

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 837

Session of
1987

INTRODUCED BY HAGARTY, McHALE, HECKLER, JOSEPHS, LASHINGER,
HAYDEN, NAHILL, SHOWERS, JOHNSON, BOOK, MERRY, VROON,
FISCHER, REINARD, FOX, MICHLOVIC AND J. L. WRIGHT, MARCH 16,
1987

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 16, 1987

A JOINT RESOLUTION

1 Proposing an amendment to the Constitution of the Commonwealth
2 of Pennsylvania, providing for selection of justices of the
3 Supreme Court and judges of other statewide courts.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby resolves as follows:

6 Section 1. The following amendments to the Constitution of
7 Pennsylvania are proposed in accordance with Article XI:

8 (1) That section 8(b) of Article IV be amended to read:

9 § 8. Appointing power.

10 * * *

11 (b) The Governor shall fill vacancies in offices to which he
12 appoints, including appointments made pursuant to Article V, by
13 nominating to the Senate a proper person to fill the vacancy
14 within 90 days of the first day of the vacancy and not
15 thereafter. The Senate shall act on each executive nomination
16 within 25 legislative days of its submission. If the Senate has
17 not voted upon a nomination within 15 legislative days following

1 such submission, any five members of the Senate may, in writing,
2 request the presiding officer of the Senate to place the
3 nomination before the entire Senate body whereby the nomination
4 must be voted upon prior to the expiration of five legislative
5 days or 25 legislative days following submission by the
6 Governor, whichever occurs first. If the nomination is made
7 during a recess or after adjournment sine die, the Senate shall
8 act upon it within 25 legislative days after its return or
9 reconvening. If the Senate for any reason fails to act upon a
10 nomination submitted to it within the required 25 legislative
11 days, the nominee shall take office as if the appointment had
12 been consented to by the Senate. The Governor shall in a similar
13 manner fill vacancies in the offices of Auditor General, State
14 Treasurer, justice, judge, justice of the peace and in any other
15 elective office he is authorized to fill. In the case of a
16 vacancy in an elective office, a person shall be elected to the
17 office on the next election day appropriate to the office unless
18 the first day of the vacancy is within two calendar months
19 immediately preceding the election day in which case the
20 election shall be held on the second succeeding election day
21 appropriate to the office.

22 * * *

23 (2) That sections 12, 13 and 14 of Article V be amended to
24 read:

25 § 12. Qualifications of justices, judges and justices of the
26 peace.

27 (a) Justices, judges and justices of the peace shall be
28 citizens of [the] this Commonwealth. Justices and judges, except
29 the judges of the traffic court in the City of Philadelphia,
30 shall be members of the bar of the Supreme Court. Justices and

1 judges of statewide courts, for a period of one year preceding
2 their [election or] appointment and during their continuance in
3 office, shall reside within [the] this Commonwealth. Other
4 judges and justices of the peace, for a period of one year
5 preceding their election or appointment and during their
6 continuance in office, shall reside within their respective
7 districts, except as provided in this article for temporary
8 assignments.

9 (b) Judges of the traffic court in the City of Philadelphia
10 and justices of the peace shall be members of the bar of the
11 Supreme Court or shall complete a course of training and
12 instruction in the duties of their respective offices and pass
13 an examination prior to assuming office. Such courses and
14 examinations shall be as provided by law.

15 § 13. Election and appointment of justices, judges and
16 justices of the peace; vacancies.

17 (a) Justices[, judges and justices] of the peace and judges,
18 other than justices of the Supreme Court and judges of the other
19 statewide courts, shall be elected at the municipal election
20 next preceding the commencement of their respective terms of
21 office by the electors of [the Commonwealth or] the respective
22 districts in which they are to serve.

23 (b) A vacancy in the office of [justice,] judge or justice
24 of the peace, other than justice of the Supreme Court or judge
25 of the other statewide courts, shall be filled by appointment by
26 the Governor. The appointment shall be with the advice and
27 consent of [two-thirds] a majority of the members elected to the
28 Senate[, except in the case of justices of the peace which shall
29 be by a majority]. The person so appointed shall serve for a
30 term ending on the first Monday of January following the next

1 municipal election more than ten months after the vacancy occurs
2 or for the remainder of the unexpired term whichever is less[,
3 except in the case of persons selected as additional judges to
4 the Superior Court, where the General Assembly may stagger and
5 fix the length of the initial terms of such additional judges by
6 reference to any of the first, second and third municipal
7 elections more than ten months after the additional judges are
8 selected. The manner by which any additional judges are selected
9 shall be provided by this section for the filling of vacancies
10 in judicial offices].

11 (c) The provisions of section 13(b) shall not apply either
12 in the case of a vacancy to be filled by retention election as
13 provided in section 15(b), or in the case of a vacancy created
14 by failure of a justice or judge to file a declaration for
15 retention election as provided in section 15(b). In the case of
16 a vacancy occurring at the expiration of an appointive term
17 under section 13(b), the vacancy shall be filled by election as
18 provided in section 13(a).

