



# House of Representatives

General Assembly

**File No. 448**

February Session, 2024

Substitute House Bill No. 5380

*House of Representatives, April 11, 2024*

The Committee on Judiciary reported through REP. STAFSTROM of the 129th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

***AN ACT CONCERNING THE COMPOSITION OF THE JUDICIAL SELECTION COMMISSION AND DECISIONS RENDERED BY SAID COMMISSION.***

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

1 Section 1. Section 51-44a of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2024*):

3 (a) There is established a Judicial Selection Commission, within the  
4 Office of Governmental Accountability established under section 1-300.  
5 [Said] (1) Until December 31, 2024, the commission shall be comprised  
6 of twelve members. Six of the members shall be attorneys-at-law and six  
7 of the members shall not be attorneys-at-law. Not more than six of the  
8 members shall belong to the same political party. None of the members  
9 shall be an elected or appointed official of the state or hold state-wide  
10 office in a political party. (2) On and after January 1, 2025, the  
11 commission shall be comprised of eleven members, appointed in  
12 accordance with the provisions of subdivision (2) of subsection (b) of  
13 this section. Nine of the members shall be attorneys-at-law and two of

14 the members shall not be attorneys-at-law. Not more than six of the  
15 members shall belong to the same political party. None of the members  
16 shall be an elected or appointed official of the state or hold state-wide  
17 office in a political party.

18 (b) The members of the commission shall be appointed as follows:  
19 [The] (1) Until December 31, 2024, the Governor shall appoint six  
20 members, one from each congressional district and one at-large  
21 member, three of whom shall be attorneys-at-law and three of whom  
22 shall not be attorneys-at-law; the president pro tempore of the Senate  
23 shall appoint one member who shall be an attorney-at-law; the speaker  
24 of the House of Representatives shall appoint one member who shall  
25 not be an attorney-at-law; the majority leader of the Senate shall appoint  
26 one member who shall not be an attorney-at-law; the majority leader of  
27 the House of Representatives shall appoint one member who shall be an  
28 attorney-at-law; the minority leader of the Senate shall appoint one  
29 member who shall not be an attorney-at-law; and the minority leader of  
30 the House of Representatives shall appoint one member who shall be an  
31 attorney-at-law. (2) On and after January 1, 2025, (A) the Governor shall  
32 appoint five members, one from each congressional district, three of  
33 whom shall be attorneys-at-law with not less than ten years of active  
34 practice in Connecticut state courts, and two of whom shall not be  
35 attorneys-at-law; (B) the president pro tempore of the Senate shall  
36 appoint one member who shall be an attorney-at-law with not less than  
37 ten years of active practice in Connecticut state courts; (C) the speaker  
38 of the House of Representatives shall appoint one member who shall be  
39 an attorney-at-law with not less than ten years of active practice in  
40 Connecticut state courts; (D) the majority leader of the Senate shall  
41 appoint one member who shall be an attorney-at-law with not less than  
42 ten years of active practice in Connecticut state courts; (E) the majority  
43 leader of the House of Representatives shall appoint one member who  
44 shall be an attorney-at-law with not less than ten years of active practice  
45 in Connecticut state courts; (F) the minority leader of the Senate shall  
46 appoint one member who shall be an attorney-at-law with not less than  
47 ten years of active practice in Connecticut state courts; and (G) the  
48 minority leader of the House of Representatives shall appoint one

49 member who shall be an attorney-at-law with not less than ten years of  
50 active practice in Connecticut state courts. (3) Each nomination for  
51 appointment as a member of the Judicial Selection Commission shall be  
52 referred, without debate, to the joint standing committee of the General  
53 Assembly having cognizance of matters relating to the judiciary, which  
54 shall report on each appointment not later than thirty days after the date  
55 of reference. Each appointment by the General Assembly of a member  
56 of the Judicial Selection Commission shall be by concurrent resolution.  
57 If the General Assembly is not in session at the time that a person is  
58 appointed to be a member of the Judicial Selection Commission, such  
59 person shall serve as an acting member of the Judicial Selection  
60 Commission until the General Assembly meets and confirms the  
61 nomination of such person to be a member of the Judicial Selection  
62 Commission, in accordance with the provisions of subdivision (2) of this  
63 subsection.

