

LD3957356

HOUSE BILL NO. 1168

Offered January 25, 1994

A BILL to amend the Code of Virginia by adding in Title 2.1 a chapter numbered 4.2, consisting of sections numbered 2.1-37.19 through 2.1-37.24, creating the Judicial Nominations Commission and setting out the procedures for the selection and appointment of judges and justices.

Patrons—Miller, Callahan, Fisher, Griffith and Hargrove; Senators: Miller, K.G. and Woods

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 2.1 a chapter numbered 4.2, consisting of sections numbered 2.1-37.19 through 2.1-37.24, as follows:

CHAPTER 4.2.**JUDICIAL NOMINATIONS COMMISSION.****§ 2.1-37.19. Commission created.**

There is hereby created a commission to be known as the Judicial Nominations Commission, which shall be selected and have the duties and authority as provided in this chapter.

§ 2.1-37.20. Composition of Commission; number and terms of members; how elected; ex officio members; how chairman elected; counsel and staff.

The Judicial Nominations Commission, hereinafter referred to as the Commission, shall be composed of sixteen members who shall be elected as follows:

1. One member shall be elected by the General Assembly from each congressional district who shall be an active member of the Virginia State Bar and a resident of that congressional district. Five members shall be elected by the General Assembly from the Commonwealth at large who shall not be members of the Virginia State Bar. The election of members shall be by majority vote of the members elected to each house of the General Assembly. No member shall be a member of the General Assembly at the time of his election, and his membership on the Commission shall be vacated upon his taking office as a member of the General Assembly. Of the initial membership, five members shall be elected for four-year terms, five members for three-year terms and six members for two-year terms. Thereafter, members shall be elected for four-year terms. Members may succeed themselves for one additional consecutive term. Vacancies in office shall be filled by the General Assembly for the unexpired terms, and members elected to fill vacancies may serve two consecutive terms in addition to the unexpired term.

2. The Commission shall elect its chairman and determine its rules for procedure. The Division of Legislative Services shall serve as counsel and secretariat to the Commission.

§ 2.1-37.21. Vacancies on courts or on the State Corporation Commission; how certified; studies and investigations; Commission reports to the General Assembly; qualifications; General Assembly members ineligible; reports confidential.

A. Whenever there is a vacancy on the Supreme Court or the Court of Appeals, the Executive Secretary of the Supreme Court shall report such vacancy to the Chairman of the Judicial Nominations Commission within five days of the vacancy. If a vacancy occurs on the State Corporation Commission (SCC), the Executive Director of the SCC shall report such vacancy to the Chairman of the Judicial Nominations Commission within five days of the vacancy. The expiration of the term of an incumbent justice, judge or commissioner shall not be considered a vacancy unless the incumbent is not reelected.

Notwithstanding the provisions of this subsection, whenever it appears that a vacancy on the Supreme Court, the Court of Appeals or the State Corporation Commission is imminent, the Judicial Nominations Commission may initiate its studies and investigations and shall consider and examine the merits of candidates for nomination, taking into consideration the factors set out in subsection C of this section. No nominations shall be submitted prior to the receipt by the Commission of the report of the Executive Secretary of the Supreme Court or the Executive Director of the SCC, as herein provided.

B. The Commission shall, in determining those persons qualified for judicial office, investigate and examine and submit to the Clerks of both houses of the General Assembly and to the chairmen of the Committees for Courts of Justice of each house of the General Assembly for consideration by the General Assembly, the names of no more than three persons who are qualified on the basis of merit to hold such office.

Submission by the Commission of a name of a person to the General Assembly shall not be deemed a prerequisite for that person's election by the General Assembly as a judge, justice or commissioner or to an appointment by the Governor of a judge, justice or commissioner or for that person's pro tempore

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60 appointment by the appropriate appointing authority.

61 C. The Commission shall submit the names of persons it deems qualified on the basis of merit and
62 shall examine the character, temperament, intelligence, mental and physical fitness, education, legal
63 ability, experience, general interests, and past conduct of each person considered; however, any person
64 whose name is submitted for consideration for judicial office as a judge or justice shall have been
65 licensed to practice law in Virginia for at least five years.

66 D. Members of the General Assembly, during the term of office for which they were elected to serve,
67 shall not be eligible for consideration as nominees for judicial office.

68 E. The submission of the name of each person by the Commission to fill a vacancy as provided in
69 this chapter shall be accompanied by a report in writing, which report shall be concurred in by a
70 majority of the Commission and shall contain the method by which the Commission has selected each
71 nominee, and his qualifications, as set out in subsection C hereof. If a minority of the members of the
72 Commission disagree with the majority of the Commission as to the qualifications of any nominee, they
73 may file a dissenting report in writing, setting forth their reasons therefor.

74 F. All such reports shall be confidential, unless a nominee directs in writing to the Chairman of the
75 Commission otherwise, in which case the contents of any report as to that nominee may be released to
76 the public.

77 § 2.1-37.22. Commission papers and proceedings confidential; how made available to Committee.

78 Upon the written request of the Chairman of the House Committee for Courts of Justice or the
79 Senate Committee for Courts of Justice, the Commission shall divulge all papers filed with and
80 proceedings before the Commission with respect to a nominee before such Committee for consideration.
81 All papers and proceedings of the Commission shall be confidential and shall not be divulged to anyone
82 whether such papers or proceedings are in the custody of the Commission or such Committee.

83 § 2.1-37.23. Expenses and compensation of members.

84 Members of the Commission shall receive such compensation as is provided in § 14.1-18 for
85 members of the General Assembly and be reimbursed for actual expenses necessary and ordinarily
86 incidental to performing their duties, which shall be paid in the manner provided by law from the
87 general fund of the state treasury.

88 § 2.1-37.24. Civil immunity for members of the Commission.

89 Every member of the Commission shall be immune from civil liability for any act, decision, omission,
90 or utterance done or made in performance of his duties while serving as such member, provided that
91 such act, decision, omission, or utterance is not done or made in bad faith or with malicious intent.