

HOUSE BILL 961

By Hawk

AN ACT to amend Tennessee Code Annotated, Title 2;  
Title 4, Chapter 29, Part 2; Title 16 and Title 17,  
relative to judges.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 17, Chapter 4, Part 1, is amended by deleting the part in its entirety and by substituting instead the following:

**17-4-101.** It is the declared purpose and intent of the general assembly by the passage of this part to assist the governor in finding and appointing the best qualified persons available for service on the state trial courts of this state.

**17-4-102.**

(a) There is established as a part of the judicial branch of the state a judicial nominating commission, to be composed of seventeen (17) members as follows:

(1) Eight (8) members shall be appointed by the speaker of the senate:

(A) Two (2) of the members shall be appointed from each of the state's three (3) grand divisions, and the remaining two (2) members shall be appointed at-large; and

(B) At least five (5) of the members shall be attorneys;

(2) Eight (8) members shall be appointed by the speaker of the house of representatives:

(A) Two (2) of the members shall be appointed from each of the state's three (3) grand divisions, and the remaining two (2) members shall be appointed at-large; and

(B) At least five (5) of the members shall be attorneys;

(3) One (1) nonattorney member shall be appointed at-large by joint action of the speaker of the senate and the speaker of the house of representatives; and

(4) Not more than three (3) of the members appointed at-large may be residents of the same grand division.

(b)

(1) In order to stagger the terms of the newly appointed commission members, initial appointments shall be made as follows:

(A) Two (2) of the speaker of the senate's initial appointments shall be made for terms of two (2) years each;

(B) Two (2) of the speaker of the house's initial appointments shall be made for terms of two (2) years each;

(C) The speakers' joint appointment shall be made for a term of two (2) years;

(D) Three (3) of the speaker of the senate's initial appointments shall be made for terms of four (4) years each;

(E) Three (3) of the speaker of the house's initial appointments shall be made for terms of four (4) years each;

(F) Three (3) of the speaker of the senate's initial appointments shall be made for terms of six (6) years each; and

(G) Three (3) of the speaker of the house's initial appointments shall be made for terms of six (6) years each.

(2) After the initial appointments, the terms for all appointments shall comply with §§ 17-4-106 and 17-4-107(a).

(c)

(1) The administrative office of the courts shall develop and post on its web site a downloadable information and application form for citizens who wish

to be considered for appointment to the judicial nominating commission. The form shall indicate all qualifications required for appointment to the commission. To be considered for appointment, each applicant must complete, sign, and submit the form. Appropriate deadlines for submission of the forms shall be established by the administrative office of the courts in advance of each scheduled vacancy and promptly after the occurrence of any unscheduled vacancy. Each time that deadlines are so established, in addition to notice posted on its web site, the administrative office of the courts shall take appropriate action to notify the general public and shall provide written notification to the speaker of the senate and the speaker of the house of representatives. Immediately following the occurrence of any such deadline, the administrative office of the courts shall post on its web site a summary report of all qualified applicants for the vacant position or positions. The summary report shall include at least the name, county of residence, and occupation of each applicant.

(2) For a period of fourteen (14) days following the posting of the summary report, the administrative office of the courts shall receive public comments from interested persons and organizations. At the conclusion of the period for public comments, the application forms and corresponding public comments shall be forwarded to the appropriate speaker or speakers for consideration and action. Within fourteen (14) days following receipt of such information, the speaker or speakers shall make the required appointments from the pool of qualified applicants. However, for good cause, either speaker may fill a vacancy by appointing a qualified person not included within the pool of applicants if the speaker provides written notice to the administrative office of the

courts stating the reasons for appointing a person not included within the pool of applicants.

**17-4-103.**

(a) Each member of the judicial nominating commission shall be a citizen of the United States, shall be at least thirty (30) years of age, and shall have been a citizen of this state for at least five (5) years immediately prior to appointment. Any member appointed from one (1) of the state's grand divisions shall have been a resident of that grand division for at least one (1) year immediately prior to appointment.

(b) Each attorney member shall be duly licensed to practice by the Tennessee supreme court.

**17-4-104.**

(a) No member of the judicial nominating commission shall be a salaried office holder of this state or the United States, nor shall any member of the commission hold any office in any political party or political organization; provided, that members of the national guard and members of any armed forces reserve organization, any district attorney general or an employee of a district attorney general, or any district public defender or an employee of a district public defender shall not be considered as salaried office holders. This subsection (a) shall not apply to the solicitor general or any employee of the attorney general and reporter, any of whom shall be eligible to serve as a member of the judicial nominating commission.

(b) Any member of the judicial nominating commission who becomes a salaried office holder of this state or the United States or who accepts any office in any political party or political organization shall by doing so vacate the member's office as a member of the commission.

(c) No member of the judicial nominating commission shall be a registered employer of a lobbyist in this state or a registered lobbyist in this state. Any member of the commission who becomes a registered employer of a lobbyist or a registered lobbyist in this state shall by doing so vacate the member's office as a member of the commission.

**17-4-105.**

(a) The term of office of each member of the judicial nominating commission shall begin on September 1, 2015.

(b)

(1) As soon as practicable after September 1, 2015, the judicial nominating commission shall meet in an organizational session convened by the chief justice of the supreme court.

(2) At the first organizational meeting, the chief justice shall preside as temporary chair, and a permanent chair shall be elected from the membership of the commission.

(3) If the chief justice is unable to convene the commission or serve as temporary chair, the chief justice may designate another member of the supreme court to so serve.

(c) The commission may elect such other officers as it deems necessary and proper, and may adopt and from time to time amend bylaws and rules of procedure for the conduct of its business and discharge of its duties.

