**South Carolina General Assembly**

122nd Session, 2017-2018

**H. 3189**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Clary, Elliott, Tallon and West

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Introduced in the House on January 10, 2017

Currently residing in the House Committee on **Judiciary**

Summary: Judicial Merit Selection Commission members

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/15/2016 House Prefiled

12/15/2016 House Referred to Committee on **Judiciary**

1/10/2017 House Introduced and read first time ([House Journal‑page 106](file:///h:\hj\20170110.docx))

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View the latest [legislative information](http://www.scstatehouse.gov/billsearch.php?billnumbers=3189&session=122&summary=B) at the website

**VERSIONS OF THIS BILL**

[12/15/2016](file:///p:\pprever\2017-18\3189_20161215.docx)

**A** **BILL**

TO AMEND SECTION 2‑19‑10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE JUDICIAL MERIT SELECTION COMMISSION MEMBERS AND RULES, SO AS TO REQUIRE THE COMMISSION’S RULES TO INCLUDE PROCEDURES FOR INVESTIGATING COMPLAINTS AGAINST CANDIDATES FOR DIRECTLY OR INDIRECTLY SEEKING PLEDGES IN VIOLATION OF THE PROVISIONS OF THE CHAPTER THROUGH THE TIME PERIOD EXTENDING TO ELECTION BY THE GENERAL ASSEMBLY IN ACCORDANCE WITH THE REQUIREMENTS FOR SUCH INVESTIGATIONS PROVIDED IN THE CHAPTER; TO AMEND SECTION 2‑19‑35, RELATING TO CRITERIA FOR INVESTIGATIONS AND CONSIDERATION OF THE JUDICIAL MERIT SELECTION COMMISSION, SO AS TO PROVIDE THAT THE COMMISSION SHALL MAINTAIN JURISDICTION OVER CANDIDATES THROUGH THE TIME PERIOD EXTENDING TO ELECTION BY THE GENERAL ASSEMBLY WHEN A COMPLAINT IS FILED ALLEGING A PLEDGING VIOLATION AND AUTHORIZING THE COMMISSION TO REMOVE A CANDIDATE FROM NOMINATION IF A VIOLATION IS PROVEN BY CLEAR AND CONVINCING EVIDENCE TO HAVE OCCURRED IN ADDITION TO THE PENALTIES OTHERWISE PROVIDED; TO AMEND SECTION 2‑19‑70, RELATING TO THE TIME PERIOD FOR SEEKING OR GIVING A PLEDGE, SO AS TO PROVIDE THAT PLEDGES FOR JUDICIAL CANDIDATES MAY NOT BE DIRECTLY OR INDIRECTLY SOUGHT OR GIVEN UNTIL FOURTEEN DAYS, RATHER THAN FORTY‑EIGHT HOURS, AFTER THE INITIAL RELEASE OF THE REPORT CONCERNING NOMINEES TO MEMBERS OF THE GENERAL ASSEMBLY; TO AMEND SECTION 2‑19‑80, RELATING TO THE TIME BETWEEN THE RELEASE OF THE COMMISSION’S REPORT ON NOMINATIONS TO THE GENERAL ASSEMBLY AND THE ELECTION OF JUDGESHIPS, SO AS TO PROVIDE THAT THERE BE A PERIOD OF NOT MORE THAN TWENTY‑EIGHT DAYS, RATHER THAN TWO WEEKS, AFTER THE FINAL REPORT OF NOMINATIONS TO THE GENERAL ASSEMBLY AND TO REQUIRE THAT CANDIDATES BE NOMINATED BY THE SECOND THURSDAY IN JANUARY EACH YEAR; AND TO AMEND SECTION 2‑19‑90, RELATING TO THE ELECTION OF JUDGES BY THE GENERAL ASSEMBLY IN JOINT SESSION, SO AS TO PROVIDE FOR THE ELECTION OF JUDGES BY THE GENERAL ASSEMBLY IN JOINT SESSION TO BE HELD ONCE A YEAR ONLY.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 2‑19‑10(A) of the 1976 Code is amended to read:

“(A) Whenever an election is to be held by the General Assembly in Joint Session, for members of the judiciary, a Judicial Merit Selection Commission, composed of ten members, shall be appointed, in the manner prescribed by this section, to consider the qualifications of the candidates. The Judicial Merit Selection Commission shall meet at least once annually and at other times as may be designated by the chairman. The commission, at its first meeting and then annually, shall elect a chairman and a vice chairman who shall serve for a term of one year and until their successors are elected and qualified, and adopt rules necessary to the purposes of the commission. These rules shall address, among other things:

(1) the confidentiality of records and other information received concerning candidates for judicial office;

(2) the conduct of proceedings before the commission;

(3) receipt of public statements in support of or in opposition to any of the candidates;

(4) procedures to review the qualifications of retired judges for continued judicial service;

(5) contacting incumbent judges regarding their desire to seek ~~re‑election~~ reelection;

(6) prohibition against candidates communicating with individual members of the commission concerning the qualifications of candidates unless specifically authorized by the commission; and

(7) procedures for investigating complaints against candidates for directly or indirectly seeking pledges in violation of the provisions of this chapter through the time period extending through election by the General Assembly in accordance with the requirements for such investigations provided in this chapter.

