

OKLAHOMA STATE SENATE
CONFERENCE
COMMITTEE REPORT

May 22, 2024

Mr President:

Mr. Speaker:

The Conference Committee, to which was referred

SB448

By: Daniels of the Senate and Lepak of the House


Title: Retirement benefits payment, conforming language, spousal consent not required for certain elections; contributions. Effective date

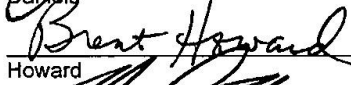
_____ together with Engrossed House Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the House recede from all Amendments.
2. That the attached Conference Committee Substitute (Request #3812) be adopted.

Respectfully submitted,

SENATE CONFEREES:



Daniels


Howard


Treat

Floyd

HOUSE CONFEREES

Conference Committee on Banking, Financial Services and Pensions

Senate Action _____ Date _____ House Action _____ Date _____

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 CONFERENCE COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL NO. 448

6 By: Daniels of the Senate

7 and

8 Lepak of the House

9
10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to judicial officer selection;
12 requiring consideration of certain factors by
13 Judicial Nominating Commission; establishing
14 requirements for commissioners; requiring
15 commissioners to disclose certain information;
16 requiring disqualification under certain
17 circumstances; authorizing vote by Commission on
18 disqualification of commissioner; authorizing calling
19 of Commission meetings for specified purposes;
20 requiring certain notice; establishing requirements
21 for certain notice; authorizing waiver of certain
22 notice; establishing requirements for commissioner
23 attendance of Commission meetings; authorizing
24 electronic participation under certain circumstances;
requiring Commission meetings for certain purposes;
stating quorum requirements; requiring certain
information to be included on notice for meetings for
specified purposes; establishing guidelines for
public comment; authorizing executive sessions for
certain purposes; providing for confidentiality of
certain deliberations; prohibiting consideration of
information from certain sources; establishing
procedures for determination of applicant interviews;
requiring commissioner to make certain inquiry;
authorizing direct contact by chair to applicant;
establishing procedures for conducting interviews;
authorizing executive sessions for certain purposes;

1 prohibiting disclosure of certain information;
2 establishing procedures for determination of list of
3 nominees for submission to Governor; requiring
4 certain votes to be held in public meeting; requiring
5 delivery of certain list to Governor; requiring
6 release of certain list to the public; amending 20
7 O.S. 2021, Section 30.17, which relates to vacancies;
8 modifying procedures for filling certain vacancies;
9 requiring Senate confirmation of certain
10 appointments; requiring Governor to call special
11 election to fill certain vacancies; requiring
12 issuance of certain proclamation; requiring filing of
13 proclamation with Secretary of State; requiring
14 proclamation to contain certain information;
15 clarifying requirements for conducting of certain
16 elections; amending 51 O.S. 2021, Section 10, which
17 relates to vacancies; modifying procedures for
18 filling certain vacancies; providing for
19 codification; and providing an effective date.

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BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 26 of Title 20, unless there is
created a duplication in numbering, reads as follows:

A. Commissioners serving on the Judicial Nominating Commission
as established pursuant to Section 3 of Article VII-B of the
Oklahoma Constitution shall use merit as the primary consideration
for selecting persons to be submitted to the Governor and shall
select nominees who have demonstrated outstanding competence and
reputation.

B. A commissioner shall:

- 1 1. Consider each applicant for a judicial office in an
2 impartial and objective manner;
- 3 2. Be influenced only by facts or opinions relevant to the
4 judicial qualifications of the applicants. A commissioner shall
5 promptly report to the chair of the Commission any attempt to
6 influence a commissioner other than by facts or opinions; and
- 7 3. Refrain from verbal or written communication with an
8 applicant about the application or the nomination process from the
9 time the application is submitted until the time at which the
10 application is no longer under consideration.

11 C. A commissioner shall disclose to the Commission any
12 relationship with an applicant including but not limited to
13 business, financial, personal, familial, or fiduciary. A
14 commissioner shall be disqualified from voting on an applicant or
15 otherwise participating in the nominating process if the
16 commissioner has a familial relationship with the applicant or if
17 the commissioner and applicant are both currently employed by the
18 same company, firm, or organization. A commissioner shall
19 disqualify himself or herself in any proceeding in which the
20 impartiality of the commissioner about an applicant might reasonably
21 be questioned. If the impartiality of a commissioner is called into
22 question by any other commissioner, the chair shall call for a vote
23 on whether the commissioner should be disqualified for lack of
24 impartiality. Upon a majority vote by the Commission, the

1 commissioner shall be disqualified from voting on the applicant or
2 otherwise participating in the nominating process for the applicant.

