

By the Committees on Judiciary; Governmental Oversight and Productivity; and Senator Cowin

308-1886-01

1 A bill to be entitled
2 An act relating to judicial nominating
3 commissions; creating s. 43.291, F.S.; revising
4 procedures for the appointment of members to
5 each judicial nominating commission;
6 prohibiting judges from serving; restricting
7 the appointment of members and former members
8 to judicial offices; providing for terms;
9 providing for suspension or removal; requiring
10 the Governor, in making appointments, to seek
11 to ensure racial, ethnic, gender, and
12 geographical diversity of membership; requiring
13 consideration of county representation on
14 circuit judicial nominating commissions;
15 amending s. 112.3145, F.S.; providing that
16 members of judicial nominating commissions are
17 state officers for purposes of financial
18 disclosure requirements; providing an
19 appropriation; repealing s. 43.29, F.S.,
20 relating to judicial nominating commissions;
21 providing an effective date.

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23 Be It Enacted by the Legislature of the State of Florida:

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25 Section 1. Section 43.291, Florida Statutes, is
26 created to read:

27 43.291 Judicial nominating commissions.--
28 (1) Each member of a judicial nominating commission on
29 the effective date of this act may complete his or her term of
30 office, unless removed for cause. Thereafter, the membership
31 of each judicial nominating commission shall be reduced to

1 seven members as vacancies occur on the commission, and the
2 Governor shall appoint the members of the judicial nominating
3 commissions, as follows:

4 (a) Three members must be members of The Florida Bar
5 who are engaged in the practice of law with offices within the
6 territorial jurisdiction of the affected court. The Board of
7 Governors of The Florida Bar shall submit to the Governor
8 three recommended nominees for each attorney position. The
9 Governor shall select the appointee to an attorney position
10 from the list of nominees recommended for that position, but
11 the Governor may, as many times as the Governor considers
12 necessary, reject all of the nominees recommended for an
13 attorney position and request that the Board of Governors
14 submit a new list of three different recommended nominees for
15 that position who have not been previously recommended by the
16 Board of Governors.

17 (b) Four members must be electors who reside within
18 the territorial jurisdiction of the affected court, three of
19 whom must not be members of The Florida Bar and one of whom
20 must be a member of The Florida Bar who is engaged in the
21 practice of law with an office within the territorial
22 jurisdiction of the affected court.

23 (2) A justice or judge may not be a member of a
24 judicial nominating commission. A member of a judicial
25 nominating commission is not eligible for appointment to any
26 judicial office in the state during such term of membership or
27 for a period of 2 years thereafter. All acts of a judicial
28 nominating commission must be made with a concurrence of a
29 majority of its members.

30 (3) Members of the judicial nominating commissions
31 shall be appointed to staggered terms of 4 years each and are

1 not eligible for consecutive reappointment. A member of a
2 judicial nominating commission may be suspended for cause by
3 the Governor pursuant to uniform rules of procedure
4 established by the Executive Office of the Governor,
5 consistent with s. 7, Art. IV of the State Constitution, and
6 may thereafter be removed by the Senate.

7 (4) In making an appointment, the Governor must
8 consider whether the incumbent commission members, together
9 with potential appointees, will reflect the racial, ethnic,
10 and gender diversity, as well as the geographic distribution,
11 of the population within the territorial jurisdiction of the
12 court. The Governor shall also consider the adequacy of
13 representation of each county within the judicial circuit.

14 Section 2. Paragraph (c) of subsection (1) of section
15 112.3145, Florida Statutes, is amended to read:

16 112.3145 Disclosure of financial interests and clients
17 represented before agencies.--

18 (1) For purposes of this section, unless the context
19 otherwise requires, the term:

20 (c) "State officer" means:

21 1. Any elected public officer, excluding those elected
22 to the United States Senate and House of Representatives, not
23 covered elsewhere in this part and any person who is appointed
24 to fill a vacancy for an unexpired term in such an elective
25 office.

26 2. An appointed member of each board, commission,
27 authority, or council having statewide jurisdiction, excluding
28 a member of an advisory body.

29 3. A member of the Board of Regents, the Chancellor
30 and Vice Chancellors of the State University System, and the
31 president of a state university.

1 4. A member of the judicial nominating commission for
2 any district court of appeal or any judicial circuit.

3 Section 3. The sum of \$25,000 is appropriated from the
4 General Revenue Fund to the Executive Office of the Governor
5 to provide travel costs for training to members of the
6 judicial nominating commissions.

7 Section 4. Effective July 1, 2001, section 43.29,
8 Florida Statutes, is repealed.

9 Section 5. This act shall take effect upon becoming a
10 law.

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 CS/SB 1470

4 The Committee Substitute differs from current law as follows:

- 5 -- It reduces the membership of a JNC from 9 to 7 members
6 to occur through attrition of existing JNC terms.
- 7 -- It removes the authority of the Board of Governors of
8 the Florida Bar to appoint JNC members but allows the
9 Board of Governors to submit to the Governor a list of
10 3 recommended nominees for vacant attorney positions on
11 the JNC.
- 12 -- It removes the authority of the JNC as a group to
13 appoint JNC members.
- 14 -- It expands the Governor's authority to appoint JNC
15 members by giving the Governor the sole authority to
16 appoint JNC members as vacancies occur and to reject,
17 repeatedly all of the nominees recommended by the Board
18 of Governors of the Florida Bar.
- 19 -- It changes the composition of a JNC so that: (a) 3
20 members must be members of the Florida Bar engaged in
21 the practice of law with offices within the territorial
22 jurisdiction of the affected court ; and (b) 4 members
23 must be electors who reside within the territorial
24 jurisdiction of the affected court, only one of whom may
25 be a member of the Florida Bar who is engaged in the
26 practice of law with an office within the territorial
27 jurisdiction of the affected court.
- 28 -- It deletes unconstitutional provisions of existing law
29 relating to membership representative of a racial or
30 ethnic minority group and replaces them with direction
31 to the Governor to consider whether the commission and
potential appointees reflect the racial, ethnic, and
gender diversity, as well as the geographic
distribution, of the population within the court's
territorial jurisdiction. Additionally, the committee
substitute directs the Governor to also consider, for
circuit commissions, the adequacy of county
representation within the judicial circuit.
- It prohibits absolutely any JNC member from holding any
state judicial office or applying for any state judicial
office during his or her term and up to 2 years
thereafter.
- It includes circuit and district judicial nominating
commission members within the meaning of "state
officers" for purposes of the financial disclosure
requirements in s. 112.3145, F.S.