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SENATE BILL 6048

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State of Washington

59th Legislature

2005 Regular Session

By Senator Jacobsen

Read first time 02/24/2005. Referred to Committee on Judiciary.

1 AN ACT Relating to creating nonpartisan commissions for judicial  
2 nominees; amending RCW 2.04.100 and 2.06.080; adding new sections to  
3 chapter 2.04 RCW; and providing a contingent effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 2.04.100 and 1971 c 81 s 3 are each amended to read as  
6 follows:

7 If a vacancy occurs in the office of a justice of the supreme  
8 court, the governor shall appoint ((a person)) one of the persons  
9 nominated by the supreme court nonpartisan commission under section 2  
10 of this act to hold the office until the election and qualification of  
11 a justice to fill the vacancy, which election shall take place at the  
12 next succeeding general election, and the justice so elected shall hold  
13 the office for the remainder of the unexpired term. If the governor  
14 fails to appoint a nominee within sixty days after the list of nominees  
15 is submitted, the supreme court nonpartisan commission shall appoint  
16 one of the nominees to fill the vacancy.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 2.04 RCW  
18 to read as follows:

1 (1) A supreme court nonpartisan commission and three court of  
2 appeals nonpartisan commissions, one for each division of the court of  
3 appeals, are established. The commissions shall:

4 (a) If a vacancy occurs on the court for which a commission is  
5 responsible, nominate and submit to the governor three or more names of  
6 people qualified to fill the vacancy; and

7 (b) Before a primary or general election for the positions of  
8 justice of the supreme court or judge of the court of appeals, review  
9 the candidates who have filed for election and recommend one or more  
10 candidates for election by the public.

11 (2) The supreme court nonpartisan commission consists of nine lay  
12 members and six lawyer members as follows:

13 (a)(i) One lay member shall be selected from each of the court of  
14 appeals nonpartisan commissions by the membership of the respective  
15 commissions;

16 (ii) Four lay members shall be selected by the legislature on a  
17 nonpartisan basis; and

18 (iii) Two lay members shall be selected by the governor on a  
19 nonpartisan basis;

20 (b)(i) One lawyer member shall be selected from each of the court  
21 of appeals nonpartisan commissions by the membership of the respective  
22 commissions; and

23 (ii) Three lawyer members shall be selected on a nonpartisan basis  
24 by the Washington state bar association; and

25 (c) Membership shall, to the extent feasible, reflect the ethnic  
26 and geographic diversity of the state's population.

27 (3) Each court of appeals nonpartisan commission consists of seven  
28 lay members and four lawyer members as follows:

29 (a)(i) Four lay members shall be selected by the legislature on a  
30 nonpartisan basis;

31 (ii) Two lay members shall be selected by the governor on a  
32 nonpartisan basis; and

33 (iii) One lay member shall be selected by the chief justice of the  
34 supreme court;

35 (b)(i) One lawyer member shall be selected on a nonpartisan basis  
36 by the governor; and

37 (ii) Three lawyer members shall be selected by the Washington state  
38 bar association;

1 (c) Members of the court of appeals nonpartisan commission must  
2 have resided for at least one year within the division of the court of  
3 appeals for which the commission is responsible; and

4 (d) Membership shall, to the extent feasible, reflect the ethnic  
5 and geographic diversity of the state's population.

6 (4)(a) Attorney members of the supreme court nonpartisan commission  
7 and the court of appeals nonpartisan commissions must have resided in  
8 this state and been admitted to practice within the state by the  
9 supreme court for at least five years. They may not be appointed to  
10 any judicial office of this state until one year after their membership  
11 in the commission terminates.

12 (b) Nonattorney members must have resided in this state for at  
13 least five years, and may not be judges, retired judges, or admitted to  
14 practice before the supreme court.

15 (c) Commission members may not hold a government office, either  
16 elective or appointive, for profit, and may not hold an official  
17 position in a political party.

18 (5) Each commission shall select a chair from among the membership  
19 of that commission. Commission members shall be compensated in  
20 accordance with RCW 43.03.240 in addition to travel expenses provided  
21 by RCW 43.03.050 and 43.03.060. The supreme court may adopt rules to  
22 administer the commissions.

23 (6) Commission members shall serve six-year terms. The initial  
24 members shall have their terms staggered as follows:

25 (a) The six members of the supreme court nonpartisan commission  
26 selected from the court of appeals commissions shall determine that two  
27 members shall serve a two-year term, two members shall serve a four-  
28 year term, and two members shall serve a six-year term;

29 (b) The legislature shall designate that two of the four members  
30 appointed by the legislature to each commission shall serve two-year  
31 terms, one member a four-year term, and one member a six-year term;

32 (c) The governor shall designate that one of the governor's  
33 appointments to each commission shall serve a four-year term and one a  
34 six-year term;

35 (d) The Washington state bar association shall designate that one  
36 of its appointments to each commission shall serve a two-year term, one  
37 a four-year term, and one a six-year term; and

1 (e) The members appointed by the chief justice of the supreme court  
2 shall serve six-year terms.

3 **Sec. 3.** RCW 2.06.080 and 1969 ex.s. c 221 s 8 are each amended to  
4 read as follows:

5 If a vacancy occurs in the office of a judge of the court, the  
6 governor shall appoint (~~(a person)~~) one of the persons nominated by the  
7 court of appeals nonpartisan commission for the division in which the  
8 vacancy has occurred under section 2 of this act to hold the office  
9 until the election and qualification of a judge to fill the vacancy,  
10 which election shall take place at the next succeeding general election  
11 and the judge so elected shall hold the office for the remainder of the  
12 unexpired term. If the governor fails to appoint a nominee within  
13 sixty days after the list of nominees is submitted, the court of  
14 appeals nonpartisan commission for the division in which the vacancy  
15 has occurred shall appoint one of the nominees to fill the vacancy.

16 NEW SECTION. **Sec. 4.** A new section is added to chapter 2.04 RCW  
17 to read as follows:

18 Before making recommendations to the governor, each commission  
19 shall conduct investigations, hold public hearings, and take public  
20 testimony. An executive session as prescribed by rule may be held upon  
21 a two-thirds vote of the members of the commission in a public hearing.  
22 Final decisions as to recommendations shall be made without regard to  
23 political affiliation in an impartial and objective manner. Each  
24 commission shall consider the diversity of the population and the  
25 geographical diversity of the residences of the applicants; the primary  
26 consideration, however, shall be merit. Voting shall be in a public  
27 hearing.

28 NEW SECTION. **Sec. 5.** This act takes effect if the proposed  
29 amendment to Article IV, section 3 of the state Constitution requiring  
30 the governor to fill vacancies in the supreme court in accordance with  
31 statute is validly submitted to and is approved and ratified by the  
32 voters at the next general election. If the proposed amendment is not  
33 approved and ratified, this act is void in its entirety.

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