



General Assembly

January Session, 2001

Raised Bill No. 6662

LCO No. 3523

Referred to Committee on Program Review and Investigations

Introduced by:
(PRI)

AN ACT CONCERNING JUDICIAL SELECTION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 2-40 of the general statutes is repealed and the
2 following is substituted in lieu thereof:

3 (a) [Each] Except as provided in subsection (c) of this section, each
4 nomination made by the Governor to the General Assembly for the
5 Chief Justice or a judge of the Supreme Court, Appellate Court or
6 Superior Court shall be referred, without debate, to the committee on
7 the judiciary, which shall report thereon within thirty legislative days
8 from the time of reference, but no later than seven legislative days
9 before the adjourning of the General Assembly. With respect to
10 nomination of incumbent judges for reappointment to the same court,
11 the committee on the judiciary shall consider the legal ability,
12 competence, integrity, character, temperament and any other relevant
13 information concerning such judges, provided the mere making of
14 unpopular or erroneous decisions shall not be a ground to fail to
15 recommend any such judge for reappointment.

16 (b) Notwithstanding the provisions of section 4-19, no vacancy in

17 the position of Chief Justice or judge of the Supreme Court, Appellate
18 Court or Superior Court shall be filled by the Governor when the
19 General Assembly is not in session unless, prior to such filling, the
20 Governor submits the name of the proposed vacancy appointee to the
21 committee on the judiciary. Within forty-five days, the committee on
22 the judiciary may, upon the call of either chairman, hold a special
23 meeting for the purpose of approving or disapproving such proposed
24 vacancy appointee by majority vote. The Governor shall not
25 administer the oath of office to such proposed vacancy appointee until
26 the committee has approved such proposed vacancy appointee. If the
27 committee determines that it cannot complete its investigation and act
28 on such proposed vacancy appointee within such forty-five-day
29 period, it may extend such period by an additional fifteen days. The
30 committee shall notify the Governor in writing of any such extension.
31 Failure of the committee to act on such proposed vacancy appointee
32 within such forty-five-day period or any fifteen-day extension period
33 shall be deemed to be an approval.

34 (c) The Governor shall nominate any incumbent judge for
35 reappointment to the same court not later than November tenth of the
36 year preceding the session of the General Assembly in which the term
37 of such judge expires and such nomination shall be referred to the
38 committee on the judiciary. Not later than thirty days prior to the
39 expiration of the term of such judge, the committee on the judiciary
40 shall hold a public hearing and report thereon not later than ten
41 legislative days prior to the expiration of the term of such judge.

42 ~~[(c)]~~ (d) Prior to a public hearing on a judicial nomination, the
43 judiciary committee may employ a person to investigate, at the request
44 of the cochairpersons of said committee, any judicial nominee with
45 respect to the suitability of such nominee for judicial office. Such
46 investigator shall report his or her findings to said committee and any
47 such report shall be confidential and shall not be subject to public
48 disclosure. Such person shall receive such compensation as may be
49 fixed by the Joint Committee on Legislative Management for each day

50 [he] such person is engaged in [his] such person's duties as an
51 investigator.

52 Sec. 2. Section 2-40a of the general statutes is repealed and the
53 following is substituted in lieu thereof:

54 (a) Notwithstanding the provisions of subsection (b) of section 1-210
55 and chapter 55, any performance evaluation of any judge made by the
56 Judicial Department shall be made available to the members of the
57 joint standing committee on judiciary prior to any public hearing on
58 the nomination of any such judge and to the members of the Judicial
59 Selection Commission in the performance of their duties as set forth in
60 section 51-44a. Any information disclosed to such members shall be
61 used by such members only for the purpose for which it was given and
62 shall not be disclosed to any other person.

63 (b) If any such performance evaluation is based on surveys of
64 attorneys appearing before any judge, completed surveys by attorneys
65 shall be returned to, and tabulated by, an independent entity not
66 affiliated with the Judicial Department. Such independent entity shall
67 provide the Judicial Department with statistical reports from such
68 surveys on a quarterly basis.

69 (c) Not later than January fifteenth, annually, the Judicial
70 Department shall submit an annual report concerning activities
71 performed to improve performance evaluation of judges to the joint
72 standing committee on the judiciary and the Legislative Program
73 Review and Investigations Committee.