3 SECTION 2. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 27 of Title 20, unless there is
5 created a duplication in numbering, reads as follows:

6 A. Meetings of the Judicial Nominating Commission may be called
7 by the chair or a majority of the commissioners by written notice to
8 the entire Commission specifying the date, time, and location of the
9 meeting. Such notice shall be posted on the website of the
10 Commission at least seven (7) calendar days before the meeting date;
11 provided, however, an emergency meeting may be held on shorter
12 notice if the chair or a majority of commissioners determine it is
13 essential to hold such emergency meeting. The right to notice of a
14 meeting may be waived by any commissioner either before or after the
15 meeting takes place. Attendance at a meeting by any commissioner
16 shall constitute a waiver of such notice unless the commissioner, at
17 or promptly after the beginning of such meeting, objects to the
18 holding of the meeting on the grounds of lack of or insufficiency of
19 notice.

20 B. All commissioners shall attend every meeting in person to
21 the extent practicable. In extenuating circumstances, the chair may
22 permit a commissioner to attend and vote in a business meeting or in
23 a screening meeting via electronic means including but not limited
24 to telephone or videoconferencing. A commissioner shall not

1 participate in applicant interviews or vote on nominations through
2 electronic means, unless allowed by the chair because the Commission
3 would otherwise be unable to obtain a quorum for scheduled
4 interviews. A commissioner who attends a meeting through electronic
5 means shall accept the risk that technical problems could disrupt
6 participation.

7 C. The Judicial Nominating Commission shall meet at least once
8 every two (2) years for the following purposes:

9 1. Providing education to the commissioners related to
10 Commission procedures, the role of individual commissioners in the
11 judicial nominating process, and means for improving the judicial
12 nominating process; and

13 2. Reviewing Commission actions during the preceding years
14 including but not limited to a presentation of statistical
15 information about applications, nominations, and appointments. Such
16 statistics shall be compiled from information obtained in the
17 applications.

18 D. A quorum for a Commission meeting shall be a majority of the
19 commissioners in office and eligible to participate at the time of
20 the meeting. The Commission may act on any matter by majority vote
21 of the commissioners in attendance.

22 SECTION 3. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 28 of Title 20, unless there is
24 created a duplication in numbering, reads as follows:

1 A. If the purpose of a meeting of the Judicial Nominating
2 Commission for which notice has been posted pursuant to Section 2 of
3 this act is to screen applications for a judicial office, the names
4 of the applicants to be screened shall be included on the notice.
5 Public comment about individual applicants shall be made, if
6 feasible, at least three (3) working days before the screening
7 meeting in writing to the Judicial Nominating Commission for
8 distribution to the commissioners, or verbally or by written or
9 electronic means directly to the commissioners.

10 B. 1. The Commission shall meet to determine which applicants
11 for a judicial interview should be granted an interview with the
12 Commission. Each commissioner shall disclose any public comment and
13 other information relied upon to evaluate each applicant. The
14 Commission may hold an executive session upon a majority vote of the
15 commissioners in attendance to promote open and frank discussion of
16 applicant qualifications. The substance of deliberations in
17 executive session shall be confidential and shall not be disclosed
18 to the public.

19 2. If confidentiality has been promised to a source,
20 commissioners shall consider whether less weight should be given to
21 the information provided by such source. Negative opinions that are
22 not supported with a factual basis or a second source shall not be
23 disclosed at the meeting. If disclosed, all supporting information
24 shall also be disclosed. Information from an anonymous source shall

1 not be considered by any commissioner or shared with any other
2 commissioner or the Commission at any point in the screening
3 process.

4 3. The chair of the Commission shall invite commissioners to
5 nominate applicants to be placed on a tentative list of those to
6 be interviewed by the Commission. Such a nomination shall require
7 the concurrence of one additional commissioner. The name of each
8 applicant who receives a vote of the majority of commissioners shall
9 be placed on a tentative list. Following such procedure and with or
10 without an additional executive session or sessions, the tentative
11 list of interviewees may be added to or subtracted from by public
12 Commission vote until a final list of applicants to be interviewed
13 is determined. The Commission may modify these procedures at its
14 discretion.

15 SECTION 4. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 29 of Title 20, unless there is
17 created a duplication in numbering, reads as follows:

18 A. If the purpose of a meeting of the Judicial Nominating
19 Commission for which notice has been posted pursuant to Section 2 of
20 this act is to interview applicants for a judicial office, the names
21 of the applicants selected to be interviewed shall be included on
22 the notice. Public comment or comments from members of the
23 judiciary or Bar Associations about individual applicants shall be
24 made, if feasible, at least three (3) working days before the

1 screening meeting in writing to the Judicial Nominating Commission
2 for distribution to the commissioners, or verbally or by written or
3 electronic means directly to the commissioners. A commissioner
4 shall contact any individual identified to that commissioner to
5 inquire about information related to the character, fitness, or
6 competency of the applicant. The chair of the Commission may
7 contact an applicant directly if the chair determines that such
8 contact is in the best interests of the Commission, the applicant,
9 or the public.

