

Senate proposal of amendment

H. 780.

An act relating to judicial nominations and appointments

The Senate proposes to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly that if the Executive Director of Racial Equity designates another person to serve on the Judicial Nominating Board pursuant to 4 V.S.A. § 601(b)(1)(E), the person designated shall be an employee of the Agency of Administration who has experience with diversity, equity, and inclusion issues.

Sec. 2. 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 ~~11~~ 12 members who shall be selected as follows:

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

~~(2)(B)~~ (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)~~ (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)~~ (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, or designee.

~~(5)(2)~~ (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~~ not 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.

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Sec. 3. 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) 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.

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

(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 ~~he or she~~ 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) Other. A candidate shall possess other attributes the Board deems relevant as identified through its rules.

(e) 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.

Sec. 4. 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, ~~he or she~~ the Governor shall select from the list of names of ~~qualified~~ well-qualified persons submitted by the Judicial Nominating Board pursuant to law. The names of candidates submitted and not selected shall remain confidential.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2024.