

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 SENATE JOINT
4 RESOLUTION 39

By: Sykes

5
6 AS INTRODUCED

7 A Joint Resolution directing the Secretary of State
8 to refer to the people for their approval or
9 rejection a proposed amendment to Sections 3 and 4 of
10 Article VII-B of the Oklahoma Constitution; modifying
11 the composition of the Judicial Nominating
12 Commission; providing for appointment and terms of
13 office; requiring the advice and consent of the
14 Senate for certain appointments; providing ballot
15 title; and directing filing.

16
17 BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE
18 1ST SESSION OF THE 52ND OKLAHOMA LEGISLATURE:

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

23 Section 3. (a) There is established as a part of the Judicial
24 Department a Judicial Nominating Commission of thirteen (13)
members, to consist of:

(1) ~~six (6)~~ five members to be appointed by the Governor, one
~~(1)~~ from each congressional district established by the Statutes of
Oklahoma and existing ~~at the date of the adoption of this Article on~~

1 November 1, 2009, none of whom shall be admitted to practice law in
2 the State of Oklahoma;

3 (2) ~~six (6)~~ five members to be appointed by the Governor, one
4 ~~(1)~~ from each congressional district established by the Statutes of
5 Oklahoma and existing ~~at the date of the adoption of this Article on~~
6 November 1, 2009, who are, ~~however,~~ members of the Oklahoma Bar
7 Association and ~~who have been elected by the other active members of~~
8 ~~their district under procedures adopted by the Board of Governors of~~
9 ~~the Oklahoma Bar Association, until changed by statute; and~~

10 (3) ~~one (1) member at large who shall not have been admitted to~~
11 ~~the practice of law in the State of Oklahoma or any other State, but~~
12 ~~who shall be a resident of the State of Oklahoma, to be selected by~~
13 ~~not less than eight (8) members of the Nominating Commission. In~~
14 ~~the event eight (8) members of the Commission cannot agree upon the~~
15 ~~member at large within thirty (30) days of the initial organization~~
16 ~~of the Commission or within thirty (30) days of a vacancy in the~~
17 ~~member at large position, the Governor shall make the appointment of~~
18 ~~the member at large~~ three members who are members of the Oklahoma
19 Bar Association and who have been elected by the other active
20 members of the Bar who reside in the district of the elected member
21 under procedures adopted by the Board of Governors of the Oklahoma
22 Bar Association.

23 The Commission shall elect one of its members to serve as
24 Chairman for a term of one (1) year.

1 ~~The six (6) lay members of the Commission who are appointed by~~
2 ~~the Governor shall be appointed within ninety (90) days from the~~
3 ~~date that this Article becomes effective. Two (2) members shall be~~
4 ~~appointed for a term of two (2) years, two (2) members for a term of~~
5 ~~four (4) years, and two (2) members for a term of six (6) years.~~
6 ~~The Oklahoma Bar Association shall hold its election and certify to~~
7 ~~the Secretary of State its members within ninety (90) days from the~~
8 ~~effective date of this Article, two (2) of whom shall be elected for~~
9 ~~a term of two (2) years, two (2) for a term of four (4) years, and~~
10 ~~two (2) for a term of six (6) years.~~

11 (b) Commissioners serving on the effective date of this
12 amendment shall serve the remainder of their terms. Thereafter all
13 of the members of the Commission, whether elected or appointed,
14 shall serve for a term of six (6) years, except that the member at
15 large shall serve for a term of two (2) years. For appointments
16 made for a term beginning on or after October 5, 2009, the Governor
17 shall appoint three members, one of whom shall be an attorney
18 licensed to practice law in this state, and the Oklahoma Bar
19 Association shall select one member from its membership. For
20 appointments made for a term beginning on or after October 5, 2011,
21 the Governor shall appoint three members, two of whom shall be
22 attorneys licensed to practice law in this state, and the Oklahoma
23 Bar Association shall select one member from its membership. For
24 appointments made for a term beginning on or after October 5, 2013,

1 the Governor shall appoint four members, two of whom shall be
2 attorneys licensed to practice law in this state, and the Oklahoma
3 Bar Association shall select one member from its membership.
4 Initial appointments pursuant to this subsection shall be subject to
5 the appointment requirements set out in subsection (a) of this
6 section.