10 B. 1. The Commission shall meet for the purpose of conducting
11 interviews with selected applicants in order to compile a list of
12 nominees to be forwarded to the Governor. The Commission shall
13 schedule sufficient time prior to the interview of each applicant to
14 discuss and evaluate each applicant's qualifications and to
15 determine whether any matter should be raised with the applicant
16 during the interviews. Each commissioner shall disclose any public
17 comment and other information relied upon to evaluate each
18 applicant. The Commission may hold an executive session upon a
19 majority vote of the commissioners in attendance to promote open and
20 frank discussion of applicant qualifications. The substance of
21 deliberations in executive session shall be confidential and shall
22 not be disclosed to the public.

23 2. If confidentiality has been promised to a source,
24 commissioners shall consider whether less weight should be given to

1 the information provided by such source. Negative opinions that are
2 not supported with a factual basis or a second source shall not be
3 disclosed at the meeting. If disclosed, all supporting information
4 shall also be disclosed. Information from an anonymous source shall
5 not be considered by any commissioner or shared with any other
6 commissioner or the Commission at any point in the interviewing
7 process.

8 C. Interviews of selected applicants shall be conducted in a
9 public meeting of the Commission. The chair shall admonish the
10 public in attendance not to disclose the interview questions or
11 applicant responses until the conclusion of all interviews. A
12 commissioner may question an applicant about comments made about the
13 applicant for which confidentiality has been requested as long as
14 the source of comment is not identified to the applicant. Upon
15 motion and a majority vote of the Commission, a portion of the
16 interview may occur in executive session unless the applicant elects
17 to continue the interview in public session.

18 D. To the extent possible, no material or adverse information
19 about an applicant that a commissioner knows prior to the
20 interview may be disclosed to the Commission after the interview
21 occurs. Whether in public or in executive session, the chair shall
22 read the names of the applicants in alphabetical order and open the
23 meeting to a discussion of the qualifications of each applicant for
24 judicial office. After such discussion for each applicant, the

1 chair shall conduct a general discussion of the relative
2 qualifications of all applicants. The Commission may hold an
3 executive session upon a majority vote to promote open and frank
4 discussion regarding the qualifications of applicants interviewed.
5 The substance of deliberations in executive session shall not be
6 disclosed.

7 SECTION 5. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 30 of Title 20, unless there is
9 created a duplication in numbering, reads as follows:

10 A. The Chair of the Judicial Nominating Commission shall invite
11 commissioners to nominate applicants interviewed to be placed on a
12 tentative list of those to be forwarded to the Governor. Such a
13 nomination shall require the concurrence of one additional
14 commissioner. The name of each applicant who receives a vote of the
15 majority of commissioners shall be placed on a tentative list.
16 Following such procedure and with or without an additional executive
17 session or sessions, the tentative list of nominees may be added to
18 or subtracted from by public Commission vote until a final list of
19 nominees to be forwarded to the Governor is determined. The
20 Commission may modify these procedures at its discretion. All
21 voting by the Judicial Nominating Commission on the number of
22 nominees to be forwarded to the Governor and on the individual
23 applicants to be nominated shall be in public session.

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1 B. An alphabetical list of the names of the nominees shall be
2 delivered to the Governor as directed by the chair. The chair shall
3 promptly inform the public of the names of the nominees to be
4 delivered to the Governor.

5 SECTION 6. AMENDATORY 20 O.S. 2021, Section 30.17, is
6 amended to read as follows:

7 Section 30.17. In case a Judge of the Court of Civil Appeals or
8 any other intermediate appellate court dies, retires, resigns, or is
9 removed from office, the Governor shall fill the vacancy by
10 appointment ~~from the congressional district where the vacancy exists~~
11 ~~of a person having the required qualifications. The Judicial~~
12 ~~Nominating Commission shall choose and submit to the Governor and~~
13 ~~the Chief Justice of the Supreme Court three nominees, each of whom~~
14 ~~has previously notified the Commission in writing that he or she~~
15 ~~will serve as a Judge if appointed. The Governor shall appoint one~~
16 ~~of the nominees to fill the vacancy, but if he fails to do so within~~
17 ~~sixty (60) days the Chief Justice of the Supreme Court shall appoint~~
18 ~~one of the nominees, the appointment to be certified by the~~
19 ~~Secretary of State~~ with the advice and consent of the Senate.

