

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred House Bill No. 780
3 entitled “An act relating to judicial nominations and appointments”
4 respectfully reports that it has considered the same and recommends that the
5 bill be amended by striking out all after the enacting clause and inserting in
6 lieu thereof the following:

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

8 § 601. JUDICIAL NOMINATING BOARD CREATED; COMPOSITION

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

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

14 ~~(1)(A)~~ The Governor shall appoint two members who are not attorneys
15 at law.

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

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

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

5 (E) The Executive Director of Racial Equity, or designee.

6 ~~(5)~~(2) The members of the Board shall serve for terms of two years. All
7 appointments or elections shall be between January 1 and February 1 of each
8 odd-numbered year, except to fill a vacancy. A House vacancy that occurs
9 when the General Assembly is adjourned shall be filled by the Speaker of the
10 House and a Senate vacancy that occurs when the General Assembly is
11 adjourned shall be filled by the Senate Committee on Committees. Members
12 shall serve until their successors are elected or appointed. Members shall serve
13 ~~no~~ not more than three consecutive terms in any capacity.

14 ~~(6)~~(3) The members shall elect their own chair, who will serve for a
15 term of two years.

16 * * *

17 Sec. 2. 4 V.S.A. § 602 is amended to read:

18 § 602. DUTIES; JUSTICES, JUDGES, MAGISTRATES, AND THE CHAIR
19 OF THE PUBLIC UTILITY COMMISSION

20 (a)(1) Prior to submitting to the Governor the names of candidates for
21 Justices of the Supreme Court, Superior Court judges, magistrates, and the

1 Chair of the Public Utility Commission, the Judicial Nominating Board shall
2 submit to the Court Administrator a list of all candidates, and ~~he or she~~ the
3 Court Administrator shall disclose to the Board information solely about
4 professional disciplinary action taken or pending concerning any candidate.

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

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

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

18 (B) The Court Administrator shall make available on the Judiciary
19 website a form that permits a person to nominate another person to fill a
20 vacancy in the office of a Supreme Court Justice, a Superior Court judge,
21 magistrate, or Chair of the Public Utility Commission. If a person is

1 nominated pursuant to this subdivision (2), the Court Administrator shall
2 provide the person nominated with information about the application process.

3 (c)(1) A candidate for judge or Justice shall be a Vermont resident and an
4 experienced lawyer who has practiced law ~~in Vermont~~ for a minimum of
5 ~~ten~~ 10 years, with at least ~~five~~ three years in Vermont immediately preceding
6 ~~his or her~~ the candidate's application to the Board. The Board may make
7 exceptions to the ~~five-year~~ requirement ~~for absences from practice~~ that the
8 candidate's three years of practice in Vermont be contiguous and immediately
9 preceding the candidate's application for reasons including family, military,
10 academic, or medical leave.

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

18 (3) A candidate for Chair of the Public Utility Commission shall not be
19 required to be an attorney; however, if the candidate is admitted to practice law
20 in Vermont, the Judicial Nominating Board shall submit the candidate's name
21 to the Court Administrator, and ~~he or she~~ the Court Administrator shall

1 disclose to the Board information solely about professional disciplinary action
2 taken or pending concerning the candidate. If a candidate is not admitted to
3 practice law in Vermont; but practices a profession requiring licensure,
4 certification, or other professional regulation by the State, the Judicial
5 Nominating Board shall submit the candidate's name to the State professional
6 regulatory entity and that entity shall disclose to the Board any professional
7 disciplinary action taken or pending concerning the candidate.

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

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

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

15 (3) Judicial temperament. A candidate shall possess an appropriate
16 judicial temperament.

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

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

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

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

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

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

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

13 (e) The Board shall consider the candidate’s ties to the Vermont legal
14 community and the candidate’s familiarity with the Vermont legal system.

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

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

19 § 603. APPOINTMENT OF JUSTICES, JUDGES, MAGISTRATES,

20 PUBLIC UTILITY COMMISSION CHAIR, AND MEMBERS

1 (a) Whenever the Governor appoints a Supreme Court Justice, a Superior
2 Judge, a magistrate, the Chair of the Public Utility Commission, or a member
3 of the Public Utility Commission, ~~he or she~~ the Governor shall select from the
4 list of names of ~~qualified~~ well-qualified persons submitted by the Judicial
5 Nominating Board pursuant to law. The names of candidates submitted and
6 not selected shall remain confidential.

7 (b) Upon request from the Governor, the Judicial Nominating Board shall
8 reopen the search and provide the Governor with an additional list of persons it
9 deems well qualified to be appointed to the office. A request from the
10 Governor for additional names pursuant to this subsection shall not be made
11 more than once.

12 Sec. 4. EFFECTIVE DATE

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

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(Committee vote: _____)

Representative _____
FOR THE COMMITTEE