

LEGISLATIVE BILL 110

Approved by the Governor May 25, 1973

Introduced by F. Carstens, 30

AN ACT to amend sections 24-802, 24-803, 24-806, 24-807, 24-809, 24-810, 24-811, and 48-152.01, Reissue Revised Statutes of Nebraska, 1943, relating to judicial nominating commissions; to provide for selection of new members of judicial nominating commissions as prescribed; to terminate present judicial nominating commissions; to provide political qualifications of members of judicial nominating commissions; to provide term of office; to provide the number of nominees; to provide for rules; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 24-802, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

24-802. Except for the member of the Supreme Court, who is required to be a member of a judicial nominating commission, each member of such commission shall be a resident of the judicial district or area of the state in which candidates for the judicial office to be nominated by said commission are required to reside. Except for the Chief Justice, the member of the Supreme Court designated to serve on a particular nominating commission shall not be a member who was originally selected from the district served by such nominating commission.

Sec. 2. That section 24-803, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

24-803. The term of each member of each existing nominating commission shall terminate thirty days after the effective date of this act. The term of each member of each new nominating commission herein provided for and the manner of his selection shall be as follows:

(1) Within thirty days after ~~May--67--1963~~ the effective date of this act, the Governor shall appoint for each of the various judicial nominating commissions a member of the Supreme Court to serve from the date of his appointment until January 1, 1968 1975;

(2) Within thirty days after ~~May--6,--1963~~ the effective date of this act, the Governor shall appoint for each of the various judicial nominating commissions and the statewide commission three four citizen members, one with not more than two members from the same political party, two to be designated to serve from the date of his their appointment until January 1, ~~1964~~ 1975, and two to January 1, 1966 1977; and 7-and-one--to January-17-1968;-and

(3) Within thirty days after ~~May--6,--1963~~ the effective date of this act, the lawyers residing in each Supreme Court and district ~~or--separate--juvenile~~ court judicial district and in each area or district served by any other court subject to Article V, section 21 of the Constitution shall commence to nominate and select in the manner prescribed in section 24-806, for each of the various nominating commissions three functioning within such district or area, four lawyer members, one with not more than two lawyer members from the same political party, two to be designated to serve from the date of his their appointment to January 1, ~~1964~~ 1975, and two to January 1, 1966 1977. 7-and-one-to-January-17-1968;

As the term of a member of a nominating commission initially appointed or selected expires, the term of office of each successor member shall be for a period of ~~six~~ four years. The Governor shall appoint all successor members of each nominating commission who are Judges of the Supreme Court and citizen members. The lawyers residing in the judicial district or area served by a judicial nominating commission shall select all successor members of such commission in the manner prescribed in section 24-806. No member of any nominating commission, including the Supreme Court member of any such commission, shall serve more than a total of ~~twelve~~ eight consecutive years as a member of said commission, and if such member has served for more than six years as a member of such commission he shall not be eligible for reelection or reappointment.

Sec. 3. That section 24-806, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

24-806. Lawyer members of any judicial nominating commission must be members of the bar of the State of Nebraska residing in the judicial district or area of the state served by said judicial nominating commission, and not more than two lawyer members of each commission shall be registered members of the same political party or category. Nominations of ~~for~~ lawyer members of each commission shall be solicited in writing

by the Clerk of the Supreme Court from all the lawyers of the district or area served on the effective date of this act and thereafter on or before September 1 of each odd-numbered year. Nominations of lawyer members shall be made in writing, filed in the office of the Clerk of the Supreme Court within thirty days after May--6,--1963 the effective date of this act, and thereafter on or before October 1 of each odd-numbered year. Each nomination of said lawyer member shall be accompanied by a written consent of the nominee to serve as a member of said judicial nominating commission, if elected. The nominations shall be solicited and distributed on the ballot by the Clerk of the Supreme Court from the legally recognized political parties and in such a manner as will permit the final selection to be made within the required political party. At least two qualified lawyers must be nominated for each position and if insufficient nominations are made to provide two candidates from the permissible political parties, the Judicial Executive Council of the State of Nebraska State Bar Association, within ten days after the last day for filing nominations, shall nominate additional candidates for said position so that there shall be two qualified candidates for each position. The Clerk of the Supreme Court shall then mail a ballot, with the names of each nominee, to all members of the bar of Nebraska residing in such district or area, designating a date at least ten days and not more than fourteen days after the date of such mailing by the Clerk of the Supreme Court when said ballots will be opened and counted. Said ballots shall be counted by a board consisting of the Clerk of the Supreme Court, the Secretary of State, and the Attorney General or by alternates designated by any of them to serve in his place. The Clerk of the Supreme Court shall insure that said election is so conducted as to maintain the secrecy of said ballot and the validity of the results. In any election where more than one lawyer member of a nominating commission is to be elected the nominees shall be submitted without designation of the term. Each voter shall be instructed to vote for as many nominees as there are vacancies to be filled. The candidate receiving the highest vote shall be considered as having been elected for the longest term. The candidate receiving the next highest number of votes shall be deemed to have been elected for next to the longest term and, if a third member is to be elected, the candidate receiving the third highest vote shall be deemed elected to the shortest term. In case of ties the determination shall be made by lot by the counting board.

