
Judiciary Committee

HB 2150

Title: An act relating to the appointment of judges.

Brief Description: Providing for the appointment of judges.

Sponsors: Representatives Rodne, B. Sullivan, Appleton and Sommers.

Brief Summary of Bill
<ul style="list-style-type: none">Changes the method of selection of justices of the Supreme Court and judges of the Court of Appeals to a system of Governor appointment from a list submitted by a nominating commission, with subsequent retention elections.

Hearing Date: 2/20/07

Staff: Edie Adams (786-7180).

Background:

The Washington Supreme Court and Court of Appeals are the state's appellate courts. The Supreme Court is the state's court of last resort. It exercises discretionary review of appeals of cases from the Court of Appeals and direct review of trial court decisions in certain circumstances, such as where the action involves a state officer, the death penalty, or an issue of broad public interest that requires a prompt and final determination. In addition, the Supreme Court has original jurisdiction in petitions against state officers. The Supreme Court is the administrator for the state court system and the final rule-making body for the courts. To qualify for a position on the Supreme Court, a person must be admitted to the practice of law in Washington.

The Court of Appeals is a non-discretionary appellate court and therefore must hear all cases filed with it. All appeals of superior court decisions, except those that may be appealed directly to the Supreme Court, are heard by the Court of Appeals. There are three divisions of the Court of Appeals, headquartered in Seattle, Tacoma, and Spokane. Each of the three divisions is divided into three geographic districts, and a specific number of judges must be elected from each district. There are a total of 22 judges of the Court of Appeals: 10 judges in Division I, seven

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judges in Division II, and five judges in Division III. To qualify for a position on the Court of Appeals, a person must have been admitted to the practice of law in Washington for five years and, at the time of election, must have lived at least one year in the district from which the position was drawn.

Article IV, Section 3 of the Washington Constitution provides that justices of the Supreme Court are to be elected by the qualified voters of the state for a term of six years. If a vacancy occurs in a Supreme Court justice position, the Governor appoints a person to fill the vacancy until a justice is elected at the next general election to fill the vacancy for the remainder of the unexpired term.

The state Constitution provides that the manner of election and terms of office of judges of the Court of Appeals are to be provided by statute. By statute, judges of the Court of Appeals also are elected to six year terms and a vacancy in a Court of Appeals judge position is filled in the same manner as a vacancy in a Supreme Court justice position.

Summary of Bill:

The method of selection of justices of the Supreme Court and judges of the Court of Appeals is changed to a system of Governor appointment from a list submitted by a nominating commission, with subsequent retention elections.

Judicial Nominating Commission: A Judicial Nominating Commission (Commission) is created to nominate persons for appointment to the Washington Supreme Court and the Court of Appeals. The Commission consists of the following 11 members: four lawyers appointed by the Washington State Bar Association; three non-lawyers appointed by the Governor; and four legislators, one from each caucus of the Senate and the House of Representatives.

Appointments to the Commission must be made with consideration of geographic representation and diversity, and without regard to political affiliation. Commission members serve five-year terms and are limited to two terms. The Commission must select one of its members to serve as chair and must establish the chair's term. The Commission may adopt rules and procedures governing its operation. The Commission may not take any action without a quorum (six members).

Organizational meetings of the Commission are subject to the Open Public Meetings Act, but all final deliberations of the Commission are secret and confidential. The Commission must determine the confidentiality of other proceedings by rule.

Judicial Selection: The Commission must submit to the Governor a list of at least three but no more than five qualified persons to fill any vacancy on the Supreme Court or Court of Appeals within 60 days of the vacancy. The names of the nominees must be submitted in alphabetical order and may be accompanied by a confidential memorandum stating facts concerning each nominee. The Governor must make the list of nominees public and should encourage public comment.

The Governor must appoint one of the nominees to the vacant judge position within 30 days of receiving the list of nominees. If the Governor does not make an appointment within that time, the Commission will make the appointment.

If the Commission fails to submit nominations within 60 days of a vacancy, the Governor may appoint any qualified person to fill the vacancy.

A justice or judge appointed by the Governor remains in office for a term of six years, or for the unexpired portion of the term for a vacancy that occurs mid-term. At the end of the term, the justice or judge is subject to a vote on whether he or she will be retained in office.

Retention Elections: At the completion of the term of office of a Supreme Court justice or Court of Appeals judge, the justice or judge must stand for a retention election at the next general election. The statewide ballot must include the question: "Shall [name] be retained as a [justice of the Supreme Court] [judge of the Court of Appeals] of the state of Washington for six years?"

In a year when the ballot includes a question regarding retention of a Supreme Court justice or Court of Appeals judge, the voter pamphlet may contain a statement, not to exceed 200 words, advocating the retention of the justice or judge.

Appropriation: None.

Fiscal Note: Requested on February 16, 2007.

Effective Date: The bill takes effect if the proposed constitutional amendment to Article IV, Section 3 providing for the appointment of judges of the supreme court and court of appeals is ratified at the next general election.