

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 415

Session of
1983

INTRODUCED BY SWEET, SPENCER, HOEFFEL, McVERRY, MICHLOVIC,
HAGARTY, BLAUM, COLAFELLA, J. L. WRIGHT, PERZEL AND GEIST,
MARCH 16, 1983

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 16, 1983

A JOINT RESOLUTION

1 Proposing an amendment to the Constitution of the Commonwealth
2 of Pennsylvania, providing for a Judicial Qualifications
3 Commission and judicial appointments by the Governor.

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 ARTICLE IV

10 THE EXECUTIVE

11 § 8. Appointing power.

12 * * *

13 (b) The Governor shall fill vacancies in offices to which he
14 appoints, including appointments made pursuant to section 13(d)
15 of Article V, by nominating to the Senate a proper person to
16 fill the vacancy within 90 days of the first day of the vacancy
17 and not thereafter except that, in the case of appointments made

1 pursuant to section 13(d) of Article V, the Governor shall
2 nominate a person to fill the vacancy within 90 days of the
3 first date he receives a list of qualified persons submitted by
4 the Judicial Qualifications Commission. The Senate shall act on
5 each executive nomination within 25 legislative days of its
6 submission. If the Senate has not voted upon a nomination within
7 15 legislative days following such submission, any five members
8 of the Senate may, in writing, request the presiding officer of
9 the Senate to place the nomination before the entire Senate body
10 whereby the nomination must be voted upon prior to the
11 expiration of five legislative days or 25 legislative days
12 following submission by the Governor, whichever occurs first. If
13 the nomination is made during a recess or after adjournment sine
14 die, the Senate shall act upon it within 25 legislative days
15 after its return or reconvening. If the Senate for any reason
16 fails to act upon a nomination submitted to it within the
17 required 25 legislative days, the nominee shall take office as
18 if the appointment had been consented to by the Senate. The
19 Governor shall in a similar manner fill vacancies in the offices
20 of Auditor General, State Treasurer, [justice,] judge, justice
21 of the peace and in any other elective office he is authorized
22 to fill. In the case of a vacancy in an elective office, a
23 person shall be elected to the office on the next election day
24 appropriate to the office unless the first day of the vacancy is
25 within two calendar months immediately preceding the election
26 day in which case the election shall be held on the second
27 succeeding election day appropriate to the office.

28 * * *

29 (2) That sections 12(a), 13 and 14 of Article V be amended
30 to read:

1 ARTICLE V

2 THE JUDICIARY

3 § 12. Qualifications of justices, judges and justices of the
4 peace.

5 (a) Justices, judges and justices of the peace shall be
6 citizens of [the] this Commonwealth. Justices and judges, except
7 the judges of the traffic court in the City of Philadelphia,
8 shall be members of the bar of the Supreme Court. Justices and
9 judges of statewide courts, for a period of one year preceding
10 their [election or] appointment and during their continuance in
11 office, shall reside within [the] this Commonwealth. Other
12 judges and justices of the peace, for a period of one year
13 preceding their election or appointment and during their
14 continuance in office, shall reside within their respective
15 districts, except as provided in this article for temporary
16 assignments.

17 * * *

18 § 13. Election and appointment of justices, judges and
19 justices of the peace; vacancies.

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

26 (b) A vacancy in the office of [justice,] judge or justice
27 of the peace, other than justices and judges of statewide
28 courts, shall be filled by appointment by the Governor. The
29 appointment shall be with the advice and consent of two-thirds
30 of the members elected to the Senate, except in the case of

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

13 (c) The provisions of [section 13(b)] subsection (b) shall
14 not apply either in the case of a vacancy to be filled by
15 retention election as provided in section 15(b), or in the case
16 of a vacancy created by failure of a justice or judge to file a
17 declaration for retention election as provided in section 15(b).
18 In the case of a vacancy occurring at the expiration of an
19 appointive term under [section 13(b)] subsection (b), the
20 vacancy shall be filled by election as provided in [section
21 13(a)] subsection (a).

