

CORRECTED

ENGROSSED HOUSE
BILL NO. 3162

By: Hickman of the House

and

Bingman of the Senate

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

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

SECTION 1. The Secretary of State shall refer to the people for 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:

1 Section 1. (a) The provisions of this Article shall govern the
2 selection and tenure of all Justices of the Supreme Court and Judges
3 of the Court of Criminal Appeals of the State of Oklahoma, to which
4 the provisions hereof may be extended as hereinafter provided, other
5 provisions of the Constitution or statutes of the State of Oklahoma
6 to the contrary notwithstanding, and the provisions of Article VII
7 as proposed by House Joint Resolution No. 508 of the First Session
8 of the Thirty-first Oklahoma Legislature to the contrary
9 notwithstanding.

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

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

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

1 (2) six members, which shall include at least one from each
2 congressional district established by the Statutes of Oklahoma and
3 existing at the date of the adoption of this Article who are,
4 however, members of the Oklahoma Bar Association and who have been
5 elected by the other active members of their district under
6 procedures adopted by the Board of Governors of the Oklahoma Bar
7 Association, until changed by statute; and

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

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

1 The six lay members of the Commission who are appointed by the
2 Governor shall be appointed within ninety (90) days from the date
3 that this Article becomes effective. ~~Two members shall be appointed~~
4 ~~for a term of two (2) years, two members for a term of four (4)~~
5 ~~years, and two members for a term of six (6) years~~ Beginning with
6 the effective date of this amendment, the six lay members who are
7 appointed by the Governor shall serve at the pleasure of the
8 Governor until such time as replaced by the Governor. The Oklahoma
9 Bar Association shall hold its election and certify to the Secretary
10 of State its members within ninety (90) days from the effective date
11 of this Article, two of whom shall be elected for a term of two (2)
12 years, two for a term of four (4) years, and two for a term of six
13 (6) years. Thereafter all of the members of the Commission, whether
14 elected or appointed, except for the members appointed by the
15 Governor, the President Pro Tempore of the Senate and the Speaker of
16 the House of Representatives, shall serve for a term of six (6)
17 years, except that the member at large shall serve for a term of two
18 (2) years. The member appointed by the President Pro Tempore of the
19 Senate shall serve at the pleasure of the President Pro Tempore
20 until the member's replacement is appointed; the member appointed by
21 the Speaker of the House of Representatives shall serve at the
22 pleasure of the Speaker of the House until the member's replacement
23 is appointed.
24

1 (b) ~~Vacancies arising during the term of any lay commissioner,~~
2 ~~other than the member at large, shall be filled by appointment by~~
3 ~~the Governor for the remainder of his or her term.~~ Vacancies of any
4 lawyer commissioner shall be filled by the Board of Governors of the
5 Oklahoma Bar Association for the remainder of his or her term.

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

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

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

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

1 (g) Commissioners shall serve without compensation but the
2 Legislature shall provide funds to reimburse them for their
3 necessary travel and lodging expenses while performing their duties
4 as such Commissioners.

5 (h) No Commissioner shall be permitted to succeed himself or
6 herself.

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

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

1 Justice of the Supreme Court may request from the Commission
2 additional information or documentation for any applicant regarding
3 any applicant's merit score. The Governor shall appoint one (1) of
4 the ~~nominees~~ applicants to fill the vacancy, but if he or she fails
5 to do so within sixty (60) days the Chief Justice of the Supreme
6 Court shall appoint one (1) of the ~~nominees, the appointment to be~~
7 applicants. Any appointment to Judicial Office or to an
8 intermediate appellate court shall be subject to confirmation by a
9 select committee of the Senate and House of Representatives. Senate
10 members of the select committee shall be appointed by the President
11 Pro Tempore of the Senate and House of Representative members of the
12 select committee shall be appointed by the Speaker of the House of
13 Representatives. Until changed by statute, the select committee
14 shall consist of ten (10) legislators, with five (5) members
15 appointed from each house of the Legislature, and shall include at
16 least one member from each house of the Legislature who is not a
17 member of the political party holding the majority of seats in that
18 house. The appointment and confirmation shall be certified by the
19 Secretary of State.

20 (b) When a vacancy during the term of any office of district
21 judge or associate district judge, however arising, occurs or is
22 certain to occur, the Judicial Nominating Commission shall determine
23 whether the constitutional and statutory qualifications for office
24 are met by each applicant and, in the event there are three (3) or

1 fewer applicants, submit all the applicants who meet the
2 constitutional and statutory qualifications as nominees each of whom
3 has previously notified the Commission in writing that he or she
4 will serve as a district court judge or associate district court
5 judge if appointed, to the Governor and the Chief Justice of the
6 Supreme Court, and in the event there are more than three (3)
7 applicants evaluate the merits of the applicants and choose three
8 (3) nominees to submit to the Governor and the Chief Justice of the
9 Supreme Court each of whom has previously notified the Commission in
10 writing that he or she will serve as a district court judge or
11 associate district court judge if appointed. The Governor shall
12 appoint one (1) of the nominees to fill the vacancy, but if he or
13 she fails to do so within sixty (60) days the Chief Justice of the
14 Supreme Court shall appoint one (1) of the nominees.

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

18 BALLOT TITLE

19 Legislative Referendum No. _____ State Question No. _____

20 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

21 This measure changes the selection process for filling vacancies
22 for the Supreme Court, Court of Criminal Appeals and
23 intermediate appellate courts. It places in the Constitution
24 the current method of filling vacancies in district court

1 offices. The change in selection of appellate judges would
2 require the Judicial Nominating Commission to submit to the
3 Governor a list of all applicants for the office. The
4 Commission could also include a merit ranking. The Governor
5 would select one of the applicants. The selection would have to
6 be confirmed by a select legislative committee.

7 SHALL THE PROPOSAL BE APPROVED?

8 FOR THE PROPOSAL — YES _____

9 AGAINST THE PROPOSAL — NO _____

10 SECTION 3. The Chief Clerk of the House of Representatives,
11 immediately after the passage of this act, shall prepare and file
12 one copy thereof, including the Ballot Title set forth in SECTION 2
13 hereof, with the Secretary of State and one copy with the Attorney
14 General.

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

16
17 _____
18 Presiding Officer of the House
of Representatives

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

20
21 _____
22 Presiding Officer of the Senate
23
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