
SENATE BILL 5093

State of Washington

61st Legislature

2009 Regular Session

By Senator Jacobsen

Read first time 01/13/09. 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.** (1) A supreme court nonpartisan commission

1 and three court of appeals nonpartisan commissions, one for each
2 division of the court of appeals, are established. The commissions
3 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.** Before making recommendations to the
17 governor, each commission shall conduct investigations, hold public
18 hearings, and take public testimony. An executive session as
19 prescribed by rule may be held upon a two-thirds vote of the members of
20 the commission in a public hearing. Final decisions as to
21 recommendations shall be made without regard to political affiliation
22 in an impartial and objective manner. Each commission shall consider
23 the diversity of the population and the geographical diversity of the
24 residences of the applicants; the primary consideration, however, shall
25 be merit. Voting shall be in a public hearing.

26 NEW SECTION. **Sec. 5.** Sections 2 and 4 of this act are each added
27 to chapter 2.04 RCW.

28 NEW SECTION. **Sec. 6.** 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

1 approved and ratified, this act is void in its entirety.

--- END ---