**South Carolina General Assembly**

125th Session, 2023-2024

**S. 693**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Campsen, Climer, Corbin, Kimbrell, Rice, Bennett, Grooms, Fanning and Verdin

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Introduced in the Senate on March 29, 2023

Currently residing in the Senate

Summary: Judicial Candidates

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 3/29/2023 Senate Introduced and read first time (Senate Journal‑page 5)

 3/29/2023 Senate Referred to Committee on **Judiciary** (Senate Journal‑page 5)

 1/16/2024 Senate Referred to Subcommittee: Talley (ch), Malloy,
 Campsen, Sabb, Senn

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**VERSIONS OF THIS BILL**

[03/29/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/693_20230329.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 2-19-10(A), RELATING TO THE JUDICIAL MERIT SELECTION COMMISSION, SO AS TO REQUIRE THE COMMISSION TO ONLY CONSIDER THE QUALIFICATIONS OF A PERSON RECOMMENDED BY THE GOVERNOR FOR JUDICIAL OFFICE; BY AMENDING SECTION 2-19-20, RELATING TO APPLICATIONS TO FILL JUDICIAL VACANCIES, SO AS TO REQUIRE APPLICATIONS BE FORWARDED TO THE GOVERNOR; BY AMENDING SECTION 2-19-40, RELATING TO THE EXEMPTION FROM HOLDING A PUBLIC HEARING FOR CERTAIN JUDICIAL CANDIDATES, SO AS TO REPEAL THE PROVISIONS OF THE SECTION; AND BY AMENDING SECTION 2-19-80, RELATING TO THE NOMINATION OF QUALIFIED CANDIDATES TO THE GENERAL ASSEMBLY, SO AS TO REVISE THE NUMBER OF CANDIDATES THAT MAY BE SUBMITTED TO THE GENERAL ASSEMBLY.

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

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

 (A) WheneverWhen 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. No person shall be considered by the Judicial Merit Selection Commission for a judicial office unless the person has received a recommendation for the judicial office by the Governor. 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;

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

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

SECTION 2. Section 2‑19‑20 of the S.C. 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 towill occur in the administrative law judge divisioncourt, and on the family court, circuit court, court of appeals, or Supreme Court and to expeditiously investigate in advance the qualifications of those who seek nomination. For purposes of this chapter, a vacancy is created inon the administrative law judge divisioncourt, or on the family court, circuit court, court of appeals, or Supreme Court when any of the following occurs:

 (1) a term expires;

 (2) a new judicial position is created; or

 (3) a judge can no longer serve due to resignation, retirement, disciplinary action, disability, or death.

 (B) The commission, upon receiving notice of a judicial vacancy, ascertaining that a judicial vacancy shall occur, or receiving the decision of an incumbent judge regarding his seeking re‑election, shall notify the Governor and Supreme Court of the vacancy. for publicationNotice of the vacancy must be published in the advance sheets provided by the Clerk of the Supreme Court at least thirty days prior to the commission 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 inon the administrative law judge divisioncourt, on the family court, circuit court, court of appeals, and Supreme Court. A person who desires to be considered for nomination as a justice or judge maymust make application to the commission. Upon receipt of an application, the commission must forward it to the Governor. The Governor must return only one application per judicial office to the commission. The return constitutes a recommendation by the Governor. No person may concurrently seek more than one judicial vacancy. The commission shall announce the names of those persons who have appliedreceived a recommendation by the Governor.

 (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 the return of the notice of intentiona candidate’s application by the Governor, the commission shall begin to conduct the investigation of the candidate as it considers appropriate and may in the investigation may utilize the services of any agency of state government in the investigation. ThisUpon request, the agency shall, upon request, cooperate fully with the commission.

SECTION 3. Section 2‑19‑40 of the S.C. Code is amended to read:

 Section 2‑19‑40. Notwithstanding the provisions of this chapter, when there is no known opposition to a candidate, and there appears to be no substantial reason for having a public hearing, whether or not a candidate is an incumbent, and no request is made by at least six members of the Judicial Merit Selection Commission for a public hearing, the commission chairman upon recommendation of the commission may determine that the public hearing is unnecessary and it may not be heldReserved.

SECTION 4. Section 2‑19‑80 of the S.C. Code is amended to read:

 Section 2‑19‑80. (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 divisioncourt. It shall review the qualifications of all applicantsthe candidate for a judicial office and select therefrom and submit the candidate to the General Assembly the names and qualifications of threeonly if candidates whom it considers best the candidate 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. If the candidate is not found qualified for the judicial office under consideration, then further nominations in the manner required by this chapter must be made until the Commission considers a candidate qualified.

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

 (C)(1) If the commission does not find theAn incumbent justice or judge qualified for the judicial office held and sought, hiswhose name shallis 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 upon expiration of his then current term of office.

 (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 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 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 with reports or recommendations as to the qualifications of particular candidateseach candidate.

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

SECTION 5. This act takes effect upon approval by the Governor.

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