

HB 7033

2013

1 A bill to be entitled
2 An act relating to judiciary; amending s. 43.291,
3 F.S.; revising requirements for the appointment of
4 members of judicial nominating commissions; providing
5 that, with the exception of members selected from a
6 list of nominees provided by the Board of Governors of
7 The Florida Bar, a current member of a judicial
8 nominating commission appointed by the Governor serves
9 at the pleasure of the Governor; providing for each
10 expired term or vacancy to be filled by appointment in
11 the same manner as the member whose position is being
12 filled; deleting obsolete provisions; deleting a
13 requirement that the Executive Office of the Governor
14 establish uniform rules of procedure consistent with
15 the State Constitution when suspending for cause a
16 member of a judicial nominating commission; amending
17 s. 440.45, F.S.; providing that the judicial
18 nominating commission for the First District Court of
19 Appeal will nominate persons to the Office of the
20 Judges of Compensation Claims; deleting provisions
21 creating a nominating commission solely for the Office
22 of the Judges of Compensation Claims; providing an
23 effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Subsections (1), (3), and (5) of section
28 43.291, Florida Statutes, are amended to read:

HB 7033

2013

29 43.291 Judicial nominating commissions.—

30 (1) (a) Each judicial nominating commission shall be
31 composed of the following members:

32 ~~1.(a)~~ Four members of The Florida Bar, appointed by the
33 Governor, who are engaged in the practice of law, each of whom
34 is a resident of the territorial jurisdiction served by the
35 commission to which the member is appointed. The Board of
36 Governors of The Florida Bar shall submit to the Governor three
37 recommended nominees for each position. The Governor shall
38 select the appointee from the list of nominees recommended for
39 that position, but the Governor may reject all of the nominees
40 recommended for a position and request that the Board of
41 Governors submit a new list of three different recommended
42 nominees for that position who have not been previously
43 recommended by the Board of Governors.

44 ~~2.(b)~~ Five members appointed by the Governor who shall
45 serve at the pleasure of the Governor, each of whom is a
46 resident of the territorial jurisdiction served by the
47 commission to which the member is appointed, of which at least
48 two are members of The Florida Bar engaged in the practice of
49 law. Notwithstanding any other provision of law, each current
50 member of a judicial nominating commission appointed by the
51 Governor, other than those selected from a list of nominees
52 provided by the Board of Governors of The Florida Bar, shall
53 serve at the pleasure of the Governor.

54 (b) Each expired term or vacancy shall be filled by
55 appointment in the same manner as the member whose position is
56 being filled.

HB 7033

2013

57 (3) Notwithstanding any other provision of this section,
58 each current member of a judicial nominating commission selected
59 from a list of nominees provided ~~appointed directly~~ by the Board
60 of Governors of The Florida Bar shall serve the remainder of his
61 or her term, unless removed for cause. ~~The terms of all other~~
62 ~~members of a judicial nominating commission are hereby~~
63 ~~terminated, and the Governor shall appoint new~~ Members selected
64 from a list of nominees provided by the Board of Governors of
65 The Florida Bar shall serve terms ~~to each judicial nominating~~
66 ~~commission~~ in the following manner:

67 (a) One appointment ~~Two appointments~~ for a term ~~terms~~
68 ending July 1, 2016. ~~2002, one of which shall be an appointment~~
69 ~~selected from nominations submitted by the Board of Governors of~~
70 ~~The Florida Bar pursuant to paragraph (1) (a);~~

71 (b) Two appointments for terms ending July 1, 2014. ~~2003,~~
72 ~~and~~

73 (c) One appointment ~~Two appointments~~ for a term ~~terms~~
74 ending July 1, 2015 ~~2004~~.