74 Sec. 3. Section 2-42 of the general statutes is repealed and the
75 following is substituted in lieu thereof:

76 Each appointment of the Chief Justice or a judge of the Supreme
77 Court, Appellate Court or Superior Court shall be by concurrent
78 resolution. The action on the passage of each such resolution in the
79 House and in the Senate shall be by vote taken on the electrical roll-call

80 device. No resolution shall contain the name of more than one
81 nominee. With respect to the appointment of an incumbent judge
82 nominated for reappointment to the same court, the House and the
83 Senate shall each consider the legal ability, competence, integrity,
84 character, temperament and any other relevant information concerning
85 such judges, provided the mere making of unpopular or erroneous
86 decisions shall not be a ground to reject any such judge for
87 reappointment.

88 Sec. 4. Subsection (e) of section 51-44a of the general statutes is
89 repealed and the following is substituted in lieu thereof:

90 (e) The commission shall evaluate incumbent judges who seek
91 reappointment to the same court and shall forward to the Governor for
92 consideration the names of incumbent judges who are recommended
93 for reappointment as provided in this subsection. The commission
94 shall adopt regulations in accordance with the provisions of chapter 54
95 concerning criteria by which to evaluate incumbent judges who seek
96 reappointment to the same court; provided pending adoption of such
97 regulations, the commission shall use criteria established prior to June
98 22, 1989, for the evaluation of such judges. In evaluating the
99 reappointment of an incumbent judge, the commission shall consider
100 the legal ability, competence, integrity, character and temperament of
101 such judge and any other relevant information concerning such judge.
102 There shall be a presumption that each incumbent judge who seeks
103 reappointment to the same court qualifies for retention in judicial
104 office. The burden of rebutting such presumption shall be on the
105 commission. The commission shall, as part of its evaluation of the
106 reappointment of an incumbent judge, seek input from the public by
107 publishing a notice of such evaluation in newspapers of general
108 circulation throughout the state. The commission shall investigate and
109 interview each incumbent judge who seeks reappointment and, prior
110 to the expiration of a term of office of such judge, shall recommend
111 such incumbent judge for nomination for reappointment by the
112 Governor to the same court unless, as provided in this subsection,

113 recommendation of such judge is denied. If a preliminary examination
114 indicates further inquiry is necessary before a recommendation of
115 reappointment may be made, the commission shall hold a hearing
116 concerning the reappointment of such judge. The commission shall
117 send notice to the judge by certified or registered mail, return receipt
118 requested, not less than one hundred eighty days prior to the
119 convening of such legislative session which is to consider the
120 reappointment of the incumbent judge, (A) that a hearing by the
121 commission on such reappointment shall be held and of the time, date
122 and place of such hearing, which shall be not less than thirty days nor
123 more than forty-five days after the date of such notice and (B) of
124 specific claims made against the judge. The commission shall make a
125 record of all hearings conducted pursuant to this subsection. The
126 hearing may be open to the public at the request of the judge. For
127 purposes of conducting a hearing under this subsection, not less than
128 ten members of the commission shall be present and voting. A judge
129 appearing before such a hearing shall be entitled to counsel, to present
130 evidence and to cross-examine witnesses who appear voluntarily. No
131 judge shall be required to sign or execute any release in order to
132 proceed with the hearing. The commission shall not later than twenty
133 days after the close of such hearing render its decision whether it shall
134 recommend such incumbent judge for nomination for reappointment
135 by the Governor. Any affirmative vote of a majority plus one of the
136 members present and voting shall be required to deny
137 recommendation to the Governor for nomination of an incumbent
138 judge to the same court. A judge who has not received approval by the
139 commission may within ten days after receipt of the notice of decision,
140 which shall include a record of the numerical vote, request a rehearing
141 on the grounds that the conclusions of the commission are contrary to
142 the evidence presented at the hearing or the commission failed to
143 comply with the procedural or substantive requirements of this
144 section. The decision of the commission shall be final. There shall be no
145 right of appeal by any judge appearing before the commission, at law
146 or in equity, or any resort to any court following the decision of the

147 commission. Upon the request of the committee on the judiciary to the
148 commission for information concerning a particular case or
149 controversy related to an incumbent judge nominated for
150 reappointment, the commission shall inform the committee whether it
151 considered such case or controversy, and if so, shall explain why the
152 commission did not deny recommendation for nomination of such
153 incumbent judge for reappointment based on such case or controversy.
154 The commission shall not identify any confidential sources of
155 information.

Statement of Purpose:

To provide standards for the reappointment of incumbent judges to the same court, prohibiting rejection on the basis of unpopular or erroneous decisions of any such judge, provide for public input in the investigation by the Judicial Selection Commission, and to require the Governor to nominate an incumbent judge by November tenth prior to the session of the General Assembly in which the term of such judge expires.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]