64 (c) [The] (1) Prior to December 31, 2024, members of the commission  
65 shall elect a chairperson from among the members appointed by the  
66 Governor. (2) On and after January 1, 2025, members of the commission,  
67 appointed in accordance with the provisions of subdivision (2) of  
68 subsection (b) of this section, shall elect a chairperson from among the  
69 members appointed. Notwithstanding the provisions of subdivision (4)  
70 of subsection (d) of this section, a member serving on the commission  
71 on December 31, 2024, who meets the requirements prescribed in  
72 subsection (b) of this section, may be reappointed to the commission.

73 (d) (1) The members of the commission shall serve for terms of three  
74 years.

75 (2) [Members appointed on or after June 26, 2003, shall serve for terms  
76 of three years and, notwithstanding the provisions of section 4-1, until  
77 their successors are appointed and have qualified or ninety days after  
78 the completion of their terms, whichever is earlier.] (A) The term of any  
79 member appointed pursuant to subdivision (1) of subsection (b) of this  
80 section shall end on December 31, 2024. (B) Members appointed on or  
81 after January 1, 2025, shall serve for a term of three years from the date

82 of confirmation by both houses of the General Assembly and until their  
83 successors are appointed and have qualified.

84 [(3) Members serving on June 26, 2003, shall continue to serve as  
85 members until the end of their terms and, notwithstanding the  
86 provisions of section 4-1, until their successors are appointed and have  
87 qualified or ninety days after the completion of their terms, whichever  
88 is earlier, except that members serving on June 26, 2003, who have  
89 completed their terms and are serving until their successors are  
90 appointed and have qualified shall, notwithstanding the provisions of  
91 section 4-1, continue to serve until their successors are appointed and  
92 have qualified, but not later than January 1, 2004.]

93 [(4)] (3) Any vacancy in the membership of the commission shall be  
94 filled for the unexpired portion of the term by the appointing authority.  
95 The members of the commission shall receive no compensation for their  
96 services but shall be reimbursed for any necessary expenses incurred in  
97 the performance of their duties.

98 [(5)] (4) No member of the commission may serve consecutive terms,  
99 except that if [, on or after June 26, 2003,] a person is appointed a member  
100 of the commission to fill a vacancy and complete an unexpired term,  
101 such person may serve an additional term. If a commission member is  
102 an attorney, no member of the commission member's firm may serve a  
103 term consecutive to such commission member.

104 (e) The commission shall evaluate incumbent judges who seek  
105 reappointment to the same court and shall forward to the Governor for  
106 consideration the names of incumbent judges who are recommended  
107 for reappointment as provided in this subsection. The commission shall  
108 adopt regulations in accordance with the provisions of chapter 54  
109 concerning criteria by which to evaluate incumbent judges who seek  
110 reappointment to the same court; provided pending adoption of such  
111 regulations, the commission shall use criteria established prior to June  
112 22, 1989, for the evaluation of such judges. In evaluating the  
113 reappointment of an incumbent judge, the commission shall consider  
114 the legal ability, competence, integrity, character and temperament of