20 SECTION 7. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 12-121 of Title 26, unless there
22 is created a duplication in numbering, reads as follows:

23 A. Whenever a vacancy shall occur in the office of district
24 judge or associate district judge, the vacancy shall be filled at a

1 special election to be called by the Governor within thirty (30)
2 days after the vacancy occurs; provided, no special election shall
3 be called if the vacancy occurs in an even-numbered year if the term
4 of the office expires the following year. In such case, the
5 candidate elected to the office at the regular primary election or
6 the regular general election shall be appointed by the Governor as
7 soon as practicable after the applicable election to fill the
8 unexpired term.

9 B. In calling a special election pursuant to subsection A of
10 this section, the Governor shall issue a proclamation and file a
11 copy of such proclamation with the Secretary of the State Election
12 Board.

13 C. The proclamation required by subsection B of this section
14 shall contain the following:

15 1. A filing period of three (3) days, on a Monday, Tuesday, and
16 Wednesday, not less than ten (10) days from the date of the
17 proclamation;

18 2. The date of the special primary election; and

19 3. The date of the special general election.

20 If a vacancy occurs in an even-numbered year, when a special
21 election is required, the proclamation shall contain dates that are
22 the same as are required by law for the regular filing period,
23 primary election, and general election, if practicable.

24

1 D. Special elections for district judge or associate district
2 judge called pursuant to this section shall be conducted under the
3 laws applicable to regular primary and general elections. Elections
4 for district judge or associate district judge called pursuant to
5 this section shall be conducted with the procedures for judicial
6 elections set forth in Sections 11-110, 11-111, 11-112, and 11-113
7 of Title 26 of the Oklahoma Statutes.

8 SECTION 8. AMENDATORY 51 O.S. 2021, Section 10, is
9 amended to read as follows:

10 Section 10. A. All vacancies in state offices, except in
11 offices of the members of the Legislature and members of the House
12 of Representatives from Oklahoma in the Congress of the United
13 States of America, shall be filled by appointment by the Governor.

14 B. When a vacancy occurs in the office of district judge, or
15 associate district judge, ~~or judge of any intermediate appellate~~
16 ~~court,~~ the Governor shall, ~~in filling such vacancy, utilize the~~
17 ~~services of the Judicial Nominating Commission in the manner as~~
18 ~~provided for in the filling of judicial offices under Section 4,~~
19 ~~Article VII-B of the Oklahoma Constitution~~ call a special election
20 in accordance with the requirements of Section 7 of this act.

21 C. When a vacancy occurs in the office of a member of the
22 United States Senate from Oklahoma, the Governor shall, within
23 thirty (30) days of occurrence of the vacancy:
24

1 1. Appoint a person eligible to hold such office, who has been
2 a registered voter of the party of the predecessor in Oklahoma for
3 at least five (5) years preceding the date that the vacancy was
4 created, to serve in such office until a successor is elected; and

5 2. Call a special election, if necessary, to fill such vacancy,
6 as provided in Section 12-101 of Title 26 of the Oklahoma Statutes.

7 D. Prior to an appointment pursuant to paragraph 1 of
8 subsection C of this section, a person who is a prospective
9 appointee shall submit to the Secretary of State an oath affirming
10 that the person will not file as a candidate for the office when it
11 next appears on the ballot. The Secretary of State shall prescribe
12 the oath required by this ~~paragraph~~ subsection, and any oath
13 submitted shall be public record and published on the website of the
14 Office of the Secretary of State.

15 E. All vacancies in county offices except the board of county
16 commissioners or except for any elective county office of any county
17 in ~~the State of Oklahoma~~ this state having a population of more than
18 six hundred thousand (600,000)⁷ according to the latest Federal
19 Decennial Census shall be filled by appointment by the board of
20 county commissioners. If such an appointment is made prior to the
21 prescribed filing period for county officers in accordance with the
22 provisions of Section 131 of Title 19 of the Oklahoma Statutes, the
23 county commissioners shall, at the time the appointment is made,
24 proclaim a special election to fill the balance of the unexpired

1 term, ~~providing~~ provided the balance of the term does not expire in
2 the year following the next succeeding general election. In making
3 the proclamation, the county commissioners shall establish the dates
4 for the filing period, primary election, runoff primary election and
5 general election to be the same as the next succeeding filing
6 period, primary election, runoff primary election and general
7 election for county officers. The appointee shall be eligible to
8 become a candidate at the special election, ~~providing~~ provided the
9 appointee is otherwise qualified. The office to be filled shall be
10 printed on the same ballot as other county offices.

11 SECTION 9. This act shall become effective January 1, 2025.

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