**South Carolina General Assembly**

125th Session, 2023-2024

**S. 1046**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Hembree, Climer, M. Johnson, Peeler, Corbin, Cromer, Shealy, Grooms, Bennett, Gambrell, Loftis, Rice, Gustafson, Martin, Verdin, Turner, Kimbrell, Reichenbach, Cash, Harpootlian, McLeod and Fanning

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Introduced in the Senate on February 14, 2024

Introduced in the House on March 20, 2024

Last Amended on May 8, 2024

Currently residing in the Senate

Summary: Judicial Merit Selection Commission

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/14/2024 Senate Introduced and read first time ([Senate Journal‑page 3](h:\sj\20240214.docx))

2/14/2024 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 3](h:\sj\20240214.docx))

2/15/2024 Scrivener's error corrected

2/28/2024 Senate Committee report: Favorable with amendment **Judiciary** ([Senate Journal‑page 15](h:\sj\20240228.docx))

2/28/2024 Senate Special order, set for February 28, 2024 ([Senate Journal‑page 49](h:\sj\20240228.docx))

2/28/2024 Senate Roll call Ayes-31 Nays-11 ([Senate Journal‑page 49](h:\sj\20240228.docx))

2/29/2024 Senate Debate interrupted

3/1/2024 Scrivener's error corrected

3/6/2024 Senate Debate interrupted ([Senate Journal‑page 50](h:\sj\20240306.docx))

3/7/2024 Senate Debate interrupted ([Senate Journal‑page 20](h:\sj\20240307.docx))

3/14/2024 Senate Amended ([Senate Journal‑page 6](h:\sj\20240314.docx))

3/14/2024 Senate Read second time ([Senate Journal‑page 6](h:\sj\20240314.docx))

3/14/2024 Senate Roll call Ayes-41 Nays-0 ([Senate Journal‑page 6](h:\sj\20240314.docx))

3/19/2024 Scrivener's error corrected

3/19/2024 Senate Read third time and sent to House ([Senate Journal‑page 39](h:\sj\20240319.docx))

3/19/2024 Senate Roll call Ayes-44 Nays-0 ([Senate Journal‑page 39](h:\sj\20240319.docx))

3/20/2024 House Introduced and read first time ([House Journal‑page 23](h:\hj\20240320.docx))

3/20/2024 House Referred to Committee on **Judiciary** ([House Journal‑page 23](h:\hj\20240320.docx))

5/1/2024 House Committee report: Favorable with amendment **Judiciary**

5/2/2024 House Requests for debate-Rep(s). Ott, Hiott, B Newton, Felder, Carter, W Newton, O'Neal, Ligon, Session, Harris, T Moore, Magnuson, Guest, BL Cox, Cromer, Oremus, West, Anderson, Hewitt, Hosey, Kirby, JA Moore Cobb-Hunter, Spann-Wilder, Bauer, Robbins, Whitmire, Brewer, White, Chumley, Dilliard, W Jones, Wheeler, Weeks, May, Killmartin, Wetmore, Stavreinakis, Ballentine, Wooten, Caskey, Hager, McDaniel, Herbkersman ([House Journal‑page 61](h:\hj\20240502.docx))

5/6/2024 Scrivener's error corrected

5/7/2024 House Amended ([House Journal‑page 141](h:\hj\20240507.docx))

5/7/2024 House Read second time ([House Journal‑page 141](h:\hj\20240507.docx))

5/7/2024 House Roll call Yeas-112 Nays-6 ([House Journal‑page 162](h:\hj\20240507.docx))

5/8/2024 House Read third time and returned to Senate with amendments ([House Journal‑page 120](h:\hj\20240508.docx))

5/8/2024 Senate Amended

5/8/2024 Senate Roll call Ayes-45 Nays-0

5/8/2024 Senate Returned to House with amendments

5/9/2024 House Non-concurrence in Senate amendment

5/9/2024 House Roll call Yeas-xxx Nays-xxx

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**VERSIONS OF THIS BILL**

[02/14/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/1046_20240214.docx)

[02/15/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/1046_20240215.docx)

[02/28/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/1046_20240228.docx)

[03/01/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/1046_20240301.docx)

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[03/19/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/1046_20240319.docx)

[05/01/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/1046_20240501.docx)

[05/06/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/1046_20240506.docx)

[05/07/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/1046_20240507.docx)

[05/08/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/1046_20240508.docx)

Indicates Matter Stricken

Indicates New Matter

House Amendments Amended Returned To House

May 08, 2024

S. 1046

Introduced by Senators Hembree, Climer, M. Johnson, Peeler, Corbin, Cromer, Shealy, Grooms, Bennett, Gambrell, Loftis, Rice, Gustafson, Martin, Verdin, Turner, Kimbrell, Reichenbach, Cash, Harpootlian, McLeod and Fanning