19 (d) [At the primary election in 1969, the electors of the
20 Commonwealth may elect to have the justices and judges of the
21 Supreme, Superior, Commonwealth and all other statewide courts
22 appointed by the Governor from a list of persons qualified for
23 the offices submitted to him by the Judicial Qualifications
24 Commission. If a majority vote of those voting on the question
25 is in favor of this method of appointment, then whenever any
26 vacancy occurs thereafter for any reason in such court, the
27 Governor shall fill the vacancy by appointment in the manner
28 prescribed in this subsection. Such appointment shall not
29 require the consent of the Senate.] Any vacancy in the office of
30 justice of the Supreme Court or judge of the other statewide

1 courts shall be filled by appointment by the Governor from a
2 list of qualified persons submitted to him by the Judicial
3 Selection Advisory Committee pursuant to section 14. The
4 appointment shall require the consent of a majority of the
5 members elected to the Senate.

6 (e) Each justice or judge appointed by the Governor under
7 section 13(d) shall hold office for an initial term ending the
8 first Monday of January following the next municipal election
9 more than 24 months following the appointment.

10 § 14. Judicial [Qualifications Commission] Selection
11 Advisory Committee.

12 [(a) Should the method of judicial selection be adopted as
13 provided in section 13 (d), there shall be a Judicial
14 Qualifications Commission, composed of four non-lawyer electors
15 appointed by the Governor and three non-judge members of the bar
16 of the Supreme Court appointed by the Supreme Court. No more
17 than four members shall be of the same political party. The
18 members of the commission shall serve for terms of seven years,
19 with one member being selected each year. The commission shall
20 consider all names submitted to it and recommend to the Governor
21 not fewer than ten nor more than 20 of those qualified for each
22 vacancy to be filled.

23 (b) During his term, no member shall hold a public office or
24 public appointment for which he receives compensation, nor shall
25 he hold office in a political party or political organization.

26 (c) A vacancy on the commission shall be filled by the
27 appointing authority for the balance of the term.]

28 (a) There shall be a Judicial Selection Advisory Committee
29 composed of:

30 (1) Three judges, at least one of whom shall be a judge

1 of the courts of common pleas, appointed by the Chief
2 Justice.

3 (2) One non-judge member of the bar of the Supreme Court
4 appointed by the Chief Justice.

5 (3) Two non-judge members of the bar of the Supreme
6 Court appointed by the Governor.

7 (4) Two non-lawyer members appointed by the Governor.

8 (5) Four non-lawyer members, one of whom shall be
9 appointed by the President pro tempore of the Senate, one of
10 whom shall be appointed by the Minority Leader of the Senate,
11 one of whom shall be appointed by the Speaker of the House of
12 Representatives and one of whom shall be appointed by the
13 Minority Leader of the House of Representatives. They shall
14 not be members of the General Assembly. Those members first
15 appointed shall serve until the first Tuesday in January of
16 the next odd-numbered year following their appointment and
17 following members shall serve terms expiring on the first
18 Tuesday in January of the next odd-numbered year following
19 appointment.

20 (b) The following apply to the committee:

21 (1) The members appointed by the Governor shall serve
22 terms that are coterminous with the term of the respective
23 appointing authority.

24 (2) No more than two of the members selected and
25 appointed by the Governor shall be affiliated with the same
26 political party.

27 (3) A vacancy on the committee relating to any of the
28 members chosen under subsection (a)(1) shall be filled by the
29 first alternate for the unexpired portion of the term. Other
30 vacancies shall be filled by the respective appointing

1 authority for the unexpired portion of the term.

2 (4) No committee member elected or appointed pursuant to
3 subsection (a)(2), (3), (4) and (5) shall hold public office
4 or public appointment for which he receives compensation or
5 hold office in any political party or political organization.

6 (5) No person who is elected or appointed to the
7 committee and accepts membership on the committee shall be
8 recommended by the committee to the Governor for appointment
9 to the Supreme Court or any other statewide court during the
10 term for which he has been chosen and for a period of two
11 years thereafter.

12 (6) The committee shall designate one of its members to
13 serve as chairman and may establish rules for its operation.

14 (c) The committee shall consider the qualifications of
15 candidates for appointment to the office of justice of the
16 Supreme Court or judge of the other statewide courts in this
17 Commonwealth and shall submit to the Governor a minimum of five
18 and a maximum of ten qualified candidates for each vacancy. The
19 committee is restricted to submitting the names of those who
20 have formally applied to it. The committee shall provide
21 adequate public notice that applications are being received and
22 shall permit sufficient time for all interested persons to apply
23 or to make recommendations. The committee shall submit the list
24 to the Governor within 60 days of the first day of the vacancy
25 and shall make the list available for public inspection.

26 (d) The Governor shall nominate a justice or judge from
27 lists provided to him by the Judicial Selection Advisory
28 Committee within 30 days. The Senate shall act upon the
29 nomination as provided in section 8 of Article IV. Should the
30 Senate fail to consent to the Governor's nominee, the Governor

1 may submit the name of another candidate from the original list
2 within 90 days of the Senate's failure to confirm, or the
3 Governor may request an additional list of names from the
4 committee from which to nominate. If the Governor requests an
5 additional list of names, the committee shall submit the list to
6 the Governor within 60 days of the Senate's failure to consent.

7 (e) When it is known that a vacancy on the Supreme Court or
8 any other statewide court will occur in the future on a date
9 certain, the selection process may proceed 90 days prior to that
10 date.