A member may succeed himself as chairman or vice chairman. Six members of the commission constitute a quorum at all meetings.”

SECTION 2. Section 2‑19‑35 of the 1976 Code is amended to read:

“Section 2‑19‑35. (A) The responsibility of the Judicial Merit Selection Commission is to investigate and consider the qualifications of the candidates for judicial office in the administrative law judge division or on the family court, circuit court, court of appeals, or Supreme Court. Investigations and consideration of the commission should include, but are not limited to, the following areas:

(1) constitutional qualifications;

(2) ethical fitness;

(3) professional and academic ability;

(4) character;

(5) reputation;

(6) physical health;

(7) mental stability;

(8) experience; and

(9) judicial temperament.

(B) In making nominations, race, gender, national origin, and other demographic factors should be considered by the commission to ensure nondiscrimination to the greatest extent possible as to all segments of the population of the State.

(C) In determining ethical fitness of a candidate pursuant to the provisions of subsection (A)(2), the commission shall maintain jurisdiction over candidates through the time period extending to election by the General Assembly when a complaint is filed alleging a violation of the provisions of this chapter regarding directly or indirectly seeking pledges. The commission’s rules shall provide a procedure for investigations of these types of complaints including, but not limited to, removal of a candidate’s name from nomination if such a violation is proven by clear and convincing evidence.”

SECTION 3. Section 2‑19‑70(C) of the 1976 Code is amended to read:

“(C) ~~No candidate for judicial office~~ A person may not ~~seek~~ directly or indirectly seek the pledge of a member of the General Assembly’s vote or, directly or indirectly, contact a member of the General Assembly regarding screening for ~~the~~ any judicial office until the qualifications of all candidates for that office have been determined by the Judicial Merit Selection Commission and the commission has formally released its report as to the qualifications of all candidates for the vacancy to the General Assembly. ~~No~~ A member of the General Assembly may not directly or indirectly offer his pledge until the qualifications of all candidates for that office have been determined by the Judicial Merit Selection Commission and until the commission has formally released its report as to the qualifications of its nominees to the General Assembly. The formal release of the report of qualifications shall occur no earlier than ~~forty‑eight hours~~ noon, on the fourteenth day after the nominees have been initially released to members of the General Assembly. For purposes of this section, indirectly seeking a pledge means ~~the~~ a person, a candidate, or someone acting on behalf of and at the request of ~~the~~ a person or a candidate, requesting ~~a person~~ someone to contact a member of the General Assembly on behalf of ~~the~~ a person or a candidate before nominations for that office are formally made by the commission. The prohibitions of this section do not extend to an announcement of candidacy by the candidate and statements by the candidate detailing the candidate’s qualifications.”

SECTION 4. Section 2‑19‑80(A) and (E) of the 1976 Code is amended to read:

“(A) The commission shall make nominations to the General Assembly of candidates and their qualifications for election to the Supreme Court, court of appeals, circuit court, family court, and the administrative law ~~judge division~~ court by the second Thursday in January each year. It shall review the qualifications of all applicants for a judicial office and select therefrom and submit to the General Assembly the names and qualifications of the three candidates whom it considers best qualified for the judicial office under consideration. If fewer than three persons apply to fill a vacancy or if the commission concludes there are fewer than three candidates qualified for a vacancy, it shall submit to the General Assembly only the names and qualifications of those who are considered to be qualified, with a written explanation for submitting fewer than three names.

(E) A period of ~~at least two weeks~~ not more than twenty‑eight days must elapse between the date of the commission’s final report of nominations to the General Assembly and the date the General Assembly conducts the election for these judgeships.”

SECTION 5. Section 2‑19‑90 of the 1976 Code is amended to read:

“Section 2‑19‑90. The General Assembly shall meet in joint session for the election of judges once a year only. The date and time for the joint session shall be set by concurrent resolution upon the recommendation of the Judicial Merit Selection Commission. The Chairman of the Judicial Merit Selection Commission shall announce the commission’s nominees for each judicial race, and no further nominating or seconding speeches shall be allowed by members of the General Assembly. In order to be elected, a candidate must receive a majority of the vote of the members of the General Assembly voting in joint session.”

SECTION 6. The Judicial Merit Selection Commission is directed to review and revise its rules necessary to the purposes of the commission as it deems necessary pursuant to the requirements provided in this act.

SECTION 7. This act takes effect upon approval by the Governor and applies to elections taking place after July 1, 2017.

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