S. Printed 05/08/24--S.

Read the first time February 14, 2024

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A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 2-19-10, RELATING TO JUDICIAL MERIT SELECTION COMMISSION, APPOINTMENT, QUALIFICATIONS, AND TERMS, SO AS TO PROVIDE FOR THE APPOINTMENT OF JUDICIAL MERIT SELECTION COMMISSION MEMBERS, INITIAL TERMS, AND SUBSEQUENT TERMS, TO AMEND THE MEMBERSHIP OF THE COMMISSION, TO PROVIDE THAT, EXCEPT THOSE FIRST APPOINTED, THE MEMBERS APPOINTED BY THE SENATE PRESIDENT, THE SENATE JUDICIARY CHAIRMAN, THE SPEAKER OF THE HOUSE, AND THE HOUSE JUDICIARY CHAIRMAN SHALL SERVE AN INITIAL TERM OF TWO YEARS, AND TO PROVIDE THAT NO NOMINEE MAY BE A FAMILY MEMBER OF A CURRENT MEMBER OF THE JUDICIAL MERIT SELECTION COMMISSION; BY ADDING SECTION 2-19-15 SO AS TO PROVIDE FOR THE APPOINTMENT OF AN EXECUTIVE DIRECTOR AND PROFESSIONAL STAFF; BY AMENDING SECTION 2-19-20, RELATING TO INVESTIGATION BY COMMISSION AND PUBLICATION OF VACANCIES, SO AS TO PROVIDE THE CRITERIA FOR THE QUALIFICATION OF JUDICIAL CANDIDATES; BY AMENDING SECTION 2-19-30, RELATING TO HEARINGS AND EXECUTIVE SESSION, SO AS TO REQUIRE ALL PUBLIC HEARINGS BE LIVE STREAMED; BY AMENDING SECTION 2-19-70, RELATING TO the PROHIBITION AGAINST DUAL OFFICES, PRIVILEGES OF THE FLOOR, AND PLEDGES, SO AS TO PROVIDE FOR CERTAIN FLOOR PRIVILEGES and PROHIBITIONS FOR CANDIDATES AND ESTABLISHing SET TIMES FOR THE RELEASE OF REPORTS AND the SEEKING of PLEDGES and TO PROVIDE THAT THE FORMAL RELEASE OF THE REPORT OF QUALIFICATIONS SHALL OCCUR NO EARLIER THAN TWELVE DAYS AFTER NOMINEES HAVE BEEN RELEASED TO MEMBERS OF THE GENERAL ASSEMBLY; BY AMENDING SECTION 2-19-80, RELATING TO NOMINATION OF QUALIFIED CANDIDATES TO THE GENERAL ASSEMBLY, SO AS TO PROVIDE that ALL QUALIFIED CANDIDATES SHALL BE RELEASED TO THE GENERAL ASSEMBLY; BY AMENDING SECTION 2-19-90, RELATING TO the APPROVAL OF the GENERAL ASSEMBLY IN JOINT SESSION, SO AS TO PROVIDE that A CANDIDATE MUST RECEIVE A MAJORITY VOTE OF EACH HOUSE; AND BY AMENDING SECTION 22-1-10, RELATING TO APPOINTMENT, TERMS AND TERRITORIAL JURISDICTION, TRAINING, AND CERTIFICATION OR RECERTIFICATION REQUIREMENTS, SO AS TO PROVIDE THAT THE GOVERNOR SHALL RECEIVE RECOMMENDATIONS FROM THE FULL LEGISLATIVE DELEGATION OF THE COUNTY THE MAGISTRATE WILL SERVE.

Amend Title To Conform

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

SECTION 1. Section 2-19-10 of the S.C. Code is amended to read:

Section 2-19-10. (A) Whenever 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 twelve members, shall be appointed, in the manner prescribed by this section, to consider the qualifications of the candidates. 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.; and

(7) format and use of anonymous surveys by the commission.

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

(B) Notwithstanding any other provision of law, the Judicial Merit Selection Commission shall consist of the following individuals:

(1) five four members appointed by the Speaker of the House of Representatives. and of these appointments:

(a) three members must be serving members of the General Assembly; and

(b) two members must be selected from the general public;

(2) three members, two members appointed by the Chairman of the Senate Judiciary Committee and two members appointed by the President of the Senate, who must be serving members of the Senate; and

(3) two four members, appointed by the President of the Senate, who must be selected from the general publicGovernor, and of these appointments:

(a) one member must be a lawyer with substantial experience in the area of criminal law;

(b) one member must be a lawyer with substantial experience in the area of civil law;

(c) one member must be a lawyer with substantial experience in the area of family law; and

(d) one member must be a retired judge from the Supreme Court, court of appeals, circuit court, or family court who is not serving in an active retired status.