115 such judge and any other relevant information concerning such judge.  
116 There shall be a presumption that each incumbent judge who seeks  
117 reappointment to the same court qualifies for retention in judicial office.  
118 The burden of rebutting such presumption shall be on the commission.  
119 The commission shall investigate and interview each incumbent judge  
120 who seeks reappointment and, prior to the expiration of a term of office  
121 of such judge, shall recommend such incumbent judge for nomination  
122 for reappointment by the Governor to the same court unless, as  
123 provided in this subsection, recommendation of such judge is denied. If  
124 a preliminary examination indicates further inquiry is necessary before  
125 a recommendation of reappointment may be made, the commission  
126 shall hold a hearing concerning the reappointment of such judge. The  
127 commission shall send notice to the judge by certified or registered mail,  
128 return receipt requested, not less than one hundred eighty days prior to  
129 the convening of such legislative session which is to consider the  
130 reappointment of the incumbent judge, (A) that a hearing by the  
131 commission on such reappointment shall be held and of the time, date  
132 and place of such hearing, which shall be not less than thirty days nor  
133 more than forty-five days after the date of such notice and (B) of specific  
134 claims made against the judge. The commission shall make a record of  
135 all hearings conducted pursuant to this subsection. The hearing may be  
136 open to the public at the request of the judge. For purposes of  
137 conducting a hearing under this subsection, not less than ten members  
138 of the commission shall be present and voting. A judge appearing before  
139 such a hearing shall be entitled to counsel, to present evidence and to  
140 cross-examine witnesses who appear voluntarily. No judge shall be  
141 required to sign or execute any release in order to proceed with the  
142 hearing. The commission shall not later than twenty days after the close  
143 of such hearing render its decision whether it shall recommend such  
144 incumbent judge for nomination for reappointment by the Governor.  
145 [Any affirmative vote of a majority plus one of the members present and  
146 voting shall be required to deny recommendation to the Governor for  
147 nomination of an incumbent judge to the same court.] A judge who has  
148 not received approval by the commission may within ten days after  
149 receipt of the notice of decision, which shall include a record of the

150 numerical vote, request a rehearing on the grounds that the conclusions  
151 of the commission are contrary to the evidence presented at the hearing  
152 or the commission failed to comply with the procedural or substantive  
153 requirements of this section. The decision of the commission following  
154 a rehearing shall be final. There shall be no right of appeal by any judge  
155 appearing before the commission, at law or in equity, or any resort to  
156 any court following the decision of the commission.

157 (f) Except as provided in subsection (e) of this section, the commission  
158 shall seek qualified candidates for consideration by the Governor for  
159 nomination as judges for the Superior Court, Appellate Court and  
160 Supreme Court. The commission shall adopt regulations, in accordance  
161 with the provisions of chapter 54, concerning criteria by which to  
162 evaluate the qualifications of candidates, including incumbent judges  
163 who seek appointment to a different court. The commission shall  
164 investigate and interview the candidates, including incumbent judges  
165 seeking appointment to a different court. A list of such qualified  
166 candidates shall be compiled by the commission. No candidate shall  
167 remain on the list of qualified candidates for more than ten years. A  
168 decision of the commission denying a recommendation to a candidate  
169 or judge shall include a summary of the specific facts established  
170 through evaluation of the candidate or judge and a record of the  
171 commission's numerical vote on the candidate or judge. A candidate or  
172 judge may request a rehearing on the grounds that the conclusions of  
173 the commission are contrary to the evidence presented at the hearing or  
174 the commission failed to comply with the procedural or substantive  
175 requirements of this section. The rehearing shall occur not later than  
176 thirty days after the date of the request and the candidate or judge shall  
177 be entitled to be present during such rehearing. The decision of the  
178 commission following a rehearing shall be final. There shall be no right  
179 of appeal by any candidate or judge appearing before the commission,  
180 at law or in equity, or any resort to any court following the decision of  
181 the commission.

182 (g) In connection with any inquiry concerning the reappointment of  
183 an incumbent judge, the commission shall have the power to issue

184 subpoenas requiring the attendance of witnesses and the production of  
185 any books or papers which in the judgment of the commission are  
186 relevant to the inquiry. The commission may, upon request of the judge  
187 whose reappointment is at issue, issue a subpoena on behalf of such  
188 judge. If any person disobeys such process or, having appeared in  
189 obedience thereto refuses to answer any pertinent question put to [him]  
190 such person by the commission, or to produce any books and papers  
191 pursuant thereto, the commission, on its own behalf or on behalf of the  
192 judge, may apply to the superior court for the judicial district of  
193 Hartford setting forth such disobedience to process or refusal to answer,  
194 and said court may cite such person to appear before said court to  
195 answer such question or to produce such books and papers and, upon  
196 [his] refusal so to do shall commit [him] such person to a community  
197 correctional center, there to remain until [he] such person so testifies.

