

SHORT TITLE: Courts; creating Judicial Nominating Commissions;
codification; effective date.

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

SENATE BILL NO. 480

By: Smith

AS INTRODUCED

An Act relating to courts; amending 51 O.S. 1991, Section 10, which relates to appointment of state officers; stating scope of the act; specifying authority of certain Judicial Nominating Commissions; providing definitions; providing for retention of judicial officers; creating Judicial Nominating Commissions; providing for appointment and terms of members; providing for selection of chairman; providing for member vacancies; limiting appointment of certain persons; providing for quorum; declaring jurisdiction; prohibiting members' service in certain official positions; providing that members serve without compensation; prohibiting member succession; specifying duties; specifying term and appointment of acting judicial officers; prohibiting certain activity by judicial officers; conforming language; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 130 of Title 20, unless there is created a duplication in numbering, reads as follows:

A. The provisions of this act shall govern the selection and tenure of all district judges and associate district judges for Oklahoma County and Tulsa County.

B. As used in this act, "judicial office" means an office of district judge or associate district judge for Oklahoma County or Tulsa County and "judicial officer" means a district judge or associate district judge for Oklahoma County or Tulsa County, excluding retired or supernumerary judges.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 131 of Title 20, unless there is created a duplication in numbering, reads as follows:

A. At the General Election next before a term expires, any judicial officer may seek retention in office by filing with the Secretary of State, not less than sixty (60) days before the date of the election, a Declaration of Candidacy to succeed himself.

B. At the election, there shall be submitted to the qualified electors of the state, on a separate ballot, without party designation, this question:

"Shall (here insert name of judge) of (here insert the title of the court) be retained in office?

 / YES

 / NO"

C. The question shall be decided by a majority of those voting thereon. If the decision is "yes" the judicial officer shall be retained in office for the next ensuing four-year term. If the decision is "no", or if no Declaration of Candidacy is filed, the office shall be vacant upon expiration of the term then being served, and the former judicial officer shall not be eligible for appointment to that judicial office.

D. Retention in office may be sought for an unlimited number of terms, except for mandatory retirement as may be provided by the Legislature.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 132 of Title 20, unless there is created a duplication in numbering, reads as follows:

A. There are hereby established within the judicial department a Judicial Nominating Commission for each of the following counties:

1. Oklahoma; and
2. Tulsa.

B. Each Commission shall be composed of thirteen (13) members, to consist of:

1. Six members to be appointed by the Governor, from the respective county, none of whom shall be admitted to practice law in the State of Oklahoma;

2. Six members from the respective county who are members of the Oklahoma Bar Association and who have been elected by the other active members of their respective county under procedures adopted by the Board of Governors of the Oklahoma Bar Association; and

3. One member at large who shall not have been admitted to the practice of law in the State of Oklahoma or any other state, but who shall be a resident of the respective county, to be selected by not less than eight members of the Judicial Nominating Commission. In the event eight members of the Commission cannot agree upon the member at large within thirty (30) days of the initial organization of the Commission or within thirty (30) days of a vacancy in the member at large position, the Governor shall make the appointment of the member at large. The Commission shall elect one of its members to serve as Chairman for a term of one (1) year. The six lay members of the Commission who are appointed by the Governor shall be appointed within ninety (90) days after the date that this act becomes effective. Two members shall be appointed for a term of two (2) years, two members for a term of four (4) years, and two members for a term of six (6) years. The Oklahoma Bar Association shall hold an election and certify to the Secretary of State its members

within ninety (90) days from the effective date of this act, two of whom shall be elected for a term of two (2) years, two for a term of four (4) years, and two for a term of six (6) years. Thereafter, all of the members of the Commission, whether elected or appointed, shall serve for a term of six (6) years, except that the member at large shall serve for a term of two (2) years.

B. Vacancies arising during the term of any lay Commissioner, other than the member at large, shall be filled by appointment by the Governor for the remainder of the term. Vacancies of any lawyer Commissioner shall be filled by the Board of Governors of the Oklahoma Bar Association for the remainder of the term.

C. In the event of vacancy in the member at large position, the vacancy shall be filled in the same manner as the original selection.

