

ALASKA STATE LEGISLATURE

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SB 14 -Sponsor Statement **SELECTION AND REVIEW OF JUDGES**

"An Act relating to the selection and retention of judicial officers for the court of appeals and the district court and of magistrates; relating to the duties of the judicial council; relating to the duties of the Commission on Judicial Conduct, and relating to retention or rejection of a judicial officer."

Alaska's constitution is clear, Superior Court Judges and Supreme Court Justices must be vetted by the Judicial Council and the Governor can only select from a list of two or more submitted by the Judicial Council. However, the Constitution also left the door open for legislative discretion with jurisdictional issues with how Appellant Court and magistrates are selected and how all judges are screened. Currently, the Judicial Council prescribes 100% of the screening criteria. One section of this bill gives direction to the Judicial Council on that subject.

Currently, Magistrates serve at the discretion of the Chief Justice, and Appellant Court Judges are nominated in a statute defined process that mirrors the Constitutional Judicial Council process. The Judicial Council is structured to give a permanent majority of Bar members the control of who gets to be a judge or Justice. Additionally, judge's names are subject to a Bar member-controlled prescreening process. Bar members are appointed internally by the Bar with no legislative or administrative oversight. Non-Bar members (the public) are in a minority position to influence final decisions.

Senate Bill 14 strikes more of a balance in letting the governor and the people have a small say in who sits in judgment on the bench when they appear before them. It allows the governor to appoint and the legislature to confirm who fills magistrates and appellant judges. It still allows the JC to recommend candidates, but the governor does not have to appoint them. The governor can appoint his own appellant judges.

This bill also takes the judicial retention rating process from the Judicial Council, and gives it to the Commission on Judicial Conduct, as the Judicial Council ratings tend to be noncritical. The CJC receives complaints about judges, and they are the best qualified to rate them.

With judicial elections deemed "nonpartisan" virtually no political effort or mechanism to mount such effort, is ever directed toward educating the public about activist judges during their retention election.

A conflict of interest may arise with evaluating attorneys because when lawyers on the Council rates a judge with a critical rating, will that lawyer ever get a fair hearing before that judge? It has to be a factor in the backs of their minds.

The sponsor respectfully suggests that lawyers may have a conflict of interest when they rate judges for retention. The Sponsor also very respectfully suggests that a better group to write reviews of a judge's performance would be the Commission on Judicial Conduct. They are the people that field complaints about judges. Critics of this legislation will say it politicizes the process. But with recent rulings affecting political races, that ignore or nullify clear legislative intent, there is little doubt the justice process is politicized and needs some balance from the representatives and governors that the people elect.

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