

IN THE SENATE

SENATE BILL NO. 1170

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO JUDGES; AMENDING SECTION 1-2206, IDAHO CODE, TO REVISE QUALIFICATIONS FOR MAGISTRATES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 1-2404, IDAHO CODE, TO REVISE QUALIFICATIONS FOR JUDGES ON THE COURT OF APPEALS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 34-615, IDAHO CODE, TO REVISE QUALIFICATIONS FOR SUPREME COURT JUSTICES AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 34-616, IDAHO CODE, TO REVISE QUALIFICATIONS FOR DISTRICT COURT JUDGES.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 1-2206, Idaho Code, be, and the same is hereby amended to read as follows:

1-2206. MAGISTRATES -- QUALIFICATIONS -- INSTITUTE -- EXCEPTIONS -- OFFICE APPOINTIVE. (1) A magistrate shall be an qualified elector of the state of Idaho. ~~He and~~ shall reside in the county for which ~~he is appointed so long as he serves~~ the appointment is made throughout the term of service as magistrate.

(2) ~~No person shall be eligible for appointment to the office of magistrate unless he is a graduate of a high school or has attained the equivalent of a high school education as indicated by the possession of a certificate of equivalency issued by the state department of education based upon the record made on the general education development test and unless he shall have attained the age of thirty (30) years prior to taking office, provided that in addition no person shall be eligible for appointment as an attorney magistrate unless prior to taking office he shall have been admitted to the practice of law for at least five (5) years and is currently licensed to practice law in the state of Idaho~~ To be appointed to the office of magistrate judge a person must, at the time of such appointment, meet all of the following qualifications:

(a) Be at least thirty (30) years of age;

(b) Be a citizen of the United States;

(c) Have been a legal resident of the state of Idaho for at least two (2) continuous years immediately preceding such appointment;

(d) Have been in good standing as an active or judicial member of the Idaho state bar for at least two (2) continuous years immediately preceding such appointment; and

(e) Have held a license to practice law or held a judicial office in one (1) or more jurisdictions for at least five (5) continuous years immediately preceding such appointment.

For purposes of this section, the following terms have the following meanings:

(a) "Active," "judicial" and "good standing" have the same definitions as those terms are given by rule 301 of the Idaho bar commission rules or any successors to those rules;

(b) "Jurisdiction" means a state or territory of the United States, the District of Columbia or any branch of the United States military; and

(c) "Elector" means one who is lawfully registered to vote.

(3) Magistrates shall not take office for the first time as magistrates until they have attended an institute on the duties and functioning of the magistrate's office to be held under the supervision of the Ssupreme Ccourt, unless such attendance is waived by the Ssupreme Ccourt. All magistrates shall be entitled to their actual and necessary expenses while attending institutes. The Ssupreme Ccourt will establish the institute to which this subsection refers and will provide that the institute be held at such other times and for such other purposes as it deems necessary and may require the attendance of magistrates.

(4) Notwithstanding the provisions of subsection (2) of this section, all magistrates holding office on the effective date of this act shall be eligible for appointment to the office of magistrate and for retention in office pursuant to section 1-2220, Idaho Code.

SECTION 2. That Section 1-2404, Idaho Code, be, and the same is hereby amended to read as follows:

1-2404. NUMBER OF JUDGES -- QUALIFICATIONS -- CONDUCT AND DISCIPLINE -- TERM -- ~~SELECTION~~ -- ELECTION -- ~~SELECTION~~ -- COMPENSATION. (1) The court of appeals shall consist of four (4) judges, and shall sit in panels of not less than three (3) judges each.