(d) The commission may employ such secretarial and clerical assistance as it deems necessary.

**17-4-106.**

(a) Except as otherwise provided in § 17-4-102(b) or § 17-4-107(a), the term of a member of the judicial nominating commission shall be six (6) years.

(b) Members shall be eligible for reappointment for a successive term.

**17-4-107.**

(a) A vacancy on the judicial nominating commission shall be filled in the same manner as the original appointment for the remainder of the unexpired term.

(b) Any member of the judicial nominating commission who misses four (4) meetings of the commission during the member's term of office shall by doing so vacate the member's office as a member of the commission.

**17-4-108.**

(a) Members of the judicial nominating commission shall not receive any compensation for their services but shall be reimbursed for their official travel expenses pursuant to policies and guidelines promulgated by the supreme court.

(b) Subject to budgetary restrictions, the administrative office of the courts shall pay or reimburse the necessary expenses authorized or incurred by the judicial nominating commission in the performance of the duties pursuant to policies and guidelines promulgated by the supreme court.

**17-4-109.**

(a) After September 1, 2015, when a vacancy occurs in the office of a state trial court judge by death, resignation, or otherwise, the governor shall fill the vacancy by appointing one (1) of the three (3) persons nominated by the judicial nominating commission. The governor may require the commission to submit one (1) other panel of three (3) additional nominees. Within sixty (60) days following receipt of the additional panel of nominees, the governor shall fill the vacancy by appointing any one (1) of the six (6) nominees certified by the commission.

(b) The term of a judge appointed under this section shall expire on August 31 after the next regular August election occurring more than thirty (30) days after the vacancy occurs.

(c) The judicial nominating commission shall, at the earliest practicable date, hold a public meeting in the judicial district from which the vacancy is to be filled.

(d) Notice of the time, place, and purpose of the meeting shall be given by newspapers, radio news, and television news and by such other means as the commission deems proper.

(e) Any citizen, attorney or nonattorney, shall be entitled to attend the meeting and express orally or in writing the citizen's approval of or objections to any suggested nominee for the judicial vacancy. Any licensed attorney may appear and make a statement, oral or written, in support of the attorney's own nomination.

(f) After one (1) public hearing, the commission may hold such additional interviews with the candidates as it deems necessary. The commission shall make independent investigation and inquiry to determine the qualifications of possible nominees for the judicial vacancy and shall endeavor to encourage qualified attorneys to accept nomination and agree to serve if appointed to the judicial vacancy. All hearings, interviews, meetings, and deliberations of the commission shall be conducted publicly and shall comply with title 8, chapter 44, part 1; provided, however, when selecting nominees, commission members shall vote anonymously by written ballots, but such ballots shall be collected, announced, and tallied at the meeting by the presiding officer. The Tennessee bureau of investigation Level II security clearance as to nominees shall be performed exclusively at the direction of the governor. After receiving the commission's panel or panels of nominees, but prior to making an appointment pursuant to subsection (a), the governor shall direct the Tennessee bureau of investigation or

other appropriate agencies to perform appropriate financial and criminal background investigations and inquiries of the prospective appointees, and the governor shall review and assess the results of the background investigations and inquiries.

(g) As soon as practicable, and no later than sixty (60) days from receipt of written notice from the governor that a vacancy has occurred, the commission, with the assent of a majority of all the members to which it is entitled under § 17-4-102(a), shall select three (3) persons whom the commission deems best qualified and available to fill the vacancy and shall certify the names of the three (3) persons to the governor as nominees for the judicial vacancy. However, if the commission is reliably informed that a vacancy is impending for any other reason, then the commission may meet, select such persons, and certify the names of the nominees to the governor prior to actual receipt of written notice from the governor that a vacancy has occurred.

(h) If the judicial district is one (1) of the five (5) smallest judicial districts according to the 2010 federal census or any subsequent federal census, the judicial nominating commission may submit two (2) names to the governor.

(i) At the next regular August election occurring more than thirty (30) days after the vacancy occurs, the qualified voters of the district shall elect a candidate to fill the remainder of the unexpired term or a complete term, as provided in the general election law in title 2.

**17-4-110.**

(a) All nominees of the judicial nominating commission must be attorneys who are duly licensed to practice law in this state and who are fully qualified under the constitution and statutes of this state to fill the office for which they are nominated.



(b) A candidate who has been defeated in any election held under this chapter is not eligible for renomination to the office for which the candidate was defeated until after one (1) regular August election has occurred.

**17-4-111.** A member of the judicial nominating commission is not eligible to be nominated by the commission during the member's tenure and the two-year period immediately following conclusion of the member's service on the commission.

**17-4-112.**

(a) If the judicial nominating commission does not furnish a list of three (3) nominees to the governor within sixty (60) days after receipt of written notice from the governor that a vacancy has occurred, then the governor may fill the vacancy by appointing any person who is duly licensed to practice law in this state and who is fully qualified under the constitution and statutes of this state to fill the office.

(b) The term of a judge appointed under this section shall expire on August 31 after the next regular August election occurring more than thirty (30) days after the vacancy occurs.

**17-4-113.** The administrative office of the courts shall keep and maintain all records of the judicial nominating commission as well as furnishing the commission with any other secretarial or clerical services or assistance it may require. It is further the duty of the administrative office of the courts to notify all commission members of the date, time, and place of any commission meetings.

SECTION 2. Tennessee Code Annotated, Section 17-4-201, is amended by deleting the section in its entirety.

SECTION 3. Tennessee Code Annotated, Section 4-29-238(a), is amended by adding the following as a new, appropriately designated subdivision:

( ) Judicial nominating commission, created by § 17-4-102;

SECTION 4. This act shall take effect July 1, 2015, the public welfare requiring it.