

1 ENGROSSED HOUSE
2 BILL NO. 3162

By: Hickman of the House

3 and

4 Bingman of the Senate

5
6 An Act directing the Secretary of State to refer to
7 the people for their approval or rejection a proposed
8 amendment to Sections 1, 3 and 4 of Article VII-B of
9 the Constitution of the State of Oklahoma; clarifying
10 definition; modifying terms of office of certain
11 members of the Judicial Nominating Commission;
12 modifying quorum requirement; modifying jurisdiction
13 of the Judicial Nominating Commission; modifying
14 selection process for appellate court vacancies;
15 requiring that certain information remains
16 confidential; requiring confirmation by a legislative
17 select committee; providing for composition of select
18 committee; providing selection process for district
19 court vacancies; providing ballot title; and
20 directing filing.

21
22 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

23 SECTION 1. The Secretary of State shall refer to the people for
24 their approval or rejection, as and in the manner provided by law,
the following proposed amendments to Sections 1, 3 and 4 of Article
VII-B of the Constitution of the State of Oklahoma to read as
follows:

Section 1. (a) The provisions of this Article shall govern the
selection and tenure of all Justices of the Supreme Court and Judges
of the Court of Criminal Appeals of the State of Oklahoma, to which

1 the provisions hereof may be extended as hereinafter provided, other
2 provisions of the Constitution or statutes of the State of Oklahoma
3 to the contrary notwithstanding, and the provisions of Article VII
4 as proposed by House Joint Resolution No. 508 of the First Session
5 of the Thirty-first Oklahoma Legislature to the contrary
6 notwithstanding.

7 (b) As used in this ~~Section~~ Article, "Judicial Office" means
8 the offices of Justice of the Supreme Court and Judges of the Court
9 of Criminal Appeals and "Judicial Officer" means a Justice or Judge
10 of each such court, excluding retired or supernumerary Justices or
11 Judges.

12 Section 3. (a) There is established as a part of the Judicial
13 Department a Judicial Nominating Commission of fifteen (15) members,
14 to consist of:

15 (1) six members to be appointed by the Governor, which shall
16 include at least one from each congressional district established by
17 the Statutes of Oklahoma and existing at the date of the adoption of
18 this Article, none of whom shall be admitted to practice law in the
19 State of Oklahoma or have any immediate family member who has been
20 admitted to the practice of law in the State of Oklahoma or any
21 other state;

22 (2) six members, which shall include at least one from each
23 congressional district established by the Statutes of Oklahoma and
24 existing at the date of the adoption of this Article who are,

1 however, members of the Oklahoma Bar Association and who have been
2 elected by the other active members of their district under
3 procedures adopted by the Board of Governors of the Oklahoma Bar
4 Association, until changed by statute; and

5 (3) three members at large who shall not have been admitted to
6 the practice of law in the State of Oklahoma or any other state or
7 have any immediate family member who has been admitted to the
8 practice of law in the State of Oklahoma or any other state but who
9 shall be a resident of the State of Oklahoma, one to be selected by
10 not less than eight members of the Nominating Commission. In the
11 event eight members of the Commission cannot agree upon the member
12 at large within thirty (30) days of the initial organization of the
13 Commission or within thirty (30) days of a vacancy in the member at
14 large position, the Governor shall make the appointment of the
15 member at large; one to be selected by the President Pro Tempore of
16 the Senate; and one to be selected by the Speaker of the House of
17 Representatives. No more than two members at large shall belong to
18 any one political party.

19 The Commission shall elect one of its members to serve as chair
20 for a term of one (1) year.

21 The six lay members of the Commission who are appointed by the
22 Governor shall be appointed within ninety (90) days from the date
23 that this Article becomes effective. ~~Two members shall be appointed~~
24 ~~for a term of two (2) years, two members for a term of four (4)~~

1 ~~years, and two members for a term of six (6) years~~ Beginning with
2 the effective date of this amendment, the six lay members who are
3 appointed by the Governor shall serve at the pleasure of the
4 Governor until such time as replaced by the Governor. The Oklahoma
5 Bar Association shall hold its election and certify to the Secretary
6 of State its members within ninety (90) days from the effective date
7 of this Article, two of whom shall be elected for a term of two (2)
8 years, two for a term of four (4) years, and two for a term of six
9 (6) years. Thereafter all of the members of the Commission, whether
10 elected or appointed, except for the members appointed by the
11 Governor, the President Pro Tempore of the Senate and the Speaker of
12 the House of Representatives, shall serve for a term of six (6)
13 years, except that the member at large shall serve for a term of two
14 (2) years. The member appointed by the President Pro Tempore of the
15 Senate shall serve at the pleasure of the President Pro Tempore
16 until the member's replacement is appointed; the member appointed by
17 the Speaker of the House of Representatives shall serve at the
18 pleasure of the Speaker of the House until the member's replacement
19 is appointed.

20 (b) ~~Vacancies arising during the term of any lay commissioner,~~
21 ~~other than the member at large, shall be filled by appointment by~~
22 ~~the Governor for the remainder of his or her term.~~ Vacancies of any
23 lawyer commissioner shall be filled by the Board of Governors of the
24 Oklahoma Bar Association for the remainder of his or her term.

1 (c) In the event of vacancy in ~~the~~ a member at large position,
2 the said vacancy shall be filled in the same manner as the original
3 selection.

4 (d) Of those Commissioners named by the Governor, not more than
5 three shall belong to any one political party.