198 (h) (1) Judges of all courts, except those courts to which judges are  
199 elected, shall be nominated by the Governor exclusively from the list of  
200 candidates or incumbent judges submitted by the Judicial Selection  
201 Commission. Any candidate or incumbent judge who is nominated  
202 from such list by the Governor to be Chief Justice of the Supreme Court,  
203 and who is appointed Chief Justice by the General Assembly, shall serve  
204 a term of eight years from the date of appointment. The Governor shall  
205 nominate a candidate for a vacancy in a judicial position within forty-  
206 five days of the date the Governor receives the recommendations of the  
207 commission. When considering the nomination of an incumbent judge  
208 for reappointment to the same court, the Governor may nominate the  
209 incumbent judge if the commission did not deny recommendation for  
210 reappointment. Whenever an incumbent judge is denied  
211 recommendation for reappointment to the same court by the  
212 commission or is recommended by the commission but not nominated  
213 by the Governor for reappointment to the same court, or whenever a  
214 vacancy in a judicial position occurs or is anticipated, the Governor shall  
215 choose a nominee from the list of candidates compiled pursuant to  
216 subsection (f) of this section. (2) Notwithstanding the provisions of  
217 subdivision (1) of this subsection and subsection (f) of this section, the  
218 Governor may nominate an associate judge of the Supreme Court to be

219 Chief Justice of the Supreme Court without such judge being  
220 investigated and interviewed by the commission and being on the list of  
221 qualified candidates compiled and submitted to the Governor by the  
222 commission. An associate judge of the Supreme Court who has been  
223 nominated by the Governor to be Chief Justice of the Supreme Court in  
224 accordance with this subdivision, and who is appointed Chief Justice by  
225 the General Assembly, shall serve an initial term as Chief Justice equal  
226 to the remainder of such judge's term as an associate judge of the  
227 Supreme Court.

228 (i) A majority of the membership of the commission shall constitute a  
229 quorum. The affirmative vote of at least a majority of the members of  
230 the commission present and voting shall be required for any action by  
231 the commission. [except (1) an affirmative vote of at least a majority plus  
232 one of the members present and voting shall be required for a new  
233 nominee to be recommended to the Governor for nomination as a judge  
234 or for an incumbent judge to be recommended to the Governor for  
235 nomination as a judge to a different court and (2) an affirmative vote of  
236 a majority plus one of the members present and voting shall be required  
237 to deny recommendation to the Governor for nomination of an  
238 incumbent judge to the same court.] No vote of the commission on a  
239 new nominee shall be by secret ballot. The vote of the commission on an  
240 incumbent judge may be by secret ballot.

241 (j) Except as provided in subsections (e), (f) and (m) of this section,  
242 the investigations, deliberations, files and records of the commission  
243 shall be confidential and not open to the public or subject to disclosure  
244 except that the criteria by which candidates or incumbent judges who  
245 seek reappointment to the same court or appointment to a different  
246 court are evaluated and the procedural rules adopted by the  
247 commission shall be public.

248 (k) The commission may employ such staff as is necessary for the  
249 performance of its functions and duties.

250 (l) No member of the commission who is an attorney-at-law shall be  
251 considered for recommendation to the Governor for nomination as a



252 judge during his tenure on the commission or for a period of [two] three  
253 years following the termination of his tenure on the commission.

