



Senate

General Assembly

File No. 561

January Session, 2023

Substitute Senate Bill No. 1140

Senate, April 13, 2023

The Committee on Planning and Development reported through SEN. RAHMAN of the 4th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE APPOINTMENT OF JUSTICES OF THE PEACE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) (a) Notwithstanding the
2 provisions of section 9-183b, 9-183c or 9-184c of the general statutes, as
3 amended by this act, any vacancy in the office of a justice of the peace,
4 if such vacancy is created by the adoption of an ordinance or charter
5 amendment by a municipality that (1) increases the number of justices
6 of the peace in such municipality, and (2) is effective not less than
7 ninety-one days prior to the next quadrennial appointment of justices of
8 the peace in the municipality, may be filled by appointment prior to the
9 next quadrennial appointment by the town committee of any major
10 party using the procedures prescribed by section 9-183b or 9-183c of the
11 general statutes, or by the town clerk of such municipality using the
12 procedure prescribed by section 9-184c of the general statutes, as
13 amended by this act, as applicable to such vacancy.

14 (b) Notwithstanding the provisions of section 9-183b, 9-183c or 9-184c
15 of the general statutes, as amended by this act, any person appointed to
16 fill a vacancy in an office of justice of the peace pursuant to subsection
17 (a) of this section shall serve until the next quadrennial appointment of
18 justices of the peace in the municipality.

19 (c) If a vacancy in an office of the justice of the peace has been filled
20 by appointment by a town committee, the chairperson or secretary of
21 such town committee shall file with the town clerk a certificate of each
22 such appointment, and the town clerk shall record the certificate with
23 the records of the town meeting. The town clerk shall notify the
24 Secretary of the State of any such appointment.

25 Sec. 2. Section 9-184c of the general statutes is repealed and the
26 following is substituted in lieu thereof (*Effective from passage*):

27 (a) In 1994, 1996, and quadrennially thereafter, the town clerk of each
28 town shall appoint as justice of the peace a number of electors of the
29 town who are not members of major parties, as defined in section 9-372,
30 which shall not exceed (1) where no justices of the peace are selected
31 under section 9-183c, one-third of the total number of justices of the
32 peace in the town, or (2) where justices of the peace are selected under
33 section 9-183c, one-third of the total number of justices of the peace in
34 the town less the number of justices of the peace in the town selected
35 under section 9-183c. Such percentage shall be rounded up to the nearest
36 whole number of justices of the peace. Any such appointment shall be
37 made upon written application submitted on or after August first and
38 on or before November first, in such year. No person who has
39 enrollment privileges in the town in a political party which selected
40 justices of the peace under section 9-183b or under section 9-183c within
41 the period beginning three months before said August first and ending
42 on the date the person is to be appointed under this section, shall be
43 eligible for such appointment. Not later than August 1, 1996, and
44 quadrennially thereafter, the town clerk shall send a written notice to
45 each incumbent justice of the peace appointed under this section. Such
46 notice shall inform such justices of the peace of the procedures set forth

47 in this section concerning the reappointment of such justices of the
48 peace.

49 (b) If, on November first in such year, the number of applications for
50 justice of the peace filed with the town clerk under subsection (a) of this
51 section exceeds the number of justices of the peace allowed under this
52 section, (1) each such applicant who is an incumbent justice of the peace
53 appointed under this section shall be reappointed if there are sufficient
54 openings, and (2) the town clerk shall, on or before the fifteenth business
55 day of November, select the remaining applicants to be appointed as
56 justices of the peace by lot in a ceremony which shall be open to the
57 public and held on five days' public notice. At such lottery the town
58 clerk shall determine the order of all such remaining applications for the
59 purpose of filling future vacancies under subsection (d) of this section.
60 If a town clerk receives a number of applications that is less than the
61 number of justices of the peace that he is authorized to appoint under
62 this section in any year, he shall not appoint any additional justices of
63 the peace, except as prescribed by subsections (d) and (e) of this section.

64 (c) Justices of the peace appointed in 1994 [.] shall serve a term of two
65 years beginning on the first Monday in 1995, and justices of the peace
66 appointed in 1996 and thereafter shall serve a term of four years
67 beginning on the first Monday in January in the succeeding year.