6 (e) The concurrence of the majority of the Commissioners ~~in~~
7 ~~office at the time~~ shall be sufficient to decide any question,
8 unless otherwise provided herein. The Commission shall have
9 jurisdiction to determine whether the constitutional and statutory
10 qualifications of nominees to hold Judicial Office, intermediate
11 appellate court office, office of district judge and office of
12 associate district judge have been met and to determine the
13 existence of vacancies on the Commission.

14 No Commissioner, while a member of the Commission, shall hold
15 any other public office by election or appointment or any official
16 position in a political party and he or she shall not be eligible,
17 while a member of the Commission and for five (5) years thereafter,
18 for nomination as a Judicial Officer.

19 (g) Commissioners shall serve without compensation but the
20 Legislature shall provide funds to reimburse them for their
21 necessary travel and lodging expenses while performing their duties
22 as such Commissioners.

23 (h) No Commissioner shall be permitted to succeed himself or
24 herself.

1 (i) As used herein, the words "Oklahoma Bar Association" shall
2 include any successor thereof and any future form of the organized
3 Bar of this state.

4 Section 4. (a) When a vacancy in any Judicial Office or
5 intermediate appellate court, however arising, occurs or is certain
6 to occur, the Judicial Nominating Commission shall ~~choose~~ determine
7 that all constitutional and statutory qualifications for office are
8 met, investigate criminal and financial backgrounds and submit to
9 the Governor and the Chief Justice of the Supreme Court ~~three (3)~~
10 ~~nominees~~ a list of all applicants, each of whom has previously
11 notified the Commission in writing that he or she will serve as a
12 Judicial Officer or intermediate appellate judge if appointed. At
13 the time of submission of the list of applicants to the Governor and
14 the Chief Justice of the Supreme Court, the Commission may include
15 with the list a merit score for each applicant of one (1) through
16 ten (10) with ten (10) being the highest score, which score shall
17 remain confidential information available only as necessary for
18 purposes of appointment and confirmation. The Governor or the Chief
19 Justice of the Supreme Court may request from the Commission
20 additional information or documentation for any applicant regarding
21 any applicant's merit score. The Governor shall appoint one (1) of
22 the ~~nominees~~ applicants to fill the vacancy, but if he or she fails
23 to do so within sixty (60) days the Chief Justice of the Supreme
24 Court shall appoint one (1) of the ~~nominees, the appointment to be~~

1 applicants. Any appointment to Judicial Office or to an
2 intermediate appellate court shall be subject to confirmation by a
3 majority of the Senate and House of Representatives. Senate members
4 of the select committee shall be appointed by the President Pro
5 Tempore of the Senate and House of Representative members of the
6 select committee shall be appointed by the Speaker of the House of
7 Representatives. Until changed by statute, the select committee
8 shall consist of ten (10) legislators, with five (5) members
9 appointed from each house of the Legislature, and shall include at
10 least one member from each house of the Legislature who is not a
11 member of the political party holding the majority of seats in that
12 house. The appointment and confirmation shall be certified by the
13 Secretary of State.

14 (b) When a vacancy during the term of any office of district
15 judge or associate district judge, however arising, occurs or is
16 certain to occur, the Judicial Nominating Commission shall determine
17 whether the constitutional and statutory qualifications for office
18 are met by each applicant and, in the event there are three (3) or
19 fewer applicants, submit all the applicants who meet the
20 constitutional and statutory qualifications as nominees each of whom
21 has previously notified the Commission in writing that he or she
22 will serve as a district court judge or associate district court
23 judge if appointed, to the Governor and the Chief Justice of the
24 Supreme Court, and in the event there are more than three (3)

1 applicants evaluate the merits of the applicants and choose three
2 (3) nominees to submit to the Governor and the Chief Justice of the
3 Supreme Court each of whom has previously notified the Commission in
4 writing that he or she will serve as a district court judge or
5 associate district court judge if appointed. The Governor shall
6 appoint one (1) of the nominees to fill the vacancy, but if he or
7 she fails to do so within sixty (60) days the Chief Justice of the
8 Supreme Court shall appoint one (1) of the nominees.

9 SECTION 2. The Ballot Title for the proposed Constitutional
10 amendments as set forth in SECTION 1 of this resolution shall be in
11 the following form:

12 BALLOT TITLE

13 Legislative Referendum No. _____ State Question No. _____

14 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

15 This measure changes the selection process for filling vacancies
16 for the Supreme Court, Court of Criminal Appeals and
17 intermediate appellate courts. It places in the Constitution
18 the current method of filling vacancies in district court
19 offices. The change in selection of appellate judges would
20 require the Judicial Nominating Commission to submit to the
21 Governor a list of all applicants for the office. The
22 Commission could also include a merit ranking. The Governor
23 would select one of the applicants. The selection would have to
24 be confirmed by a select legislative committee.

1 SHALL THE PROPOSAL BE APPROVED?

2 FOR THE PROPOSAL — YES _____

3 AGAINST THE PROPOSAL — NO _____

4 SECTION 3. The Chief Clerk of the House of Representatives,
5 immediately after the passage of this act, shall prepare and file
6 one copy thereof, including the Ballot Title set forth in SECTION 2
7 hereof, with the Secretary of State and one copy with the Attorney
8 General.

9 Passed the House of Representatives the 3rd day of March, 2016.

10
11 _____
12 Presiding Officer of the House
of Representatives

13 Passed the Senate the ____ day of _____, 2016.

14
15
16 _____
Presiding Officer of the Senate