75
76 Every subsequent appointment of a member selected from a list of
77 nominees provided by the Board of Governors of The Florida Bar,
78 except an appointment to fill a vacant, unexpired term, shall be
79 for 4 years. ~~Each expired term or vacancy shall be filled by~~
80 ~~appointment in the same manner as the member whose position is~~
81 ~~being filled.~~

82 (5) A member of a judicial nominating commission may be
83 suspended for cause by the Governor ~~pursuant to uniform rules of~~
84 ~~procedure established by the Executive Office of the Governor~~

HB 7033

2013

85 consistent with s. 7, ~~of~~ Art. IV of the State Constitution.

86 Section 2. Paragraph (a) of subsection (1), paragraphs (b)
87 and (c) of subsection (2), and subsection (5) of section 440.45,
88 Florida Statutes, are amended to read:

89 440.45 Office of the Judges of Compensation Claims.—

90 (1) (a) There is created the Office of the Judges of
91 Compensation Claims within the Department of Management
92 Services. The Office of the Judges of Compensation Claims shall
93 be headed by the Deputy Chief Judge of Compensation Claims. The
94 Deputy Chief Judge shall report to the director of the Division
95 of Administrative Hearings. The Deputy Chief Judge shall be
96 appointed by the Governor for a term of 4 years ~~from a list of~~
97 ~~three names submitted by the statewide nominating commission~~
98 ~~created under subsection (2)~~. The Deputy Chief Judge must
99 demonstrate prior administrative experience and possess the same
100 qualifications for appointment as a judge of compensation
101 claims, and the procedure for reappointment of the Deputy Chief
102 Judge will be the same as for reappointment of a judge of
103 compensation claims. The office shall be a separate budget
104 entity and the director of the Division of Administrative
105 Hearings shall be its agency head for all purposes, including,
106 but not limited to, rulemaking pursuant to subsection (4) and
107 establishing agency policies and procedures. The Department of
108 Management Services shall provide administrative support and
109 service to the office to the extent requested by the director of
110 the Division of Administrative Hearings but shall not direct,
111 supervise, or control the Office of the Judges of Compensation
112 Claims in any manner, including, but not limited to, personnel,

113 purchasing, budgetary matters, or property transactions. The
 114 operating budget of the Office of the Judges of Compensation
 115 Claims shall be paid out of the Workers' Compensation
 116 Administration Trust Fund established in s. 440.50.

117 (2)

118 (b) Except as provided in paragraph (c), the Governor
 119 shall appoint a judge of compensation claims from a list of
 120 three persons nominated by the judicial ~~a statewide~~ nominating
 121 commission for the First District Court of Appeal. ~~The statewide~~
 122 ~~nominating commission shall be composed of the following:~~

123 ~~1. Five members, at least one of whom must be a member of~~
 124 ~~a minority group as defined in s. 288.703, one of each who~~
 125 ~~resides in each of the territorial jurisdictions of the district~~
 126 ~~courts of appeal, appointed by the Board of Governors of The~~
 127 ~~Florida Bar from among The Florida Bar members who are engaged~~
 128 ~~in the practice of law. The Board of Governors shall appoint~~
 129 ~~members who reside in the odd-numbered district court of appeal~~
 130 ~~jurisdictions to 4-year terms each, beginning July 1, 1999, and~~
 131 ~~members who reside in the even-numbered district court of appeal~~
 132 ~~jurisdictions to 2-year terms each, beginning July 1, 1999.~~
 133 ~~Thereafter, each member shall be appointed for a 4-year term;~~

134 ~~2. Five electors, at least one of whom must be a member of~~
 135 ~~a minority group as defined in s. 288.703, one of each who~~
 136 ~~resides in each of the territorial jurisdictions of the district~~
 137 ~~courts of appeal, appointed by the Governor. The Governor shall~~
 138 ~~appoint members who reside in the odd-numbered district court of~~
 139 ~~appeal jurisdictions to 2-year terms each, beginning July 1,~~
 140 ~~1999, and members who reside in the even-numbered district court~~

