

SENATE CHAMBER
STATE OF OKLAHOMA

DISPOSITION

☐ FLOOR AMENDMENT

No. _____

☐ COMMITTEE AMENDMENT

(Date)

Mr./Madame President:

I move to amend House Bill No. 3162, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

Senator Anderson

Anderson-TEK-FS-Req#3351
4/20/2016 6:29 PM

(Floor Amendments Only) Date and Time Filed: _____

☐ Untimely

☐ Amendment Cycle Extended

☐ Secondary Amendment

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 FLOOR SUBSTITUTE
4 FOR ENGROSSED

HOUSE BILL NO. 3162

By: Hickman of the House

5 and

6 Bingman of the Senate

7
8 FLOOR SUBSTITUTE

9 [proposed amendment - Judicial Nominating Commission
10 - selection of Judicial Officers - vacancies - ballot
11 title - filing]
12

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

14 SECTION 1. The Secretary of State shall refer to the people for
15 their approval or rejection, as and in the manner provided by law,
16 the following proposed amendments to Sections 1, 3 and 4 of Article
17 VII-B of the Constitution of the State of Oklahoma to read as
18 follows:

19 Section 1. (a) The provisions of this Article shall govern the
20 selection and tenure of all Justices of the Supreme Court and Judges
21 of the Court of Criminal Appeals of the State of Oklahoma, to which
22 the provisions hereof may be extended as hereinafter provided, other
23 provisions of the Constitution or statutes of the State of Oklahoma
24 to the contrary notwithstanding, and the provisions of Article VII

1 as proposed by House Joint Resolution No. 508 of the First Session
2 of the Thirty-first Oklahoma Legislature to the contrary
3 notwithstanding.

4 (b) As used in this ~~Section~~ Article, "Judicial Office" means
5 the offices of Justice of the Supreme Court and Judges of the Court
6 of Criminal Appeals and "Judicial Officer" means a Justice or Judge
7 of each such court, excluding retired or supernumerary Justices or
8 Judges.

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

12 (1) ~~six~~ five members to be appointed by the Governor, which
13 shall include at least one from each congressional district
14 established by the Statutes of Oklahoma ~~and existing at the date of~~
15 ~~the adoption of this Article~~, none of whom shall be admitted to
16 practice law in the State of Oklahoma or have any immediate family
17 member who has been admitted to the practice of law in the State of
18 Oklahoma or any other state;

19 (2) ~~six~~ five members, which shall include at least one from
20 each congressional district established by the Statutes of Oklahoma
21 ~~and existing at the date of the adoption of this Article~~ who are,
22 however, members of the Oklahoma Bar Association and who have been
23 elected by the other active members of their district under
24

1 procedures adopted by the Board of Governors of the Oklahoma Bar
2 Association, until changed by statute; and

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

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

19 The ~~six~~ five lay members of the Commission who are appointed by
20 the Governor shall be appointed within ninety (90) days from the
21 date that this Article becomes effective. ~~Two members shall be~~
22 ~~appointed for a term of two (2) years, two members for a term of~~
23 ~~four (4) years, and two members for a term of six (6) years~~
24 Beginning with the effective date of this amendment, the five lay

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

19 (b) ~~Vacancies arising during the term of any lay commissioner,~~
20 ~~other than the member at large, shall be filled by appointment by~~
21 ~~the Governor for the remainder of his or her term.~~ Vacancies of any
22 lawyer commissioner shall be filled by the Board of Governors of the
23 Oklahoma Bar Association for the remainder of his or her term.
24

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

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

6 (e) The concurrence of the majority of the Commissioners ~~in~~
7 ~~office at the time~~ shall be sufficient to decide any question,
8 unless otherwise provided herein. The Commission shall have
9 jurisdiction to determine whether the qualifications of nominees to
10 hold Judicial Office have been met and to determine the existence of
11 vacancies on the Commission.

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

17 (g) Commissioners shall serve without compensation but the
18 Legislature shall provide funds to reimburse them for their
19 necessary travel and lodging expenses while performing their duties
20 as such Commissioners.

21 (h) No Commissioner shall be permitted to succeed himself or
22 herself.

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

4 Section 4. When a vacancy in any Judicial Office, however
5 arising, occurs or is certain to occur, the Judicial Nominating
6 Commission shall ~~choose and~~ submit to the Governor and the Chief
7 Justice of the Supreme Court ~~three (3) nominees~~ a list of all
8 applicants, each of whom has previously notified the Commission in
9 writing that he or she will serve as a Judicial Officer if
10 appointed. At the time of submission of the list of applicants to
11 the Governor and the Chief Justice of the Supreme Court, the
12 Commission may include with the list a merit score for each
13 applicant of one (1) through ten (10) with ten (10) being the
14 highest score, which score shall remain confidential information
15 available only as necessary for purposes of appointment and
16 confirmation. The Governor or the Chief Justice of the Supreme
17 Court may request from the Commission additional information or
18 documentation for any applicant regarding any applicant's merit
19 score. The Governor shall appoint one (1) of the ~~nominees~~
20 applicants to fill the vacancy, but if he or she fails to do so
21 within sixty (60) days the Chief Justice of the Supreme Court shall
22 appoint one (1) of the ~~nominees, the appointment to be~~ applicants.
23 The appointment and confirmation shall be certified by the Secretary
24 of State.

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

BALLOT TITLE

Legislative Referendum No. _____ State Question No. _____

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

This measure modifies the appointment procedures for members of the Judicial Nominating Commission. It changes the selection process for filling vacancies for the Supreme Court and Court of Criminal Appeals to require the Judicial Nominating Commission to submit to the Governor a list of all applicants for the office. The Commission may also include a merit ranking. The Governor would select one of the applicants.

SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL — YES _____

AGAINST THE PROPOSAL — NO _____

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

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