D. Of those Commissioners named by the Governor, not more than three shall belong to any one political party.

E. The concurrence of the majority of Commissioners in office at the time shall be sufficient to decide any question, unless otherwise provided herein. The Commission shall have jurisdiction to determine whether the qualifications of nominees to hold judicial office have been met and to determine the existence of vacancies on the Commission.

F. No Commissioner, while a member of the Commission, shall hold any other public office by election or appointment or any official position in a political party and shall not be eligible, while a member of the Commission and for five (5) years thereafter, for nomination as a judicial officer.

G. Commissioners shall serve without compensation, but the Legislature shall provide funds to reimburse them for their necessary travel and lodging expenses while performing their duties as such Commissioners.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 133 of Title 20, unless there is created a duplication in numbering, reads as follows:

When a vacancy in judicial office, however arising, occurs or is certain to occur, the respective Judicial Nominating Commission shall choose and submit to the Governor three nominees, each of whom has notified the Commission in writing of a willingness to serve as a judicial officer if appointed. The Governor shall appoint one of the nominees to fill the vacancy, the appointment to be certified by the Secretary of State.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 134 of Title 20, unless there is created a duplication in numbering, reads as follows:

A. Each judicial officer elected before or after the adoption of this act shall, unless removed for cause, serve out the term for which elected and those judicial officers serving at the date of the adoption of this act, whose judicial office comes under the provisions of this act on the date of the expiration of their term, shall be deemed to have been appointed as provided herein and eligible to file a Declaration of Candidacy to succeed themselves as provided in this act. If retained in office, the term of each such judicial officer shall be four (4) years commencing the second Monday in January following the election.

B. The term and election of each judicial officer appointed to fill a vacancy after the adoption of this act shall be as follows: If such appointed officer has served or will have served twelve (12) months on or before the next General Election following appointment, such officer may file for election for the remainder of the term for which the officer was appointed, or for a four-year term, whichever is applicable, within the time and in the manner elected judicial officers file their candidacy under this act. If an appointed officer has not served or will not have served twelve (12) months on

or before the next General Election following appointment, the officer shall continue in office until the second General Election following appointment and may file for election for the remainder of the term or for a four-year term, whichever is applicable, as herein provided.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 135 of Title 20, unless there is created a duplication in numbering, reads as follows:

No judicial officer appointed or retained in office under the provisions of this act shall make, directly or indirectly, any contribution to or hold office in a political party or organization.

SECTION 7. AMENDATORY 51 O.S. 1991, Section 10, is amended to read as follows:

Section 10. ~~(a)~~ A. All vacancies in state offices, except in offices of the members of the Legislature, members of the House of Representatives from Oklahoma in the Congress of the United States of America and members of the Senate of the United States of America, shall be filled by appointment by the Governor. When a vacancy occurs in the office of district judge, associate district judge, or judge of any intermediate appellate court, the Governor shall, in filling such vacancy, utilize the services of the Judicial Nominating Commission ~~in the manner as provided for in the filling of judicial offices under Section 4,~~ created by Article 7B of the Oklahoma Constitution or a Judicial Nominating Commission created by Sections 1 through 6 of this act.

~~(b)~~ B. All vacancies in county offices except the board of county commissioners shall be filled by appointment by the board of county commissioners. If such an appointment is made prior to the prescribed filing period for county officers in accordance with the provisions of Section 131 of Title 19 of the Oklahoma Statutes, the county commissioners shall, at the time said appointment is made, proclaim a Special Election to fill the balance of the unexpired

term, providing the balance of the term does not expire in the year following the next succeeding General Election. In making the proclamation, the county commissioners shall establish the dates for the filing period, Primary Election, Runoff Primary Election and General Election to be the same as the next succeeding filing period, Primary Election, Runoff Primary Election and General Election for county officers. The appointee shall be eligible to become a candidate at said Special Election, providing said appointee is otherwise qualified. The office to be filled shall be printed on the same ballot as other county offices.

SECTION 8. This act shall become effective upon certification of election results favoring passage of the Constitutional Amendment proposed in Senate Joint Resolution No. 11 of the 1st Session of the 44th Oklahoma Legislature.

44-1-0130

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