254 (m) On [January 15, 2011, and annually thereafter] or before January  
255 fifteenth annually, the chairperson of the commission shall report to the  
256 joint standing committee on judiciary the following information with  
257 respect to the prior calendar year: (1) The number of candidates  
258 interviewed for appointment as new nominees, the number of  
259 incumbent judges interviewed for reappointment to the same court and  
260 the number of incumbent judges interviewed for appointment to a  
261 different court, (2) the number of candidates who were recommended  
262 and denied recommendation to the Governor as new nominees, the  
263 number of incumbent judges recommended and denied  
264 recommendation for appointment to the same court and the number of  
265 incumbent judges recommended and denied recommendation for  
266 appointment to a different court, (3) the statistics regarding the race,  
267 gender, national origin, religion, areas of professional experience and  
268 years of experience as members of the bar of all such candidates and  
269 incumbent judges interviewed, recommended and denied  
270 recommendation under subdivisions (1) and (2) of this subsection, and  
271 (4) as of January first in the year of such report, the number of candidates  
272 on the list compiled by the commission pursuant to subsection (f) of this  
273 section and the statistics regarding the race, gender, national origin,  
274 religion, areas of professional experience, years of experience as  
275 members of the bar and calendar year of recommendation of all such  
276 candidates.

277 (n) The commission shall have the power to enter into such  
278 contractual agreements as may be necessary for the discharge of its  
279 duties concerning the investigation of candidates seeking appointment  
280 to a judicial position and incumbent judges seeking reappointment to  
281 the same court or appointment to a different court, within the limits of  
282 appropriated funds and in accordance with established procedures.

This act shall take effect as follows and shall amend the following sections:

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Section 1	July 1, 2024	51-44a
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**Statement of Legislative Commissioners:**

In Subsec. (b)(2), in Subparas. (C), (D) and (F), "shall not be" was changed to "shall be" for internal consistency with Subsec. (a)(2), in Subsec. (b), "Claims Commissioner" was changed to "Judicial Selection Commission" for accuracy, and in Subsec. (c)(2), "Notwithstanding the provisions of subdivision (4) of subsection (d) of this section," was added for clarity and internal consistency.

**JUD**      *Joint Favorable Subst.*

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*The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.*

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**OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:** None

**Explanation**

The bill reduces the members of the Judicial Selection Commission resulting in no fiscal impact to the state or municipalities.

**The Out Years**

**State Impact:** None

**Municipal Impact:** None

**OLR Bill Analysis****sHB 5380*****AN ACT CONCERNING THE COMPOSITION OF THE JUDICIAL SELECTION COMMISSION AND DECISIONS RENDERED BY SAID COMMISSION.*****SUMMARY**

This bill changes the composition of the Judicial Selection Commission and reduces its membership by one by removing one gubernatorial appointment. It ends the terms of the 12 current members on December 31, 2024, and requires an 11-member commission be appointed beginning January 1, 2025. Under current law, the commission is made up of six attorneys and six non-attorneys. Under the bill, the commission is made up of nine attorneys, each with at least 10 years of active practice in the Connecticut state courts, and two non-attorneys. The bill requires the nominations to be referred to the Judiciary Committee for approval and confirmed by both legislative chambers.

The bill also makes changes to the commission's work, primarily as follows:

1. allows an affirmative majority vote, rather than an affirmative vote of a majority plus one of the present and voting members as under current law, for the commission to recommend a candidate for judicial nomination or deny recommendation of an incumbent judge to the same court;
2. limits the time a candidate may be included on the commission's list of qualified candidates to 10 years;
3. increases, from two to three years, the time a commission member who is an attorney has to wait after ending his or her

- commission tenure before being considered for a judicial nomination;
4. requires the commission, when denying a recommendation for judicial nomination, to include in its decision a summary of the reasons and the specific numerical vote count, and allows the candidate to request a rehearing on certain grounds; and
  5. requires the commission, in its annual report to the Judiciary Committee, to include the areas of professional experience for individuals on the list of qualified candidates and that were interviewed, recommended, and denied recommendation.

The bill also makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2024

**JUDICIAL SELECTION COMMISSION MEMBERS**

***Membership***

The bill ends the terms of the commission’s current 12 members on December 31, 2024, but a member serving on that date who meets the new qualifications may be reappointed to the newly formed 11-member commission. The appointments to the commission under current law and the bill, including specified qualifications, are in the below table.

