

H.780

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 ~~44~~ 12 members who shall be selected as
follows:

~~(4)~~(A) The Governor shall appoint two members who are not attorneys
at law.

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

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

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

11 (E) The Executive Director of Racial Equity.

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

20 ~~(6)~~(3) The members shall elect their own chair, who will serve for a
21 term of two years.

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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

1 of the Public Utility Commission by submitting a form developed by the Court
2 Administrator pursuant to subdivision (B) of this subdivision (2).

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

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

17 (2) A candidate for magistrate shall be a ~~Vermont resident~~ and an
18 experienced lawyer who has practiced law ~~in Vermont~~ for at least five years,
19 with at least three years licensed to practice in Vermont, immediately
20 preceding his or her the candidate's application to the Board.

1 (3) A candidate for Chair of the Public Utility Commission shall not be
2 required to be an attorney; however, if the candidate is admitted to practice law
3 in Vermont, the Judicial Nominating Board shall submit the candidate's name
4 to the Court Administrator, and ~~he or she~~ the Court Administrator shall
5 disclose to the Board information solely about professional disciplinary action
6 taken or pending concerning the candidate. If a candidate is not admitted to
7 practice law in Vermont, but practices a profession requiring licensure,
8 certification, or other professional regulation by the State, the Judicial
9 Nominating Board shall submit the candidate's name to the State professional
10 regulatory entity and that entity shall disclose to the Board any professional
11 disciplinary action taken or pending concerning the candidate.

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

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

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

19 (3) Judicial temperament. A candidate shall possess an appropriate
20 judicial temperament.

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

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

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

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

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

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

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

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

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

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

4 Whenever the Governor appoints a Supreme Court Justice, a Superior
5 Judge, a magistrate, the Chair of the Public Utility Commission, or a member
6 of the Public Utility Commission, ~~he or she~~ the Governor shall select from the
7 list of names of ~~qualified~~ well-qualified persons submitted by the Judicial
8 Nominating Board pursuant to law. The names of candidates submitted and
9 not selected shall remain confidential. The Governor shall make the
10 appointment within 60 days after receiving the list from the Board. The
11 Governor shall not refuse to make an appointment from the list or request that
12 the Board submit additional names.

13 Sec. 4. EFFECTIVE DATE

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