(2) ~~No person shall be appointed or elected to the office of judge of the court of appeals unless he has attained the age of thirty (30) years at the time of his appointment or election, is a citizen of the United States, shall have been admitted to the practice of law for at least ten (10) years prior to taking office, and is admitted to practice law in the state of Idaho, and has resided within this state two (2) years next preceding his appointment or election~~ To be elected or appointed to the office of judge of the court of appeals a person must, at the time of such election or appointment, meet all of the following qualifications:

(a) Be at least thirty (30) years of age;

(b) Be a citizen of the United States and an elector of the state of Idaho;

(c) Have been a legal resident of the state of Idaho for at least two (2) continuous years immediately preceding such election or appointment;

(d) Have been in good standing as an active or judicial member of the Idaho state bar for at least two (2) continuous years immediately preceding such election or appointment; and

(e) Have held a license to practice law or held a judicial office in one (1) or more jurisdictions for at least ten (10) continuous years immediately preceding such election or appointment.

For purposes of this section, the following terms have the following meanings:

(a) "Active," "judicial" and "good standing" have the same definitions as those terms are given by rule 301 of the Idaho bar commission rules or any successors to those rules;

(b) "Jurisdiction" means a state or territory of the United States, the District of Columbia or any branch of the United States military; and

(c) "Elector" means one who is lawfully registered to vote.

(3) A judge of the court of appeals shall be governed by the code of judicial conduct as promulgated by the Idaho supreme court, and shall be subject to removal, discipline, or retirement pursuant to section 1-2103, Idaho Code.

(4) (a) Judges of the court of appeals shall be appointed by the governor effective the first Monday of January, 1982, for the following initial terms: one (1) judge shall be appointed for a term to expire on the first Monday of January, 1985, one (1) judge shall be appointed for a term expiring two (2) years later, and one (1) judge shall be appointed for a term expiring two (2) further years later. Thereafter, the term of office of a judge of the court of appeals shall be six (6) years.

(b) Vacancies in the office of judge of the court of appeals shall be filled in the same manner as vacancies in the office of supreme court justice or district judge.

(c) The positions of judges of the Idaho court of appeals shall first be filled as vacancies. The judicial council shall submit to the governor its recommendations for the offices at the earliest practicable time after the effective date of this act. The governor may make the appointment at any time thereafter, to be effective the first Monday of January, 1982, for the terms set forth in subsection 1-2404 (4) (a), Idaho Code of this section.

(d) In making its nominations for the initial vacancies to be created by this act, the Idaho judicial council shall submit the names of not less than six (6) nor more than nine (9) qualified persons for the initial three (3) vacancies to be created by this act. Otherwise, the judicial council shall submit the names of not less than two (2) nor more than four (4) persons for each vacancy. The governor shall appoint the judges, identifying each appointment by the length of the term of appointment.

(e) Nominations and appointments to fill initial or subsequent vacancies shall be made with due regard for balanced geographical membership of the court of appeals.

(f) Subsequent terms of office of a judge who has been appointed to the court of appeals shall be subject to a statewide nonpartisan election to be held in the primary election next preceding the expiration of an appointed term in the same method and manner as a justice of the supreme court.

(g) A fourth judge of the court of appeals shall be appointed by the governor effective the first Monday of January, 2009, for an initial term to expire on the first Monday of January, 2013. Thereafter, the term of office for this position shall be six (6) years. The judicial council shall submit the names of not less than two (2) nor more than four (4) persons for the initial vacancy in this position under the procedure set forth in section 1-2102, Idaho Code. This position shall be subject to

all of the provisions relating to qualifications, removal, discipline, retirement, filling of vacancies, election and compensation set forth in this chapter.

(5) Judges of the court of appeals, except for judges who have made an election to remain in the public employee retirement system of Idaho pursuant to section 1-2011, Idaho Code, shall receive compensation upon retirement as provided in chapter 20, title 1, Idaho Code.

SECTION 3. That Section 34-615, Idaho Code, be, and the same is hereby amended to read as follows:

34-615. ELECTION -- SELECTION -- OF JUSTICES OF THE SUPREME COURT -- QUALIFICATIONS. (1) At the primary election, 1972, and every alternate year thereafter, subject to the provisions of section 34-1217, Idaho Code, there shall be elected justices of the ~~S~~supreme ~~C~~court to fill any vacancy or vacancies occasioned by the expiration of the term or terms of office of any member or members.