7 ~~(b)~~ (c) Vacancies arising during the term of any lay
8 commissioner, ~~other than the member at large,~~ shall be filled by
9 appointment by the Governor for the remainder of ~~his~~ the term.

10 Vacancies of any lawyer commissioner, appointed by the Oklahoma Bar
11 Association, shall be filled by the Board of Governors of the
12 Oklahoma Bar Association for the remainder of ~~his~~ the term.

13 ~~(c)~~ ~~In the event of vacancy in the member at large position,~~
14 ~~the said vacancy shall be filled in the same manner as the original~~
15 ~~selection.~~

16 (d) Of those Commissioners named by the Governor, not more than
17 ~~three~~ ~~(3)~~ five shall belong to any one political party.

18 (e) The concurrence of the majority of Commissioners in office
19 at the time shall be sufficient to decide any question, unless
20 otherwise provided herein. The Commission shall have jurisdiction
21 to determine whether the qualifications of nominees to hold Judicial
22 Office have been met and to determine the existence of vacancies on
23 the Commission.

24

1 (f) No Commissioner, while a member of the Commission, shall
2 hold any other public office by election or appointment or any
3 official position in a political party and he shall not be eligible,
4 while a member of the Commission and for five (5) years thereafter,
5 for nomination as a Judicial Officer.

6 (g) Commissioners shall serve without compensation but the
7 Legislature shall provide funds to reimburse them for their
8 necessary travel and lodging expenses while performing their duties
9 as such Commissioners.

10 (h) No Commissioner shall be permitted to succeed himself.

11 (i) As used herein, the words "Oklahoma Bar Association" shall
12 include any successor thereof and any future form of the organized
13 Bar of this State.

14 Section 4. When a vacancy in any Judicial Office, however
15 arising, occurs or is certain to occur, the Judicial Nominating
16 Commission shall choose and submit to the Governor and the Chief
17 Justice of the Supreme Court three ~~(3)~~ nominees, each of whom has
18 previously notified the Commission in writing that he will serve as
19 a Judicial Officer if appointed. The Governor, with the advice and
20 consent of the Senate, shall appoint one ~~(1)~~ of the nominees to fill
21 the vacancy, but if ~~he~~ the Governor fails to do so within sixty (60)
22 days the Chief Justice of the Supreme Court shall appoint one ~~(1)~~ of
23 the nominees, the appointment to be certified by the Secretary of
24 State.

1 SECTION 2. The Ballot Title for the proposed Constitutional
2 amendment as set forth in SECTION 1 of this resolution shall be in
3 the following form:

4 BALLOT TITLE

5 Legislative Referendum No. _____ State Question No. _____

6 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

7 The measure amends the Oklahoma Constitution. It amends
8 sections that set up the Judicial Nominating Commission. This
9 Commission chooses people to nominate for judge or justice if
10 there is a vacancy. The Commission sends the names of three
11 people to the Governor. The Governor picks one of the three to
12 fill the vacancy. This amendment would change how the members
13 are appointed. Currently, the Governor picks six members. The
14 Bar Association picks six members. The Commission picks one
15 member. If changed by this amendment, the Governor would pick
16 ten members and the Bar Association would pick three members.
17 The Governor would pick five persons who are lawyers and five
18 persons who are not lawyers. The Bar Association would pick
19 three lawyers. Members picked by the Governor would have to be
20 confirmed by the Senate.

21 SHALL THE PROPOSAL BE APPROVED?

22 FOR THE PROPOSAL - YES _____

23 AGAINST THE PROPOSAL - NO _____

24

1 SECTION 3. The President Pro Tempore of the Senate shall,
2 immediately after the passage of this resolution, prepare and file
3 one copy thereof, including the Ballot Title set forth in SECTION 2
4 hereof, with the Secretary of State and one copy with the Attorney
5 General.

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