**South Carolina General Assembly**

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**S. 180**

**STATUS INFORMATION**

General Bill

Sponsors: Senators L. Martin and Hembree

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Introduced in the Senate on January 13, 2015

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

Summary: Judicial vacancies

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/10/2014 Senate Prefiled

12/10/2014 Senate Referred to Committee on **Judiciary**

1/13/2015 Senate Introduced and read first time ([Senate Journal‑page 118](file:///h:\SJ%20Archive\2015\01-13-15.docx))

1/13/2015 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 118](file:///h:\SJ%20Archive\2015\01-13-15.docx))

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**VERSIONS OF THIS BILL**

[12/10/2014](file:///p:\pprever\2015-16\180_20141210.docx)

**A** **BILL**

TO AMEND SECTION 2–19–20, RELATING TO PUBLICATION OF JUDICIAL VACANCIES, TO PROVIDE THAT THE COMMISSION SHALL NOTIFY THE GOVERNOR OF A JUDICIAL VACANCY, TO PROVIDE THE TIMEFRAME FOR WHICH HIS RECOMMENDATIONS MUST BE MADE, TO PROVIDE THAT THE COMMISSION MUST SUBMIT THE NAMES OF JUDICIAL CANDIDATES TO THE GOVERNOR AFTER RECEIPT OF AN APPLICATION OR NOTICE OF INTENTION; TO AMEND SECTION 2–19–80, RELATING TO THE NOMINATION OF QUALIFIED CANDIDATES FOR JUDGESHIP, TO PROVIDE THAT THE GOVERNOR SHALL RECOMMEND AT LEAST THREE NAMES FOR CONSIDERATION FOR ANY JUDICIAL VACANCY IN WHICH THERE IS NO INCUMBENT, AND IF THERE IS AN INCUMBENT, TO PROVIDE THAT THE GOVERNOR MAY RECOMMEND ADDITIONAL NAMES FOR CONSIDERATION OR SOLELY THE INCUMBENT, TO PROVIDE THAT THE GOVERNOR SHALL HAVE THIRTY DAYS FROM RECEIPT FROM THE COMMISSION THE NAMES OF THOSE WHO HAVE APPLIED TO RECOMMEND THREE CANDIDATES, AND TO PROVIDE THAT THE COMMISSION SHALL PROVIDE THE GENERAL ASSEMBLY WITH A REPORT DETAILING ITS REVIEW OF THE QUALIFICATIONS OF EACH OF THE GOVERNOR’S RECOMMENDATIONS.

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

SECTION 1. Section 2–19–20 of the 1976 Code is amended to read:

“Section 2–19–20. (A) It is the responsibility of the Judicial Merit Selection Commission to determine when judicial vacancies are to occur in the administrative law judge division and on the family court, circuit court, court of appeals, or Supreme Court, and to expeditiously notify the Governor of the vacancy and the timeframe for which his recommendations should be made. ~~and to expeditiously investigate in advance the qualifications of those who seek nomination.~~ For purposes of this chapter, a vacancy is created in the administrative law judge division or on the family court, circuit court, court of appeals, or Supreme Court when any of the following occurs: a term expires; a new judicial position is created; or a judge can no longer serve due to resignation, retirement, disciplinary action, disability, or death.

(B) The commission, upon receiving notice of ~~a~~ an existing or imminent judicial vacancy ~~or ascertaining that a judicial vacancy shall occur, or receiving the decision of an incumbent judge regarding his seeking re‑election~~, shall notify the Supreme Court of the vacancy for publication in the advance sheets provided by the Clerk of the Supreme Court at least thirty days prior to closing applications for the vacancy. The commission shall, if practicable, also notify the South Carolina Bar, other professional legal organizations it considers appropriate, and each newspaper of this State with daily circulation of the vacancy at least thirty days prior to closing applications for the vacancy. This notice must include, but not be limited to, the judicial office in which the vacancy occurs, the address to which, and the date by which interested candidates may apply.

(C) The Judicial Merit Selection Commission shall announce and publicize vacancies and forthcoming vacancies in the administrative law judge division, on the family court, circuit court, court of appeals, and Supreme Court. A person who desires to be considered for nomination as justice or judge may make application to the commission. No person may concurrently seek more than one judicial vacancy. The commission shall ~~announce~~ submit the names of those persons who have applied to the Governor for the purpose of obtaining his recommendations.

(D) Any person wishing to seek a judicial office~~, which is elected by the General Assembly,~~ shall file a notice of intention to seek the office with the Judicial Merit Selection Commission. Upon receipt of the notice of intention, the commission shall remit the name of the candidate to the Governor. The Governor shall have thirty days from receipt of the names of those who have applied to return his recommendations to the commission. Once the Governor recommends at least three candidates for each respective vacancy, the commission may begin to conduct the investigation of the candidate as it considers appropriate and may in the investigation utilize the services of any agency of state government. This agency shall, upon request, cooperate fully with the commission.”

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 of candidates and their qualifications~~ The Governor shall recommend at least three names for consideration for election to the Supreme Court, court of appeals, circuit court, family court, and the administrative law judge division for any vacancy in which there is no incumbent. If there is an incumbent, the Governor may recommend additional names for consideration or may recommend the incumbent only. The Governor shall submit the names of the candidates or incumbent he recommends to the commission for review within thirty days of receipt from the commission of the names of those who have applied. ~~It shall review~~ The commission shall then review the qualifications of ~~all applicants~~ the candidates 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.

(B) ~~The nominations of the commission~~ The candidates recommended by the Governor and reviewed and deemed qualified by the commission for any judgeship are binding on the General Assembly, and it shall not elect a person not ~~nominated~~ found qualified by the commission. Nothing shall prevent the General Assembly from rejecting all persons ~~nominated~~ recommended by the Governor and deemed qualified by the commission. In this event, the ~~commission~~ Governor shall ~~submit~~ recommend 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 not be submitted to the General Assembly for re‑election 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, the election for the office may not be held at that scheduled time, and the Governor and commission shall proceed in accordance with 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~~ Governor from including in ~~its~~ his new ~~nominations~~ recommendations the names and qualifications of persons other than the incumbent judge ~~it~~ he included in ~~its~~ his previous ~~nominations~~ recommendations.

(D) The commission shall ~~accompany its nominations to the General Assembly with reports or recommendations as to the qualifications of particular candidates.~~ provide the General Assembly with a report detailing its review of the qualifications of each of the Governor’s recommendations.

(E) A period of at least two weeks must elapse between the date of the commission’s ~~nominations~~ submission of qualified candidates to the General Assembly and the date the General Assembly conducts the election for these judgeships.”

SECTION 3. This act takes effect upon approval by the Governor.

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