

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 55th Legislature (2016)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3162

By: Hickman

7
8 COMMITTEE SUBSTITUTE

9 An Act directing the Secretary of State to refer to
10 the people for their approval or rejection a proposed
11 amendment to Sections 3 and 4 of Article VII-B of the
12 Constitution of the State of Oklahoma; modifying
13 terms of office of certain members of the Judicial
14 Nominating Commission; modifying quorum requirement;
15 modifying jurisdiction of the Judicial Nominating
16 Commission; modifying selection process for appellate
17 court vacancies; requiring that certain information
18 remains confidential; requiring Senate confirmation;
19 providing selection process for district court
20 vacancies; providing ballot title; and directing
21 filing.

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

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

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

4 (1) six members to be appointed by the Governor, which shall
5 include at least one from each congressional district established by
6 the Statutes of Oklahoma and existing at the date of the adoption of
7 this Article, none of whom shall be admitted to practice law in the
8 State of Oklahoma or have any immediate family member who has been
9 admitted to the practice of law in the State of Oklahoma or any
10 other state;

11 (2) six members, which shall include at least one from each
12 congressional district established by the Statutes of Oklahoma and
13 existing at the date of the adoption of this Article who are,
14 however, members of the Oklahoma Bar Association and who have been
15 elected by the other active members of their district under
16 procedures adopted by the Board of Governors of the Oklahoma Bar
17 Association, until changed by statute; and

18 (3) three members at large who shall not have been admitted to
19 the practice of law in the State of Oklahoma or any other state or
20 have any immediate family member who has been admitted to the
21 practice of law in the State of Oklahoma or any other state but who
22 shall be a resident of the State of Oklahoma, one to be selected by
23 not less than eight members of the Nominating Commission. In the
24 event eight members of the Commission cannot agree upon the member

1 at large within thirty (30) days of the initial organization of the
2 Commission or within thirty (30) days of a vacancy in the member at
3 large position, the Governor shall make the appointment of the
4 member at large; one to be selected by the President Pro Tempore of
5 the Senate; and one to be selected by the Speaker of the House of
6 Representatives. No more than two members at large shall belong to
7 any one political party.

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

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

1 the House of Representatives, shall serve for a term of six (6)
2 years, except that the member at large shall serve for a term of two
3 (2) years. The member appointed by the President Pro Tempore of the
4 Senate shall serve at the pleasure of the President Pro Tempore
5 until the member's replacement is appointed; the member appointed by
6 the Speaker of the House of Representatives shall serve at the
7 pleasure of the Speaker of the House until the member's replacement
8 is appointed.

9 (b) ~~Vacancies arising during the term of any lay commissioner,~~
10 ~~other than the member at large, shall be filled by appointment by~~
11 ~~the Governor for the remainder of his or her term.~~ Vacancies of any
12 lawyer commissioner shall be filled by the Board of Governors of the
13 Oklahoma Bar Association for the remainder of his or her term.

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

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

19 (e) The concurrence of the majority of the Commissioners ~~in~~
20 ~~office at the time~~ shall be sufficient to decide any question,
21 unless otherwise provided herein. The Commission shall have
22 jurisdiction to determine whether the constitutional and statutory
23 qualifications of nominees to hold Judicial Office, intermediate
24 appellate court office, office of district judge and office of

1 associate district judge have been met and to determine the
2 existence of vacancies on the Commission.

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

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

12 (h) No Commissioner shall be permitted to succeed himself or
13 herself.

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

17 Section 4. (a) When a vacancy in any Judicial Office or
18 intermediate appellate court, however arising, occurs or is certain
19 to occur, the Judicial Nominating Commission shall ~~choose~~ determine
20 that all constitutional and statutory qualifications for office are
21 met, investigate criminal and financial backgrounds and submit to
22 the Governor and the Chief Justice of the Supreme Court ~~three (3)~~
23 ~~nominees~~ a list of all applicants, each of whom has previously
24 notified the Commission in writing that he or she will serve as a

1 Judicial Officer or intermediate appellate judge if appointed. At
2 the time of submission of the list of applicants to the Governor and
3 the Chief Justice of the Supreme Court, the Commission may include
4 with the list a merit score for each applicant of one (1) through
5 ten (10) with ten (10) being the highest score, which score shall
6 remain confidential information available only as necessary for
7 purposes of appointment and Senate confirmation. The Governor or
8 the Chief Justice of the Supreme Court may request from the
9 Commission additional information or documentation for any applicant
10 regarding any applicant's merit score. The Governor shall appoint
11 one (1) of the ~~nominees~~ applicants to fill the vacancy, but if he or
12 she fails to do so within sixty (60) days the Chief Justice of the
13 Supreme Court shall appoint one (1) of the ~~nominees~~, ~~the appointment~~
14 ~~to be~~ applicants. Any appointment to Judicial Office or to an
15 intermediate appellate court shall be subject to confirmation by a
16 majority of the Senate and certified by the Secretary of State.

17 (b) When a vacancy during the term of any office of district
18 judge or associate district judge, however arising, occurs or is
19 certain to occur, the Judicial Nominating Commission shall determine
20 whether the constitutional and statutory qualifications for office
21 are met by each applicant and, in the event there are three (3) or
22 fewer applicants, submit all the applicants who meet the
23 constitutional and statutory qualifications as nominees each of whom
24 has previously notified the Commission in writing that he or she

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

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

15 BALLOT TITLE

16 Legislative Referendum No. _____ State Question No. _____

17 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

18 This measure changes the selection process for filling vacancies
19 for the Supreme Court, Court of Criminal Appeals and
20 intermediate appellate courts. It places in the Constitution
21 the current method of filling vacancies in district court
22 offices. The change in selection of appellate judges would
23 require the Judicial Nominating Commission to submit to the
24 Governor a list of all applicants for the office. The

Commission could also include a merit ranking. The Governor would select one of the applicants. The selection would have to be confirmed by the State Senate.

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.

COMMITTEE REPORT BY: COMMITTEE ON GOVERNMENT OVERSIGHT AND ACCOUNTABILITY, dated 02/24/2016 - DO PASS, As Amended.