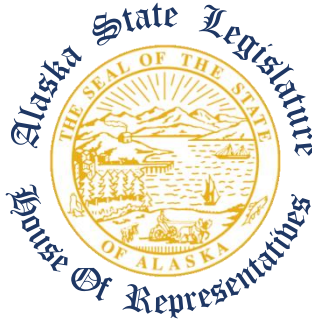


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House Bill 82

Sponsor Statement

House Bill 82 would bring the Judicial system by to what was envisioned by the framers of the Alaska Constitution. First it should be noted that there are two types of judges.

1. Constitutional Judges: Superior Court Judges and Supreme Court Justices which must be vetted by the Judicial Council (Council) and the Governor can only select from a list of two or more names submitted by the Council. HB 82 holds constitutional judges harmless. The operating authority of this provision is: Art IV Sec 5. "The Governor shall fill any vacancy in an office of the supreme court justice or superior court judge by appointing one of two or more persons nominate by the Judicial Council.

2. Statutory Judges: District, Appellate and Magistrates. The last of the 3 is not in this legislation. Existing statute currently follows the Judicial Council nomination process. However, judicial candidates are subject to the legislature's discretion on how they are selected, appointed and whether they are confirmed by the legislature. HB 82 exercises the legislature's delegated constitutional authority to set policy on how these statutory judges are selected to serve on the bench. The operating authority of the provision is: Art IV Sec 4. "Judges of other courts shall be selected in a manner, for terms, and with qualifications as prescribed by law."

Currently, Appellate and District Court Judges are nominated in a statute defined process that mirrors the Art IV Sec 5 Judicial Council process.

The Council is structured to give a majority of the Alaska Bar (Bar) members the control of who gets to be a judge or justice. The deciding vote in a tie is given to the ex-officio seventh member, the Chief Justice. The Chief Justice has voted 79 times to break ties since 1984.

Additionally, Bar members of the Council are appointed internally by the Bar with no legislative confirmation or administrative oversight. Virtually all the Judiciary Branch is, "beyond the democratic control of a more non-bias process."

The constitutional framers that sought to protect upper benches from becoming bias when choosing their own installed safeguards, which left the lower benches up to legislative control. Interesting enough, till now the legislature ceded 100% control, and it mirrors the “constitutional” Alaska Bar selection controls.

The Alaska Constitutional Convention Judiciary Committee Consultants wrote, as reported by Vic Fisher in his book, “Alaska’s Constitutional Convention.” - “No state constitution has ever gone this far in placing one of the three branches of the government beyond the reach of democratic controls. We feel that in its desire to preserve the integrity of the courts, the convention has gone farther than is necessary or safe (emphasis added) in putting them in the hands of a private professional group, however, public-spirited its members may be.

House bill 82 strikes the “safe” constitutional balance envisioned by the framers by giving the governor and the people’s representatives an appropriate say in who sits on the certain statutory benches. It allows the governor to appoint and the legislature to confirm who fills district court and appellate judges. It still allows the Council to screen and recommend all candidates, but the governor is not mandated to appoint from only the Bar submitted list. The Governor can nominate and appoint his own Judicial Council screened magistrate, district, and appellate judges.

HB 82 exercises the authority expressly granted in the constitution, for the legislature and governor to prescribe how District Court judges and Appellant Court judges are nominated.

If you have additional questions, please contact Ryan McKee in my office at 907-465-4859.