
OLR Bill Analysis

sHB 5380

AN ACT CONCERNING THE COMPOSITION OF THE JUDICIAL SELECTION COMMISSION AND DECISIONS RENDERED BY SAID COMMISSION.

SUMMARY

This bill changes the composition of the Judicial Selection Commission and reduces its membership by one by removing one gubernatorial appointment. It ends the terms of the 12 current members on December 31, 2024, and requires an 11-member commission be appointed beginning January 1, 2025. Under current law, the commission is made up of six attorneys and six non-attorneys. Under the bill, the commission is made up of nine attorneys, each with at least 10 years of active practice in the Connecticut state courts, and two non-attorneys. The bill requires the nominations to be referred to the Judiciary Committee for approval and confirmed by both legislative chambers.

The bill also makes changes to the commission's work, primarily as follows:

1. allows an affirmative majority vote, rather than an affirmative vote of a majority plus one of the present and voting members as under current law, for the commission to recommend a candidate for judicial nomination or deny recommendation of an incumbent judge to the same court;
2. limits the time a candidate may be included on the commission's list of qualified candidates to 10 years;
3. increases, from two to three years, the time a commission member who is an attorney has to wait after ending his or her commission tenure before being considered for a judicial

nomination;

4. requires the commission, when denying a recommendation for judicial nomination, to include in its decision a summary of the reasons and the specific numerical vote count, and allows the candidate to request a rehearing on certain grounds; and
5. requires the commission, in its annual report to the Judiciary Committee, to include the areas of professional experience for individuals on the list of qualified candidates and that were interviewed, recommended, and denied recommendation.

The bill also makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2024

JUDICIAL SELECTION COMMISSION MEMBERS

Membership

The bill ends the terms of the commission's current 12 members on December 31, 2024, but a member serving on that date who meets the new qualifications may be reappointed to the newly formed 11-member commission. The appointments to the commission under current law and the bill, including specified qualifications, are in the below table.

Table: Judicial Selection Commission Appointees

<i>Appointing Authority</i>	<i>Until December 31, 2024, Under Current Law</i>	<i>Beginning January 1, 2025, Under the Bill</i>
Governor	Six members: One from each congressional district and one at-large as follows: Three attorneys and three non-attorneys	Five members: One from each congressional district as follows: Three attorneys each with at least 10 years active practice in Connecticut state courts and two non-attorneys
Senate president pro tempore	One attorney	One attorney with at least 10 years active practice in Connecticut state courts
House speaker	One non-attorney	One attorney with at least 10 years active practice in Connecticut state courts
Senate majority	One non-attorney	One attorney with at least 10

<i>Appointing Authority</i>	<i>Until December 31, 2024, Under Current Law</i>	<i>Beginning January 1, 2025, Under the Bill</i>
leader		years active practice in Connecticut state courts
House majority leader	One attorney	One attorney with at least 10 years active practice in Connecticut state courts
Senate minority leader	One non-attorney	One attorney with at least 10 years active practice in Connecticut state courts
House minority leader	One attorney	One attorney with at least 10 years active practice in Connecticut state courts

As under existing law, no more than six of the members may belong to the same political party, and none may be an elected or appointed state official or hold statewide office in a political party.

Beginning January 1, 2025, members must select a chairperson from among the commission's members. (Under current law, they select a chairperson from among the governor's appointees.) The members must serve (1) a three-year term from the date they are confirmed by both legislative chambers and (2) until a successor is appointed and qualified.

Confirmation Process

Under the bill, every nomination for appointment to the commission must be referred, without debate, to the Judiciary Committee. The committee must report on each nomination within 30 days after the referral date. Each nomination must be confirmed by both legislative chambers by concurrent resolution.

The bill specifies that if the legislature is not in session when an appointment is made, the appointee must serve as an acting commission member until the legislature meets and confirms the nomination.

JUDICIAL SELECTION COMMISSION DECISIONS

Judicial Reappointments

By law, the commission evaluates sitting judges who seek reappointment to the same court. In doing so, the commission holds a

hearing if its preliminary examination into the reappointment suggests further inquiry is needed before it can make a recommendation to the governor. The law requires that at least 10 members be present and voting at a hearing.

Current law requires an affirmative vote of a majority plus one of the present and voting members if the commission wants to deny a recommendation to the governor for a reappointment. The bill removes this requirement, allowing for a simple majority of those voting. Under the bill, a majority vote of the members present and voting is required for any action of the commission.

List of Judicial Candidates

By law, the commission maintains a list of qualified candidates, including judges seeking appointment to a different court, for the governor's consideration for nomination as a judge in the state's Superior, Appellate, and Supreme courts. The bill limits the time a candidate may remain on the list to no more than 10 years.

Under current law, a commission member who is an attorney cannot be considered for a recommendation to the governor during the member's tenure or for two years following. The bill increases this period to three years following the end of the member's commission tenure.

Additionally, if the commission decides to deny a recommendation to a candidate, the bill requires that its decision include a summary of the reasons (i.e., facts as established through an evaluation of the person) and the specific numerical vote count.

Current law requires an affirmative vote of a majority plus one of the present and voting members if the commission wants to recommend to the governor a candidate's appointment. The bill removes this requirement, allowing for a simple majority of those voting.

Under the bill, a candidate denied recommendation may request a rehearing on the grounds that the (1) commission's conclusions were contrary to the evidence or (2) commission did not meet the law's

procedural or substantive requirements related to maintaining a list of qualified candidates. The commission must hold the rehearing within 30 days after receiving the request, and the candidate may be present during the rehearing. The bill specifies that the commission's decision following a rehearing is final and there is no appeal right. (Existing law provides a similar right to a rehearing for an incumbent judge who is denied a recommendation for reappointment to the same court.)

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 36 Nay 1 (03/26/2024)