68 (d) Any vacancy in the office of any such justice of the peace shall be
69 filled by appointment by the town clerk of an elector qualifying under
70 subsection (a) of this section in the order determined in the lottery held
71 under [said] subsection (b) of this section. If no such lottery is held, or
72 the number of vacancies exceeds the number of remaining applicants
73 determined in the lottery held under subsection (b) of this section, the
74 vacancy shall [not] be filled pursuant to subsection (e) of this section.

75 (e) If the number of vacancies exceeds the number of remaining
76 applicants determined in the lottery held under subsection (b) of this
77 section or no such lottery was held, the town clerk shall make public the
78 number of vacancies and the procedure for appointing new justices of
79 the peace under this subsection. Any such appointment shall be made

80 upon written application submitted not more than thirty days following
81 such public notice. No person who has enrollment privileges in the town
82 in a political party that selected justices of the peace under section 9-
83 183b or 9-183c within the period beginning three months before the
84 public notice under this subsection and ending on the date the person is
85 to be appointed under this subsection, shall be eligible for such
86 appointment. If the number of applications for justice of the peace filed
87 with the town clerk under this subsection exceeds the number of
88 vacancies, the town clerk shall, not less than ten and not more than
89 fifteen days following the close of such applications, select the
90 remaining applicants to be appointed as justices of the peace by lot in a
91 ceremony which shall be open to the public and held with five days'
92 public notice. At such lottery, the town clerk shall determine the order
93 of all such remaining applications for the purpose of filling future
94 vacancies under subsection (d) of this section. If a town clerk receives a
95 number of applications that is less than the number of justices of the
96 peace that he is authorized to appoint under this section in any year, the
97 town clerk shall not appoint any additional justices of the peace.

98 Sec. 3. (NEW) (*Effective from passage*) (a) There is established a
99 working group to examine and make recommendations on (1) the
100 methods of determining the number of justice of the peace positions
101 both in each municipality and state wide; (2) the portability of justice of
102 the peace appointments across town lines; (3) the process by which
103 justices of the peace are selected; (4) potential training, minimum
104 qualifications, application processes and background check
105 requirements for justices of the peace; (5) oversight of justices of the
106 peace; (6) potential legal consequences for misrepresenting a person's
107 status as a justice of the peace; and (7) issues related to reporting human
108 trafficking, forced marriage and marriage fraud.

109 (b) The working group shall consist of the following members:

110 (1) Two appointed by the speaker of the House of Representatives,
111 one of whom is a justice of the peace and one of whom is a representative
112 of a professional organization for justices of the peace;

113 (2) Two appointed by the president pro tempore of the Senate, who
114 are town clerks and not of the same political party;

115 (3) One appointed by the majority leader of the House of
116 Representatives, who is a town party chairperson;

117 (4) One appointed by the majority leader of the Senate, who is a
118 justice of the peace and not a member of a major political party;

119 (5) One appointed by the minority leader of the House of
120 Representatives, who is a town party chairperson;

121 (6) One appointed by the minority leader of the Senate, who is a
122 justice of the peace; and

123 (7) The Secretary of the State, or the Secretary's designee.

124 (c) All initial appointments to the working group shall be made not
125 later than thirty days after the effective date of this section. Any vacancy
126 shall be filled by the appointing authority.

127 (d) The Secretary of the State, or the secretary's designee, shall be the
128 chairperson of the working group and shall schedule the first meeting
129 of the working group, which shall be held not later than sixty days after
130 the effective date of this section.

131 (e) Not later than June 30, 2024, the working group shall submit a
132 report on its findings and recommendations to the joint standing
133 committee of the General Assembly having cognizance of matters
134 relating to government administration and elections, in accordance with
135 the provisions of section 11-4a of the general statutes, and to the
136 Secretary of the State. The working group shall terminate on the date
137 that it submits such report or January 30, 2024, whichever is later.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	9-184c

Sec. 3	<i>from passage</i>	New section
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PD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

This bill has no fiscal impact. The purpose of the bill is to alter the structure by which local judiciary positions are appointed. The bill makes structural changes to the way that town clerks appoint judges due to vacancy or to the municipality creating a new position. The bill additionally creates a taskforce to examine the process of appointment to the judiciary. This has no fiscal impact as PA 17-236 prohibits transportation allowances for task force members.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sSB 1140*****AN ACT CONCERNING THE APPOINTMENT OF JUSTICES OF THE PEACE.*****SUMMARY**

This bill establishes processes for appointing justices of the peace (“justices”) when (1) the town clerk must fill vacancies but did not get enough applications during the quadrennial application filing period to do so or (2) a municipality creates new justice positions more than 90 days ahead of the next scheduled appointment period.

