

By the Committee on Judiciary and Senators Grant and Cowin

308-1896A-00

1 A bill to be entitled
 2 An act relating to judicial nominating
 3 commissions; amending s. 43.29, F.S.; providing
 4 for the appointment of members to judicial
 5 nominating commissions; prohibiting justices
 6 and judges from serving; prohibiting
 7 reappointment; providing for suspension or
 8 removal; providing for filling of vacancies;
 9 requiring appointing authorities to seek to
 10 ensure racial, ethnic, gender, and geographical
 11 diversity of membership; requiring
 12 consideration of county representation on
 13 circuit judicial nominating commissions;
 14 requiring concurrence of a majority for
 15 commission actions; providing a severability
 16 clause; providing an effective date.

17
 18 Be It Enacted by the Legislature of the State of Florida:

19
 20 Section 1. Section 43.29, Florida Statutes, is amended
 21 to read:

22 43.29 Judicial nominating commissions.--

23 (1) Each judicial nominating commission shall be
 24 composed of the following:

25 (a) Four ~~Three~~ members, at least one of whom must be a
 26 member of a racial or ethnic minority group or a woman,
 27 appointed by the Board of Governors of The Florida Bar from
 28 among The Florida Bar members who are actively engaged in the
 29 practice of law with offices within the territorial
 30 jurisdiction of the affected court, or in the district or
 31 circuit;

1 (b) Four ~~Three~~ electors, at least one of whom must be
2 a member of a racial or ethnic minority group or a woman, who
3 reside in the territorial jurisdiction of the court or in the
4 circuit appointed by the Governor; and

5 (c) Four ~~Three~~ electors, at least one of whom must be
6 a member of a racial or ethnic minority group or a woman, who
7 reside in the territorial jurisdiction of the court or in the
8 circuit and who are not members of the bar of Florida,
9 selected and appointed by a majority vote of the other eight
10 ~~six~~ members of the commission.

11 (2) In addition to the appointments provided in
12 subsection (1), the Governor may also appoint to a circuit
13 court judicial nominating commission an alternate member who
14 is a resident of a county in which no other member of the
15 commission resides. Alternate members shall be appointed by
16 August 1 and serve a term ending June 30, 2003. An alternate
17 member appointed pursuant to this subsection shall serve in
18 place of one member appointed by the Governor, as designated
19 by the Governor, whenever the commission is filling a vacancy
20 on the county court for the county of which such alternate
21 member is a resident. An alternate member shall participate,
22 without voting, in any meeting concerning a vacancy on the
23 circuit court.

24 (3)~~(2)~~ No justice or judge may be a member of a
25 judicial nominating commission. A member of a judicial
26 nominating commission may hold public office other than
27 judicial office. A member of a judicial nominating commission
28 is not eligible for appointment to any ~~the~~ state judicial
29 office ~~for which that commission has the authority to make~~
30 ~~nominations~~, either during such term of membership or for a
31 period of 2 years thereafter. ~~All acts of a judicial~~

1 ~~nominating commission shall be made with a concurrence of a~~
2 ~~majority of its members.~~

3 (4)(3) A member of a judicial nominating commission
4 ~~shall serve a term of 4 years and is not eligible for~~
5 consecutive reappointment. For cause, a member of a judicial
6 nominating commission may be suspended by the Governor ~~and~~
7 ~~removed by the Senate for cause~~ pursuant to uniform rules of
8 procedure established by the judicial nominating commissions
9 consistent with s. 7, Art. IV of the State Constitution and
10 thereafter removed by the Senate.

11 (5) Each appointing authority shall seek to ensure
12 that the existing commission members, together with potential
13 appointees, reflect the racial, ethnic, and gender diversity,
14 as well as the geographic distribution, of the population
15 within the territorial jurisdiction of the court for which the
16 appointing authority is making nominations. The appointing
17 authorities for the judicial nominating commission for each of
18 the judicial circuits shall seek to ensure the adequacy of
19 representation of each county within the judicial circuit.

20 (6) All acts of a judicial nominating commission shall
21 be made with a concurrence of a majority of its voting
22 members.

23 Section 2. The additional members created by this act
24 in section 43.29(1)(a) and (b), Florida Statutes, shall be
25 filled by July 1, 2000. The additional member created by this
26 act in section 43.29(2)(c), Florida Statutes, shall be filled
27 by August 1, 2000.

28 Section 3. If any provision of this act or the
29 application thereof to any person or circumstance is held
30 invalid, the invalidity does not affect other provisions or
31 applications of the act which can be given effect without the

1 invalid provision or application, and to this end the
2 provisions of this act are declared severable.

3 Section 4. Subsection (1) of section 114.01, Florida
4 Statutes, is amended, and subsection (3) is added to that
5 section to read:

6 114.01 Office deemed vacant in certain cases.--

7 (1) A vacancy in office shall occur:

8 (a) Upon creation of an office.

9 (b) Upon the death of the incumbent officer.

10 (c) Upon removal of the officer from office.

11 (d) Upon the resignation of the officer and acceptance
12 thereof by the Governor.

13 (e) Upon the succession of the officer to another
14 office.

15 (f) Upon the officer's unexplained absence for 60
16 consecutive days.

17 (g) Upon the officer's failure to maintain the
18 residence required of him or her by law.

19 (h) Upon the failure of a person elected or appointed
20 to office to qualify for office within 30 days from the
21 commencement of the term of office.

22 (i) Upon the refusal of the person elected or
23 appointed to accept the office.

24 (j) Upon the conviction of the officer of a felony as
25 defined in s. 10, Art. X of the State Constitution.

26 (k) Upon final adjudication, in this state or in any
27 other state, of the officer to be mentally incompetent.

28 (l) Upon the rendition of a final judgment of a
29 circuit court of this state declaring void the election or
30 appointment of the incumbent to office.

31

1 (m) Sixty days prior to the mandatory retirement of a
2 judicial officer.

3 (3) When a vacancy occurs in a judicial office, the
4 Governor shall fill the vacancy by appointment except when the
5 vacancy occurs in time to be placed on the ballot of the next
6 general election. This subsection applies when the effective
7 date of the letter of resignation or the mandatory retirement
8 date occurs on the first Tuesday after the first Monday in
9 January.

10 Section 5. This act shall take effect July 1, 2000.

11
12 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
13 COMMITTEE SUBSTITUTE FOR
14 SB's 826 & 398

15 The committee substitute removes from the bill the provisions
16 which terminate all memberships on the judicial nominating
17 commissions on June 30, 2003 and provide for new appointments
18 in July and August of 2003.