

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL NO. 805

By: Henry

AS INTRODUCED

An Act relating to courts; amending 20 O.S. 1991, Sections 92i, as amended by Section 5, Chapter 339, O.S.L. 1996, and 121.1 (20 O.S. Supp. 1998, Section 92i), which relate to qualifications for district and associate district judges; providing for retention election of district judges and associate district judges; creating local judicial selection commissions; providing for appointment and terms; providing for election of officers; providing for filling of vacancies; providing for reimbursement of certain travel expenses; prohibiting successive terms; requiring appointment by date certain; providing for staff, supplies, and facilities; exempting from the Oklahoma Sunset Law, the Oklahoma Open Meetings Act, and the Oklahoma Records Act; defining term; deleting language providing for election of associate district judge; deleting obsolete language; clarifying language; amending 51 O.S. 1991, Section 10, as amended by Section 14, Chapter 316, O.S.L. 1993 (51 O.S. Supp. 1998, Section 10), which relates to vacancies, appointments, and special elections of state officers; conforming language; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 20 O.S. 1991, Section 92i, as amended by Section 5, Chapter 339, O.S.L. 1996 (20 O.S. Supp. 1998, Section 92i), is amended to read as follows:

Section 92i. A. ~~To file as a candidate for~~ be eligible for appointment to the office of district judge or associate district judge, one must ~~have been~~ be a registered voter and actual resident of the appropriate county ~~for at least six (6) months prior to the first day of the filing period.~~ ~~Should no one file for any such office, and should a vacancy thereby created be filled by appointment according to law, there shall be no such residency or~~

~~durational registration requirement imposed on the appointee, providing said appointee is otherwise qualified, nor shall any person appointed to fill a vacancy in the office of district judge or associate district judge be required to comply with such residency or durational registration requirement in becoming a candidate for a full term following such appointment at the time of taking office. To be eligible for retention in office, a district judge or associate district judge must be a registered voter and actual resident of the appropriate county.~~

B. No one who has been removed from judicial office or who has resigned from office pending disciplinary proceedings shall qualify ~~to file as a candidate~~ for election or appointment to a judicial office.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 92j of Title 20, unless there is created a duplication in numbering, reads as follows:

A. Beginning with the General Election held in November of 2002, district judges and associate district judges who wish to seek another term in office shall file a declaration of candidacy for retention in office. At the General Election held before the term of a district judge or associate district judge expires, the judge may seek retention in office for another term by filing, with the Secretary of State not less than sixty (60) days before the date of the election, a valid declaration of candidacy. At the election, there shall be submitted to the qualified voters of the district, on a separate ballot, without party designation, this question:

"Shall (Here insert name of judge) of (Here insert the district and office of the court) be retained in office?"

YES

NO

The question shall be decided by a majority of those voting thereon. If the decision is "yes" the judge 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 judge shall not be eligible for appointment for the next term. Retention in office may be sought for four (4) successive terms, except for retirement as may be provided by the Legislature for a maximum retirement age.

B. In case a district judge or associate district judge dies, retires, resigns, or is removed from office, on or after March 8, 2000, the Local Judicial Selection Commission from the administrative district where the vacancy exists shall choose and submit to the Governor and the Chief Justice of the Supreme Court three nominees, each of whom has previously notified the Commission in writing that he or she will serve as a judge if appointed. The Governor shall appoint one of the nominees to fill the vacancy, but if the Governor fails to do so within sixty (60) days the Chief Justice of the Supreme Court shall appoint one of the nominees, the appointment to be certified by the Secretary of State.

C. 1. There are hereby established in the Judicial Department, nine local judicial selection commissions of seven (7) members, with each Commission to consist of:

- a. three members to be appointed by the Governor, all of whom shall be from the same judicial administrative district, none of whom shall be admitted to practice law in the State of Oklahoma,
- b. three members, all of whom shall be from the same judicial administrative district, who are members of the Oklahoma Bar Association and who have been elected by the other active members of their judicial administrative district under procedures adopted by the Board of Governors of the Oklahoma Bar Association, until changed by statute, and

c. one member at large who shall not have been admitted to the practice of law in this state or any other state, but who shall be a resident of the judicial administrative district, to be selected by not less than five members of the Local Judicial Selection Commission. In the event five 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.

2. Each Commission shall elect one of its members to serve as chair for a term of one (1) year.

3. The three lay members of each Commission who are appointed by the Governor shall be appointed within ninety (90) days from the date that this act becomes effective. One member shall be appointed for a term of two (2) years, one member for a term of four (4) years, and one member for a term of six (6) years. The Oklahoma Bar Association shall hold its election and certify to the Secretary of State its members within ninety (90) days from the effective date of this Article, one who shall be elected for a term of two (2) years, one for a term of four (4) years, and one for a term of six (6) years. Thereafter all of the members of each 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.

4. 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 commissioner's 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.

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

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

7. The concurrence of the majority of Commissioners in office at the time shall be sufficient to decide any question, unless otherwise provided herein. Each 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.

8. 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 a Commissioner shall not be eligible, while a member of the Commission and for five (5) years thereafter, for nomination as a Judicial Officer.

9. Commissioners shall serve without compensation, but shall be reimbursed by the Administrative Office of the Courts for their necessary travel and lodging expenses pursuant to the State Travel Reimbursement Act.

10. No Commissioner shall be permitted to succeed himself or herself.

11. Members of the local judicial selection commissions shall be appointed after the effective date of this act for terms beginning March 8, 2000.

12. The Administrative Office of the Courts shall provide all necessary staff and supplies and shall furnish or contract for appropriate space for meetings in the respective judicial administrative districts.

13. The local judicial selection commissions shall be exempt from the provisions of the Oklahoma Sunset Law, the Oklahoma Open Meetings Act, and the Oklahoma Open Records Act.

14. As used herein, the words "Oklahoma Bar Association" shall include any successor thereof and any future form of the organized Bar of this state.

SECTION 3. AMENDATORY 20 O.S. 1991, Section 121.1, is amended to read as follows:

Section 121.1 No person shall be eligible for appointment to, ~~or for election to,~~ the office of associate district judge unless ~~he~~ the person has had a minimum of two (2) years of experience as a licensed practicing attorney, or as a judge of a court of record, or a combination thereof, within ~~the State of Oklahoma. Provided that this section shall not apply to any person who held the office of associate district judge on or before July 15, 1974~~ this state.

SECTION 4. AMENDATORY 51 O.S. 1991, Section 10, as amended by Section 14, Chapter 316, O.S.L. 1993 (51 O.S. Supp. 1998, Section 10), is amended to read as follows:

Section 10. (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, Article 7B of the Oklahoma Constitution.

(b) All vacancies in county offices except the board of county commissioners or except for any elective county office of any county in the State of Oklahoma having a population of more than five hundred and fifty thousand (550,000), according to the latest Federal Decennial Census 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 5. This act shall become effective November 1, 1999.

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