~~(2) No person shall be elected to the office of justice of the Supreme Court unless he has attained the age of thirty (30) years at the time of his election, is a citizen of the United States, shall have been admitted to the practice of law for at least ten (10) years prior to taking office, and is admitted to practice law in the state of Idaho, and has resided within this state two (2) years next preceding his election~~ To be elected or appointed to the office of justice of the supreme court a person must, at the time of such election or appointment, meet all of the following qualifications:

(a) Be at least thirty (30) years of age;

(b) Be a citizen of the United States and an elector of the state of Idaho;

(c) Have been a legal resident of the state of Idaho for at least two (2) continuous years immediately preceding such election or appointment;

(d) Have been in good standing as an active or judicial member of the Idaho state bar for at least two (2) continuous years immediately preceding such election or appointment; and

(e) Have held a license to practice law or held a judicial office in one (1) or more jurisdictions for at least ten (10) continuous years immediately preceding such election or appointment.

For purposes of this section, the following terms have the following meanings:

(a) "Active," "judicial" and "good standing" have the same definitions as those terms are given by rule 301 of the Idaho bar commission rules or any successors to those rules;

(b) "Jurisdiction" means a state or territory of the United States, the District of Columbia or any branch of the United States military; and

(c) "Elector" means one who is lawfully registered to vote.

(3) Each candidate for election shall file his a declaration of candidacy with the secretary of state.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of three hundred dollars (\$300) which shall be deposited in the general fund.

SECTION 4. That Section 34-616, Idaho Code, be, and the same is hereby amended to read as follows:

34-616. ELECTION -- SELECTION -- OF DISTRICT JUDGES -- QUALIFICATIONS. (1) At the primary election, 1974, and every four (4) years thereafter, subject to the provisions of section 34-1217, Idaho Code, there shall be elected in each judicial district a sufficient number of district judges to fill any vacancy or vacancies occasioned by the expiration of the term or terms of office of any member or members.

~~(2) No person shall be elected to the office of judge of the district court unless he has attained the age of thirty (30) years at the time of his election, is a citizen of the United States, shall have been admitted to the practice of law for at least ten (10) years prior to taking office, and is admitted to practice law in the state of Idaho, and shall have resided within the judicial district one (1) year next preceeding his election~~ To be elected to the office of district judge a person must, at the time of such election, meet all of the following qualifications:

(a) Be at least thirty (30) years of age;

(b) Be a citizen of the United States and an elector in the judicial district in which elected;

(c) Have been a legal resident of the state of Idaho for at least two (2) continuous years immediately preceding such election;

(d) Have been in good standing as an active or judicial member of the Idaho state bar for at least two (2) continuous years immediately preceding such election; and

(e) Have held a license to practice law or held a judicial office in one (1) or more jurisdictions for at least ten (10) continuous years immediately preceding such election.

(3) Each candidate for election shall file his a declaration of candidacy with the secretary of state.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of one hundred fifty dollars (\$150) which shall be deposited in the general fund.

(5) To be appointed to the office of district judge a person must, at the time of such appointment, meet all of the following qualifications:

(a) Be at least thirty (30) years of age;

(b) Be a citizen of the United States and an elector of the state of Idaho;

(c) Have been a legal resident of the state of Idaho for at least two (2) continuous years immediately preceding such appointment;

(d) Have been in good standing as an active or judicial member of the Idaho state bar for at least two (2) continuous years immediately preceding such appointment; and

(e) Have held a license to practice law or held a judicial office in one (1) or more jurisdictions for at least ten (10) continuous years immediately preceding such appointment.

(6) For purposes of this section, the following terms have the following meanings:

1 (a) "Active," "judicial" and "good standing" have the same definitions
2 as those terms are given by rule 301 of the Idaho bar commission rules or
3 any successors to those rules;

4 (b) "Jurisdiction" means a state or territory of the United States, the
5 District of Columbia or any branch of the United States military; and

6 (c) "Elector" means one who is lawfully registered to vote.