141 ~~of appeal jurisdictions to 4-year terms each, beginning July 1,~~
 142 ~~1999. Thereafter, each member shall be appointed for a 4-year~~
 143 ~~term; and~~

144 ~~3. Five electors, at least one of whom must be a member of~~
 145 ~~a minority group as defined in s. 288.703, one of each who~~
 146 ~~resides in the territorial jurisdictions of the district courts~~
 147 ~~of appeal, selected and appointed by a majority vote of the~~
 148 ~~other 10 members of the commission. A majority of the other~~
 149 ~~members of the commission shall appoint members who reside in~~
 150 ~~the odd-numbered district court of appeal jurisdictions to 2-~~
 151 ~~year terms each, beginning October 1, 1999, and members who~~
 152 ~~reside in the even-numbered district court of appeal~~
 153 ~~jurisdictions to 4-year terms each, beginning October 1, 1999.~~
 154 ~~Thereafter, each member shall be appointed for a 4-year term.~~

155
 156 ~~A vacancy occurring on the commission shall be filled by the~~
 157 ~~original appointing authority for the unexpired balance of the~~
 158 ~~term. No attorney who appears before any judge of compensation~~
 159 ~~claims more than four times a year is eligible to serve on the~~
 160 ~~statewide nominating commission. The meetings and determinations~~
 161 ~~of the nominating commission as to the judges of compensation~~
 162 ~~claims shall be open to the public.~~

163 (c) ~~Each judge of compensation claims shall be appointed~~
 164 ~~for a term of 4 years, but during the term of office may be~~
 165 ~~removed by the Governor for cause. Prior to the expiration of a~~
 166 ~~judge's term of office, the statewide nominating commission~~
 167 ~~shall review the judge's conduct and determine whether the~~
 168 ~~judge's performance is satisfactory. Effective July 1, 2002, In~~

HB 7033

2013

169 determining whether a judge's performance is satisfactory, the
170 commission shall consider the extent to which the judge has met
171 the requirements of this chapter, including, but not limited to,
172 the requirements of ss. 440.25(1) and (4)(a)-(e), 440.34(2), and
173 440.442. If the judge's performance is deemed satisfactory, the
174 commission shall report its finding to the Governor no later
175 than 6 months prior to the expiration of the judge's term of
176 office. The Governor shall review the commission's report and
177 may reappoint the judge for an additional 4-year term. If the
178 Governor does not reappoint the judge, the Governor shall inform
179 the commission. The judge shall remain in office until the
180 Governor has appointed a successor judge in accordance with
181 paragraphs (a) and (b). If a vacancy occurs during a judge's
182 unexpired term, ~~the statewide nominating commission does not~~
183 ~~find the judge's performance is satisfactory,~~ or the Governor
184 does not reappoint the judge, the Governor shall appoint a
185 successor judge for a term of 4 years in accordance with
186 paragraph (b).

187 (5) Not later than December 1 of each year, the Office of
188 the Judges of Compensation Claims shall issue a written report
189 to the Governor, the House of Representatives, the Senate, and
190 ~~The Florida Bar, and the statewide nominating commission~~
191 summarizing the amount, cost, and outcome of all litigation
192 resolved in the previous fiscal year; summarizing the
193 disposition of mediation conferences, the number of mediation
194 conferences held, the number of continuances granted for
195 mediations and final hearings, the number and outcome of
196 litigated cases, the amount of attorney's fees paid in each case

HB 7033

2013

197 | according to order year and accident year, and the number of
198 | final orders not issued within 30 days after the final hearing
199 | or closure of the hearing record; and recommending changes or
200 | improvements to the dispute resolution elements of the Workers'
201 | Compensation Law and regulations. If the Deputy Chief Judge
202 | finds that judges generally are unable to meet a particular
203 | statutory requirement for reasons beyond their control, the
204 | Deputy Chief Judge shall submit such findings and any
205 | recommendations to the Legislature.

206 | Section 3. This act shall take effect upon becoming a law.