The bill also establishes a working group to examine and make recommendations on various topics related to justices by June 30, 2024.

EFFECTIVE DATE: Upon passage

FILLING TOWN CLERK-APPOINTED VACANCIES

By law, justices are appointed by either the town clerk or a major political party, generally for four-year terms and on a quadrennial schedule coinciding with presidential elections. The law specifies separate procedures for appointments made by the town clerk (i.e., for individuals not affiliated with a major political party) and by major political parties (i.e., Republicans, Democrats, or parties whose last gubernatorial candidate received at least 20% of all votes cast (CGS § 9-372(5))).

By law, those seeking a town clerk appointment must submit an application between August 1 and November 1, inclusive, during the scheduled appointment year (every fourth year). If there are more applicants than open justice positions, the town clerk must first reappoint applicants who are incumbent justices, then order the

remaining applicants using a lottery system. If a town clerk must fill a mid-term vacancy, the law requires the town clerk to appoint the applicant who is next highest on the lottery order.

Under current law, if there are more vacancies than applicants remaining on the list, or the lottery was never held, the vacancy must stay unfilled until the next quadrennial application period. The bill instead requires the town clerk to hold another application period. The town clerk must give public notice of the number of vacancies and appointment procedure and then accept written applications from eligible individuals for up to 30 days. Under the bill, anyone who was eligible for an appointment by a major political party (e.g., is a registered Democrat or Republican) in the three months before the public notice is ineligible to apply.

As under existing law, if there are more applicants than open positions, the town clerk must hold a public lottery, after five days' notice, to prioritize applicants to fill these and any future vacancies. The bill requires the town clerk to hold the lottery between 10 and 15 days after the application period ends. If, in any year, the town clerk gets too few applications to fill all of the vacancies, the bill prohibits the clerk from appointing any more justices.

APPOINTING JUSTICES TO NEWLY CREATED POSITIONS

Current law does not specify a process by which newly created justice positions may be filled. Under the bill, when a municipal ordinance or charter amendment creates new positions more than 90 days ahead of the scheduled quadrennial appointment, justices may be appointed to serve the remainder of the four-year terms (i.e., until the next scheduled appointment). Existing law specifies how the total number of justice appointments are allocated to each major political party and the town clerk (generally one-third of appointments to each). The bill's provisions on newly created positions apply despite these laws. So, it is unclear whether newly created positions are allocated in the same way as under the existing law.

The bill also requires town clerks and major parties to follow the procedures in existing law that apply to appointments during quadrennial appointment years. (By law, unchanged by the bill, major parties may only nominate justices during certain years, which align with state elections. Additionally, major parties are, under certain circumstances, required to hold primaries before nominating justices. The law aligns these primaries with state election primaries, which remain unchanged under the bill. So, although the bill appears to intend to allow major parties to fill newly created positions before the next quadrennial appointment period, it appears the existing procedures may not allow this, depending on the timing of when the positions are created.)

WORKING GROUP

The bill establishes a nine-member working group to examine and make recommendations on the following:

1. the methods for determining the number of justice positions in each municipality and state-wide;
2. the portability of justice appointments across town lines;
3. the justice selection process;
4. potential training, qualification, application, and background check requirements;
5. oversight of justices;
6. potential legal consequences of misrepresenting oneself as a justice; and
7. issues related to reporting human trafficking, forced marriages, and marriage fraud.

The working group must consist of the secretary of state or her designee, who serves as the chairperson, and the eight appointed members shown in the table below. Appointing authorities must make

their initial appointments within 30 days after the bill’s passage and fill any vacancies that arise.

Table: Task Force Appointed Members

<i>Appointing Authority</i>	<i>Number of Appointments</i>	<i>Qualifications (if any)</i>
House speaker	Two	One justice and one representative of a professional organization for justices
Senate president pro tempore	Two	Town clerks from different political parties
House majority leader	One	Town party chairperson
House minority leader	One	Town party chairperson
Senate majority leader	One	Justice who is not a member of a major political party
Senate minority leader	One	A justice

The chairperson must schedule the first meeting, which must be held within 60 days after the bill passes. The working group must report its findings and recommendations, by June 30, 2024, to the Government Administration and Elections Committee and secretary of the state. The task force terminates when it submits its report or on January 30, 2024, whichever is later.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 21 Nay 0 (03/24/2023)