(C) In making appointments to the commission, the Governor must consider race, gender, national origin, and other demographic factors should be considered to ensure nondiscrimination to the greatest extent possible as to all segments of the population of the State.

(D)(1) The term of office of a member of the commission who is appointed by the Governor not a member of the General Assembly shall be for four years subject to a right of removal at any time by the person appointing himGovernor, and until his successor is appointed and qualifies. A member of the commission who is a serving member of the General Assembly shall serve for the term of office to which he has been elected.Members of the commission shall serve for a term of no more than four years and may not serve successive terms. A member may be reappointed to the commission after rotating off the commission for at least four years. However, the term of a member of the Senate or the House of Representatives who ceases to serve as a member of the General Assembly shall terminate upon the end of his service in the General Assembly creating a vacancy that must be filled pursuant to subsection (E).

(2) The legislative members may be removed from the commission for incapacity, misconduct, or neglect of duty by a resolution adopted by their respective chamber. In order to be considered, any such resolution must be proposed by at least ten members and requires the affirmative vote of a majority of the membership in the appropriate chamber.

(E) A vacancy on the Judicial Merit Selection Commission must be filled for the remainder of the unexpired term in the same manner as provided for the original selection. A member appointed to fill a vacancy may serve a full term after the expiration of the unexpired term to which he was appointed.

(F) No member of the commission shall receive any compensation for commission services, except those set by law for travel, board, and lodging expenses incurred in the performance of commission duties.

(G) No member of the Judicial Merit Selection Commission is eligible for nomination and appointment as a judge or justice of the state court system or administrative law judge division while serving on the commission and for a period of one year thereafter. If a candidate is a family member of a member of the commission, the member must resign. For the purposes of this subsection, “family member” means a spouse, parent, brother, sister, child, step-child, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, or grandchild.

SECTION 2. Section 2-19-30(E) of the S.C. Code is amended to read:

(E) A candidate may withdraw at any stage of the proceedings and in this event no further inquiry or consideration of his candidacy shall be made time prior to the public hearing or after the draft report is issued to members of the General Assembly. All materials concerning that candidate including his report, transcript, application, materials, and other information gathered during the commission's investigation must be kept confidential and destroyed as soon as possible after the candidate's written notification to the commission of his withdrawal. The information concerning a withdrawn candidate also shall be exempt from disclosure pursuant to Chapter 4 of Title 30.

SECTION 3. Section 2-19-30 of the S.C. Code is amended by adding:

(F) All of the commission’s public hearings shall be live streamed except for the portions of the hearings conducted in executive session.

SECTION 4. Section 2-19-70(C), (D), and (E) of the S.C. Code is amended to read:

(C) No candidate for judicial officeperson may seek directly or indirectly the pledge of a member of the General Assembly's vote or, directly or indirectly, contact a member of the General Assembly regarding screening for the judicial office until the qualifications of all candidates for that office have been determined by the Judicial Merit Selection Commission and the commission has formally released its report as to the qualifications of all candidates for the vacancy to the General Assembly. No member of the General Assembly may offer his pledge to any person until the qualifications of all candidates for that office have been determined by the Judicial Merit Selection Commission and until the commission has formally released its report as to the qualifications of its nominees to the General Assembly. The formal release of the report of qualifications shall occur no earlier than forty-eight hourstwelve days after the nominees have been initially released to members of the General Assembly. For purposes of this section, indirectly seeking a pledge means the candidate, or someone acting on behalf of and at the request of the candidate, requesting a person to contact a member of the General Assembly on behalf of the candidate before nominations for that office are formally made by the commission. Prior to the formal release of the report as to the qualifications of judicial candidates, a person may not request that a member of the General Assembly, nor may a member of the General Assembly offer to, act on behalf of a candidate in furtherance of the candidate’s candidacy in any capacity including, but not limited to, acting as a vote counter for a candidate. The prohibitions of this section do not extend to an announcement of candidacy by the candidatea person and statements by the candidate detailing the candidate's qualifications.

(D) No member of the General Assembly may trade anything of value, including pledges to vote for legislation or for other candidates now or in the future, in exchange for another member's pledge to vote for a candidate for judicial office or as an inducement for a candidate to withdraw.

