have come out of nowhere, and seems to express a solution to a supposed problem that is not clear exists.

First, the structure of the JNB has been 11 members for years. It constitutes an odd number in case there are divided votes. With an odd number, there will always be a tie breaker in case of a tie. Now suddenly, the proposal is to add a 12th member, and yet another member who is not a lawyer, to boot. Where does this proposal come from and how was it vetted?

Second, we seem to have inserted a new mechanism for nominating potential judicial candidates that is effectively a work-around around the JNB process. Why? What will be on this nominating form that the Court Administrator will hand out?

Third, and most importantly, per the bill, we can potentially have Vermont superior judges who have only practiced in Vermont for three (3) years, and even that minimalist requirement can be waived. Why would such a person, who may not have any experience practicing law in Vermont prior to his/her appointment to the Vermont bench, be considered a qualified candidate? Please understand that many Boston and New York attorneys are admitted to the Vermont Bar but do not practice here. Under this bill, they could suddenly become Vermont judges! Why?

Fourth, the bill proposes to add criteria for determining whether a candidate is qualified. It contains this: "(f) The Board shall consider the extent to which a candidate would contribute to a Judicial branch that has diverse backgrounds and a broad range of lived experience." Can anyone honestly say that they know what "a broad range of lived experience" actually means? How is "lived experience" different from "experience"?

Lastly, the bill proposes to give the Governor the effective power to reject all of the candidates that the JNB has carefully vetted, and insist on a new list. What does the Governor know about judicial qualifications that the JNB (which has vetted the candidates) does not?

You should not pass this bill, at least without much more investigation, testimony, and research to know exactly what we are doing, why it should be done, and what it will mean.

Thank you.

-Walter Judge