Introduced by Representatives LaLonde of South Burlington and Rachelson of Burlington

Referred to Committee on

Date:

Subject: Judiciary; Judicial Nominating Board; judicial nominations and appointments

Statement of purpose of bill as introduced: This bill proposes to make several modifications to the procedures for judicial nominations and appointments.

An act relating to judicial nominations and appointments

It is hereby enacted by the General Assembly of the State of Vermont:

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

§ 601. JUDICIAL NOMINATING BOARD CREATED; COMPOSITION

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

(b)(1) The Board shall consist of two members who shall be selected as follows:

(1)(A) The Governor shall appoint two members who are not attorneys at law.
(2)(B) The Senate shall elect three of its members, not all of whom shall be members of the same party, and only one of whom may be an attorney at law.

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

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

(E) The Executive Director of Racial Equity.

(5)(2) The members of the Board shall serve for terms of two years. All appointments or elections shall be between January 1 and February 1 of each odd-numbered year, except to fill a vacancy. A House vacancy that occurs when the General Assembly is adjourned shall be filled by the Speaker of the House and a Senate vacancy that occurs when the General Assembly is adjourned shall be filled by the Senate Committee on Committees. Members shall serve until their successors are elected or appointed. Members shall serve no more than three consecutive terms in any capacity.

(6)(3) The members shall elect their own chair, who will serve for a term of two years.
Sec. 2. 4 V.S.A. § 602 is amended to read:

§ 602. DUTIES; JUSTICES, JUDGES, MAGISTRATES, AND THE CHAIR

OF THE PUBLIC UTILITY COMMISSION

(a)(1) Prior to submitting to the Governor the names of candidates for
Justices of the Supreme Court, Superior Court judges, magistrates, and the
Chair of the Public Utility Commission, the Judicial Nominating Board shall
submit to the Court Administrator a list of all candidates, and he or she the
Court Administrator shall disclose to the Board information solely about
professional disciplinary action taken or pending concerning any candidate.

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

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

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

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

(c)(1) A candidate for judge or Justice shall be a Vermont resident and an
experienced lawyer who has practiced law in Vermont for a minimum of
ten years, with at least five years licensed to practice in Vermont
immediately preceding his or her application to the Board. The
Board may make exceptions to the five-year requirement for
absences from practice for reasons including family, military, academic, or
medical leave.

(2) A candidate for magistrate shall be a Vermont resident and an
experienced lawyer who has practiced law in Vermont for at least five years,
with at least three years licensed to practice in Vermont, immediately
preceding his or her application to the Board.
(3) A candidate for Chair of the Public Utility Commission shall not be required to be an attorney; however, if the candidate is admitted to practice law in Vermont, the Judicial Nominating Board shall submit the candidate’s name to the Court Administrator, and the Court Administrator shall disclose to the Board information solely about professional disciplinary action taken or pending concerning the candidate. If a candidate is not admitted to practice law in Vermont but practices a profession requiring licensure, certification, or other professional regulation by the State, the Judicial Nominating Board shall submit the candidate’s name to the State professional regulatory entity and that entity shall disclose to the Board any professional disciplinary action taken or pending concerning the candidate.

(d) A candidate shall possess the following attributes:

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

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

(3) Judicial temperament. A candidate shall possess an appropriate judicial temperament.
(4) Impartiality. A candidate shall exhibit an ability to make judicial
determinations in a manner free of bias.

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

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

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

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

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

(10) Legal experience in Vermont. The Board shall consider the
candidate's ties to the Vermont legal community, the nature and amount of the
candidate’s practice in State and federal courts in Vermont, and the candidate’s
familiarity with the Vermont legal system.

(11) Other. A candidate shall possess other attributes the Board deems
relevant as identified through its rules.
Sec. 3. 4 V.S.A. § 603 is amended to read:

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

Whenever the Governor appoints a Supreme Court Justice, a Superior Judge, a magistrate, the Chair of the Public Utility Commission, or a member of the Public Utility Commission, the Governor shall select from the list of names of qualified persons submitted by the Judicial Nominating Board pursuant to law. The names of candidates submitted and not selected shall remain confidential. The Governor shall make the appointment within 60 days after receiving the list from the Board. The Governor shall not refuse to make an appointment from the list or request that the Board submit additional names.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2024.