**Table: Judicial Selection Commission Appointees**

<b><i>Appointing Authority</i></b>	<b><i>Until December 31, 2024, Under Current Law</i></b>	<b><i>Beginning January 1, 2025, Under the Bill</i></b>
Governor	Six members: One from each congressional district and one at-large as follows: Three attorneys and three non-attorneys	Five members: One from each congressional district as follows: Three attorneys each with at least 10 years active practice in Connecticut state courts and two non-attorneys
Senate president pro tempore	One attorney	One attorney with at least 10 years active practice in Connecticut state courts
House speaker	One non-attorney	One attorney with at least 10 years active practice in

<b>Appointing Authority</b>	<b>Until December 31, 2024, Under Current Law</b>	<b>Beginning January 1, 2025, Under the Bill</b>
		Connecticut state courts
Senate majority leader	One non-attorney	One attorney with at least 10 years active practice in Connecticut state courts
House majority leader	One attorney	One attorney with at least 10 years active practice in Connecticut state courts
Senate minority leader	One non-attorney	One attorney with at least 10 years active practice in Connecticut state courts
House minority leader	One attorney	One attorney with at least 10 years active practice in Connecticut state courts

As under existing law, no more than six of the members may belong to the same political party, and none may be an elected or appointed state official or hold statewide office in a political party.

Beginning January 1, 2025, members must select a chairperson from among the commission’s members. (Under current law, they select a chairperson from among the governor’s appointees.) The members must serve (1) a three-year term from the date they are confirmed by both legislative chambers and (2) until a successor is appointed and qualified.

**Confirmation Process**

Under the bill, every nomination for appointment to the commission must be referred, without debate, to the Judiciary Committee. The committee must report on each nomination within 30 days after the referral date. Each nomination must be confirmed by both legislative chambers by concurrent resolution.

The bill specifies that if the legislature is not in session when an appointment is made, the appointee must serve as an acting commission member until the legislature meets and confirms the nomination.

**JUDICIAL SELECTION COMMISSION DECISIONS**

**Judicial Reappointments**

By law, the commission evaluates sitting judges who seek reappointment to the same court. In doing so, the commission holds a hearing if its preliminary examination into the reappointment suggests further inquiry is needed before it can make a recommendation to the governor. The law requires that at least 10 members be present and voting at a hearing.

Current law requires an affirmative vote of a majority plus one of the present and voting members if the commission wants to deny a recommendation to the governor for a reappointment. The bill removes this requirement, allowing for a simple majority of those voting. Under the bill, a majority vote of the members present and voting is required for any action of the commission.

#### ***List of Judicial Candidates***

By law, the commission maintains a list of qualified candidates, including judges seeking appointment to a different court, for the governor's consideration for nomination as a judge in the state's Superior, Appellate, and Supreme courts. The bill limits the time a candidate may remain on the list to no more than 10 years.

Under current law, a commission member who is an attorney cannot be considered for a recommendation to the governor during the member's tenure or for two years following. The bill increases this period to three years following the end of the member's commission tenure.

Additionally, if the commission decides to deny a recommendation to a candidate, the bill requires that its decision include a summary of the reasons (i.e., facts as established through an evaluation of the person) and the specific numerical vote count.

Current law requires an affirmative vote of a majority plus one of the present and voting members if the commission wants to recommend to the governor a candidate's appointment. The bill removes this requirement, allowing for a simple majority of those voting.

Under the bill, a candidate denied recommendation may request a rehearing on the grounds that the (1) commission’s conclusions were contrary to the evidence or (2) commission did not meet the law’s procedural or substantive requirements related to maintaining a list of qualified candidates. The commission must hold the rehearing within 30 days after receiving the request, and the candidate may be present during the rehearing. The bill specifies that the commission’s decision following a rehearing is final and there is no appeal right. (Existing law provides a similar right to a rehearing for an incumbent judge who is denied a recommendation for reappointment to the same court.)

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 36 Nay 1 (03/26/2024)