

1
2
3
4
5
6
7
8

9
10
11
12
13
14
15
16
17
18
19

H.535

Introduced by Representative 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

* * *

(g) Except as provided in subsection (h) of this section, proceedings of the
Board, including the names of candidates considered by the Board and
information about any candidate submitted by the Court Administrator or by
any other source, shall be confidential.

(h) The following shall be public:

(1) operating procedures of the Board;

1 (2) standard application forms and any other forms used by the Board,
2 provided they do not contain personal information about a candidate or
3 confidential proceedings;

4 (3) all proceedings of the Board prior to the Board's receipt of the first
5 candidate's completed application; and

6 (4) at the time the Board sends the names of the candidates to the
7 Governor;

8 (A) the total number of applicants for the vacancy and the ~~total~~
9 ~~number~~ names of candidates sent to the Governor; and

10 (B) aggregate demographic data for all applicants for the vacancy,
11 including gender, sexual orientation, race, and ethnicity.

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

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

15 (a)(1) Prior to submitting to the Governor the names of candidates for
16 Justices of the Supreme Court, Superior Court judges, magistrates, and the
17 Chair of the Public Utility Commission, the Judicial Nominating Board shall
18 submit to the Court Administrator a list of all candidates, and he or she shall
19 disclose to the Board information solely about professional disciplinary action
20 taken or pending concerning any candidate.

1 (2) From the list of candidates, the Judicial Nominating Board shall
2 select by majority vote, provided that a quorum is present, well-qualified
3 candidates for the position to be filled. The results of the vote shall be ranked
4 according to the number of favorable votes received by each candidate, and the
5 Board shall conduct a final vote using the rankings as a basis to develop a list
6 of names to submit to the Governor that satisfies the numerical criteria of
7 subsection (b) of this section.

8 (b) Whenever a vacancy occurs in the office of a Supreme Court Justice, a
9 Superior Court judge, magistrate, or Chair of the Public Utility Commission, or
10 when an incumbent does not declare that he or she will be a candidate to
11 succeed himself or herself, the Board shall submit to the Governor ~~the~~ a list of
12 names consisting of as many persons as it deems well-qualified to be appointed
13 to the office not less than two of the persons and not more than 25 percent of
14 the persons who applied for the vacancy.

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

1 (2) A candidate for magistrate shall be a Vermont resident and an
2 experienced lawyer who has practiced law ~~in Vermont~~ for at least five years
3 immediately preceding ~~his or her~~ the candidate's application to the Board.

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

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

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

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

1 (3) Judicial temperament. A candidate shall possess an appropriate
2 judicial temperament.

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

5 (5) Communication capability. A candidate shall possess demonstrated
6 oral and written capacities, with reasonable accommodations, required by the
7 position. For the Supreme Court, a candidate shall possess superior writing
8 ability.

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

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

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

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

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

1 Sec. 3. 4 V.S.A. § 602a is amended to read:

2 § 602a. DUTIES; PUBLIC UTILITY COMMISSION MEMBERS

3 * * *

4 (c) A candidate shall possess the attributes provided in subsection 602(d) of
5 this title, provided that the candidate shall not be required to satisfy the “legal
6 knowledge and ability” requirement of subdivision 602(d)(2) of this title.

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

8 § 603. APPOINTMENT OF JUSTICES, JUDGES, MAGISTRATES,
9 PUBLIC UTILITY COMMISSION CHAIR, AND MEMBERS

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

18 Sec. 5. EFFECTIVE DATE

19 This act shall take effect on July 1, 2022.