Sec. 4. That section 24-807, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

24-807. Upon the election selection of any lawyer member of any judicial nominating commission, the Clerk of the Supreme Court shall promptly certify his election selection to the Governor and the Secretary of State.

Sec. 5. That section 24-809, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

24-809. The Judge of the Supreme Court on each judicial nominating commission shall be the chairman of said commission and shall preside at all of its meetings. He shall not be entitled to vote. In selecting or rejecting judicial nominees, said commission shall vote in-executive-session-by-secret-ballot-by-oral-roll-call vote. Each candidate must receive a majority vote of the members of the nominating commission to have his name submitted to the Governor.

Sec. 6. That section 24-810, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

24-810. In the event of a judicial vacancy, the Clerk of the Supreme Court shall contact the chairman of the judicial nominating commission relating to such vacancy, and shall ascertain from him or her a time and place for the first meeting of such judicial nominating commission, at which time a public hearing will be held. He shall thereupon notify each commission member in writing of the time and place of said meeting and shall also cause appropriate notice to be published by various news media of the time and place of the public hearing of said judicial nominating commission, and of the interest of said commission in receiving information relating to qualified candidates for said judicial vacancy. At least two days prior to the public hearing, the chairman shall release to the public the names of lawyers who have signified in writing their willingness to serve as a judge if nominated and appointed to such judgeship, and immediately prior to the public hearing the chairman shall release the names of any additional lawyers who have so signified. Any member of the public shall be entitled to attend the public hearing to express, either orally or in writing, his views concerning candidates for the judicial vacancy. After the public hearing the nominating commission shall hold such additional private or confidential meetings as it determines to be necessary. Additional information may be submitted in writing to the judicial nominating commission, at any time prior to its selection of qualified candidates to fill said vacancy. The judicial nominating commission

shall make such independent investigation and inquiry as it considers necessary or expedient to determine the qualifications of candidates for the judicial vacancy and shall take such action as it deems necessary or expedient to encourage qualified candidates to accept judicial office or nomination for said judicial office.

Sec. 7. (1) For the purposes of this act, members and prospective members of nominating commissions who are registered as independent voters shall be considered to be members of the same political party.

(2) Removal from the district from which he was selected, or a change in party registration, shall automatically terminate the tenure of any member of a nominating commission.

Sec. 8. That section 24-811, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

24-811. It shall be unlawful and a breach of ethics for any judge, public officeholder, lawyer or any other person or organization to attempt to influence any judicial nominating commission in any manner and on any basis except by presenting facts and opinions relevant to the judicial qualifications of the proposed nominees to an individual member of the commission or to the commission acting as a body, at or prior to the time and in the manner set forth in sections 24-804 to 24-842, time of the public hearing. Violation of this section shall be considered as contempt of the Supreme Court of the State of Nebraska and shall be punishable as for contempt or by appropriate discipline with respect to any member of the bar involved in any such unlawful or unethical conduct.

Sec. 9. Any judicial nominating commission which has for its consideration three or more candidates for a judicial vacancy shall nominate at least three candidates for consideration by the Governor if the commission, in its discretion, finds them to be sufficiently qualified.

Sec. 10. On or before January 1, 1974, the Supreme Court shall promulgate rules regarding procedures to be followed in the nominating procedure, including the type of application to be filed, the type of presentation an applicant may make at the public hearing, and such other rules as it feels will induce qualified lawyers to seek judicial office, and which will otherwise promote the true spirit of the judicial selection process now used in this state.

Sec. 11. That section 48-152.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-152.01. The members of the judicial nominating commission for the Nebraska Workmen's Compensation Court shall be selected on a statewide basis as provided in section 24-803.

Sec. 12. That original sections 24-802, 24-803, 24-806, 24-807, 24-809, 24-810, 24-811, and 48-152.01, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 13. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.