**South Carolina General Assembly**

118th Session, 2009-2010

**H. 4119**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Gunn, Stringer, Ballentine and Millwood

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Introduced in the House on May 21, 2009

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

Summary: Judicial Merit Selection Commission

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

5/21/2009 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2009\05-21-09.docx)‑45

5/21/2009 House Referred to Committee on **Judiciary** [HJ](file:///h:\HJ%20Archive\2009\05-21-09.docx)‑46

**VERSIONS OF THIS BILL**

[5/21/2009](file:///p:\pprever\2009-10\4119_20090521.docx)

**A** **BILL**

TO AMEND SECTION 2‑19‑10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE JUDICIAL MERIT SELECTION COMMISSION, SO AS TO INCREASE THE NUMBER OF COMMISSION MEMBERS FROM TEN TO ELEVEN, AND TO CHANGE THE MANNER IN WHICH MEMBERS ARE APPOINTED; TO AMEND SECTION 2‑19‑80, RELATING TO THE NOMINATION OF QUALIFIED JUDICIAL CANDIDATES TO THE GENERAL ASSEMBLY, SO AS TO PROVIDE THE COMMISSION APPOINTS ALL QUALIFIED JUDICIAL CANDIDATES TO THE GOVERNOR INSTEAD OF THE GENERAL ASSEMBLY; AND TO AMEND SECTION 2‑19‑90, RELATING TO APPROVAL OF JUDICIAL CANDIDATES IN JOINT SESSION, SO AS TO PROVIDE THE GOVERNOR SHALL APPOINT A CANDIDATE FOR JUDICIAL OFFICE AND HAS THE SOLE AUTHORITY TO MAKE THIS APPOINTMENT, TO PROVIDE A CANDIDATE FOR JUDICIAL OFFICE APPOINTED BY THE GOVERNOR MUST BE CONFIRMED BY THE HOUSE JUDICIARY COMMITTEE AND SENATE JUDICIARY COMMITTEE, AND TO PROVIDE IN ORDER TO BE ELECTED, A CANDIDATE FOR JUDICIAL OFFICE MUST RECEIVE AT LEAST TWO‑THIRDS OF THE VOTE OF THE MEMBERS OF THESE COMMITTEES.

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

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

“Section 2‑19‑10. (A)(1) ~~Whenever~~ When 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~~ eleven members, ~~shall~~ must 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)~~(a) the confidentiality of records and other information received concerning candidates for judicial office;

~~(2)~~(b) the conduct of proceedings before the commission;

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

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

~~(5)~~(e) contacting incumbent judges regarding their desire to seek reelection; and

~~(6)~~(f) prohibition against candidates communicating with individual members of the commission concerning the qualifications of candidates unless specifically authorized by the commission.

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

(B) Notwithstanding ~~any other~~ another provision of law, the ~~Judicial Merit Selection~~ commission shall consist of the following individuals:

(1) ~~five~~ three members appointed by the Speaker of the House of Representatives and two members appointed by the Chairman of the House Judiciary Committee. Of these appointments:

(a) ~~three~~ members appointed by the speaker must be serving members of the General Assembly; and

(b) ~~two~~ members appointed by the chairman must be selected from the general public;

(2) three members appointed by the Chairman of the Senate Judiciary Committee and two members appointed by the President Pro Tempore of the Senate, and of these appointments:

(a) ~~three~~ members appointed by the chairman must be serving members of the General Assembly; and

(b) ~~two~~ members appointed by the President Pro Tem must be selected from the general public.

(3) one member appointed by the Governor. This appointee may not be a member of the judiciary or the General Assembly.

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

(D) The term of office of a member of the commission who is not a member of the General Assembly ~~shall be~~ is for four years, subject to a right of removal at any time by the person appointing him, and until his successor is appointed and ~~qualifies~~ qualified. A member of the commission who is a serving member of the General Assembly shall serve for the term of office to which he has been elected.

(E) A vacancy on the ~~Judicial Merit Selection~~ commission must be filled for the remainder of the unexpired term in the same manner as provided for the original selection.

(F) ~~No~~ A member of the commission ~~shall~~ may not receive ~~any~~ compensation for commission services, except those set by law for travel, board, and lodging expenses incurred in the performance of commission duties.

(G) ~~No~~ A member of the ~~Judicial Merit Selection~~ commission is not eligible for nomination and appointment as a judge or justice of the state court system or administrative law judge division while serving on the commission and for a period of one year ~~thereafter~~ after serving.”

SECTION 2. Section 2‑19‑80 of the 1976 Code is amended to read:

“Section 2‑19‑80. (A) The commission shall make nominations to the ~~General Assembly~~ Governor of candidates and their qualifications for election to the supreme court, court of appeals, circuit court, family court, and the administrative law judge division. It shall review the qualifications of all applicants for a judicial office and select ~~therefrom~~ from them and submit to the ~~General Assembly~~ Governor the names and qualifications of ~~the three~~ all 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.~~

(B) The nominations of the commission for ~~any~~ a judgeship are binding on the ~~General Assembly~~ Governor, and ~~it shall~~ he may not ~~elect~~ appoint a person not nominated by the commission. Nothing shall prevent the ~~General Assembly~~ Governor from rejecting all persons nominated. In this event, the commission shall submit another group of names and qualifications for that position. Further nominations in the manner required by this chapter must be made until the office is filled.

(C)(1) If the commission does not find the incumbent justice or judge qualified for the judicial office held and sought, his name ~~shall~~ may not be submitted to the ~~General Assembly~~ Governor for ~~reelection~~ appointment to another term, and upon expiration of his then current term of office, he shall cease serving in that judicial position.

(2) If the commission finds an incumbent judge not qualified for the office sought, or if an incumbent judge dies, withdraws, or becomes otherwise disqualified for the office sought between the time he makes application for the office and the date of the election ~~therefor~~ for it, the election for the office may not be held at that scheduled time, and the commission shall proceed ~~in accordance with~~ pursuant to the provisions of this chapter to make other nominations for the office as though a new vacancy without an incumbent exists in that office, including reopening the application process with all required notices. Nothing prevents the commission from including in its new nominations the names and qualifications of persons other than the incumbent judge it included in its previous nominations.

(D) The commission shall accompany its nominations to the ~~General Assembly~~ Governor with reports or recommendations ~~as to~~ on the qualifications of particular candidates.

(E) A period of at least two weeks must ~~elapse~~ lapse between the date of the commission’s nominations to the ~~General Assembly~~ Governor and the date the ~~General Assembly conducts the election~~ Governor appoints a candidate for these judgeships.”

SECTION 3. Section 2‑19‑90 of the 1976 Code is amended to read:

“Section 2‑19‑90. (A) ~~The General Assembly shall meet in joint session for the election of judges. 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.~~ The Governor shall appoint a candidate for judicial office from candidates nominated by the committee. He has sole authority to appoint candidates to fill judicial vacancies. The Governor shall accompany his appointment to these committees with relevant reports or recommendations received from the commission.

(B) A candidate appointed by the Governor must be affirmed by a two‑thirds majority of the House Judiciary Committee and Senate Judiciary Committee.”

SECTION 4. This act takes effect upon approval by the Governor.

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