22 [(d) At the primary election in 1969, the electors of the
23 Commonwealth may elect to have the justices and judges of the
24 Supreme, Superior, Commonwealth and all other statewide courts
25 appointed by the Governor from a list of persons qualified for
26 the offices submitted to him by the Judicial Qualifications
27 Commission. If a majority vote of those voting on the question
28 is in favor of this method of appointment, then whenever any
29 vacancy occurs thereafter for any reason in such court, the
30 Governor shall fill the vacancy by appointment in the manner

1 prescribed in this subsection. Such appointment shall not
2 require the consent of the Senate.

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

7 (d) Justices and judges of the Supreme, Superior and
8 Commonwealth Courts and all other statewide courts hereafter
9 created shall be appointed by the Governor from a list of
10 persons qualified for the offices submitted to him by the
11 Judicial Qualifications Commission. Whenever any vacancy occurs
12 thereafter for any reason in any of these courts, the Governor
13 shall fill the vacancy by appointment in the manner prescribed
14 in this subsection. The appointment shall require the consent of
15 a majority of the members elected to the Senate in the manner
16 prescribed by section 8 of Article IV.

17 (e) Each justice or judge appointed by the Governor under
18 subsection (d) shall hold office for an initial term ending the
19 first Monday of January following the next municipal election
20 more than 24 months following the appointment.

21 § 14. Judicial Qualifications Commission.

22 [(a) Should the method of judicial selection be adopted as
23 provided in section 13(d), there shall be a Judicial
24 Qualifications Commission, composed of four non-lawyer electors
25 appointed by the Governor and three non-judge members of the bar
26 of the Supreme Court appointed by the Supreme Court. No more
27 than four members shall be of the same political party. The
28 members of the commission shall serve for terms of seven years,
29 with one member being selected each year. The commission shall
30 consider all names submitted to it and recommend to the Governor

1 not fewer than ten nor more than 20 of those qualified for each
2 vacancy to be filled.

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

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

8 (a) There shall be a Judicial Qualifications Commission,
9 composed of four non-lawyer electors appointed by the Governor
10 and three non-judge members of the bar of the Supreme Court
11 selected by members of the bar of the Supreme Court in the
12 manner prescribed by rules of the Supreme Court. No more than
13 four members shall be of the same political party. The members
14 of the commission shall serve for terms of seven years with one
15 member being selected each year. The commission shall consider
16 all names submitted to it and recommend to the Governor a list
17 of names containing not fewer than five nor more than ten of
18 those qualified for each vacancy to be filled. The Governor
19 shall select a nominee from the list and shall not request that
20 the commission submit additional names.

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

24 (c) A vacancy on the commission shall be filled by the
25 appointing authority for the balance of the term. The respective
26 appointing authority may only remove a member for cause. For the
27 purpose of removal, the Supreme Court shall be deemed to be the
28 appointing authority of members of the commission selected by
29 members of the bar.

30 (d) The General Assembly may enact laws, not inconsistent

1 with this section, to implement its provisions.

2 (3) That sections 23 and 28 of the Schedule to Article V be
3 amended to read:

4 SCHEDULE TO JUDICIARY ARTICLE

5 § 23. Judicial Qualifications Commission.

6 [The selection of the first members of the Judicial
7 Qualifications Commission provided for in section 14(a) of this
8 article shall be made as follows: The Governor shall appoint the
9 four non-lawyer members for terms of, respectively, one year,
10 three years, five years and seven years, no more than two of
11 whom shall be members of the same political party. The Supreme
12 Court shall appoint the three non-judge members of the bar of
13 the Supreme Court of Pennsylvania for terms, respectively, of
14 two years, four years and six years, no more than two of whom
15 shall be members of the same political party.]

16 The selection of the first members of the Judicial
17 Qualifications Commission provided for in section 14(a) of
18 Article V shall be made as follows: The Governor shall appoint
19 the four non-lawyer members for terms of, respectively, one
20 year, three years, five years and seven years, no more than two
21 of whom shall be members of the same political party. The
22 members of the bar of the Supreme Court shall select the three
23 non-judge members of the bar of the Supreme Court for terms,
24 respectively, of two years, four years and six years, no more
25 than two of whom shall be members of the same political party.

26 [§ 28. Referendum.

27 The officer of the Commonwealth who under law shall have
28 supervision over elections shall cause the question provided for
29 in section 13(d) of this article to be placed on the ballot in
30 the 1969 primary election throughout the Commonwealth.]