(E) Violations of this section may be considered by the merit selection commission when it considers the candidate's qualifications and until the time set for election of candidates. Violations of this section by members of the General Assembly shall be reported by the commission to the House or Senate Ethics Committee, as may be applicable. Violations of this section by nonlegislative commission members shall be reported by the commission to the State Ethics Commission. A violation of this section is a misdemeanor and, upon conviction, the violator must be fined not more than one thousand dollars or imprisoned not more than ninety days. Cases tried under this section may not be transferred from general sessions court pursuant to Section 22-3-545.

SECTION 5. Section 2-19-80(A) of the S.C. Code is amended to read:

(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 division. It shall review the qualifications of all applicants for a judicial office and select therefrom and submit to the General Assembly the names and qualifications of the threenot more than six candidates whom it considers best qualified for the judicial office under consideration. If fewer than three six persons apply to fill a vacancy or if the commission concludes there are fewer than three six 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 six names.

SECTION 6. Section 2-19-80(D) of the S.C. Code is amended to read:

(D) The commission shall accompany its nominations to the General Assembly with reports or recommendations as to the qualifications of particular candidates and the particular reasons a candidate or candidates were not found qualified.

SECTION 7. Section 2-19-80(E) of the S.C. Code is amended to read:

(E) A period of at least two weekstwenty-two days 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 8. Section 2-19-90 of the S.C. Code is amended to read:

Section 2-19-90. (A) The General Assembly shall meet in joint session for the election of judges. The date and time for the joint session shall be set by concurrent resolution upon the recommendation of the Judicial Merit Selection Commission. The Chairman of the Judicial Merit Selection Commission shall announce the commission's nominees for each judicial race, and no further nominating or seconding speeches shall be allowed by members of the General Assembly.

(B) In order to be elected, a candidate must receive a majority of the vote of the members of the General AssemblySenate and a majority vote of the members of the House of Representatives voting in joint session.

(C) If no candidate receives the requisite vote necessary for election on the first ballot, the General Assembly shall proceed to a vote on a second ballot. The three candidates receiving the most votes on the first ballot shall be the only candidates on the second ballot. If no candidate receives the requisite vote necessary for election on the second ballot, the General Assembly shall carry over the election for that judicial seat. The General Assembly shall reconvene in seven days to complete the elections that were carried over.

SECTION 9. Section 2-19-20(C) of the S.C. Code is amended to read:

(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 the names of those persons who have applied.

SECTION 10. Section 2-19-40 of the S.C. Code is repealed.

SECTION 11. (A) The initial terms for members of the Judicial Merit Selection Commission appointed pursuant to this act shall be as follows:

(1) One member appointed by the President of the Senate and one member appointed by the Chairman of the Senate Judiciary Committee shall serve an initial term of two years.

(2) Two members appointed by the Speaker of the House of Representatives shall serve an initial term of two years.

(3) Two members appointed by the Governor shall serve an initial term of two years.

(B) Members of the Judicial Merit Selection Commission serving on the effective date of this act who have served more than four years on the commission are not eligible for appointment to the commission pursuant to the provisions of this act except for the current chairman and vice chairman who can serve a two-year term but then may not serve a successive term.

SECTION 12. Section 2-1-180 of the S.C. Code is amended to read:

Section 2-1-180. (A) The regular annual session of the General Assembly shall adjourn sine die each year not later than five o'clock p.m. on the second Thursday in May. The regular annual session of the General Assembly can be extended:

(a)(1) if the House of Representatives fails to give a third reading to the annual general appropriations bill by March thirty-first, the date of sine die adjournment is extended by one statewide day for each statewide day after March thirty-first that the House of Representatives fails to give the bill third reading if the general appropriations bill or Capital Reserve Fund resolution is not completed by the sine die adjournment date, the President of the Senate and the Speaker of the House of Representatives may call their respective bodies into session at any time after the date of sine die adjournment and until the first Thursday in June to complete those matters; or

(b)(2) if a forecast reduction is submitted by the Board of Economic Advisors pursuant to Section 11-9-880 after April tenth for the next fiscal year, the adjournment date for the General Assembly may be extended up to two weeks with the agreement of the Speaker of the House and the President of the Senate; or

(c)(3) if a concurrent resolution is adopted by a two-thirds vote of both the Senate and House of Representatives not later than five o'clock p.m. on the second Thursday in May. During the time between five o'clock p.m. on the second Thursday in May and the extended sine die adjournment date, as set forth herein, no legislation or other business may be considered except the general appropriations bill and any matters approved for consideration by a concurrent resolution adopted by two-thirds vote in both houses.

(B) The running of the one-hundred twenty day legislative review period for promulgated regulations submitted to the General Assembly for review pursuant to the Administrative Procedures Act is tolled beginning at five o’clock on the second Thursday in May each year until noon on the second Tuesday of January the following year.

SECTION 13. This act takes effect July 1, 2024.

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