

EXECUTIVE ORDER 89-4
PROVIDING FOR CONTINUATION OF THE GOVERNOR'S
MINNESOTA JUDICIAL MERIT ADVISORY COMMISSION;
RESCINDING EXECUTIVE ORDER NUMBER 87-5

I, RUDY PERPICH, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and the applicable statutes, do hereby issue this Executive Order:

WHEREAS, it is desirable that the concept of merit selection of judges through the use of a judicial nominating commission be employed to assist the Governor in filling vacancies which occur in district courts; and

WHEREAS, it is necessary that all areas of the state and all segments of the population be represented both on the nominating panel and in the judiciary;

NOW, THEREFORE, I order:

1. Establishment of the Minnesota Judicial Merit Advisory Commission

There is hereby created a Governor's Minnesota Judicial Merit Advisory Commission to seek out, evaluate, and recommend to the Governor outstanding persons who are learned in the law to fill vacancies which may occur on the trial courts of Minnesota.

This commission shall be composed of up to fifteen members, including the following:

- a. One member appointed by the Governor from each of ten judicial districts;
- b. A chair, appointed by the Governor; and
- c. Three to four members-at-large, appointed by the Governor.

The chair shall be responsible for calling such meetings of the commission as are necessary to carry out its functions.

2. Appointment of Additional Members

Whenever one or more judicial vacancies occur in a judicial district, the membership of the commission shall be expanded by one member. The Governor shall appoint one member from each district having one or more judicial vacancies. That member shall serve until nominees for that district's judicial vacancy or vacancies are filled.

3. Duties

Members shall attend commission meetings and consider each candidate for a judicial vacancy in an impartial and objective manner. They shall actively seek out and encourage qualified individuals to apply for judicial office with particular emphasis on women and minorities who are under-represented in the judicial system. No expenses or per diem payments shall be allowed for commission members.

4. Officers

The commission shall select from among its own members a secretary who shall prepare the minutes of all meetings of the commission, keep a record of its official actions, and maintain a list of names considered for each judicial vacancy.

The chair shall select from among the commission membership one or more candidate solicitors who shall be primarily responsible for actively seeking out candidates for judicial vacancies as they occur.

5. Procedures When Judicial Vacancies Occur or Will Occur in the Future

Within ten days after a judicial vacancy occurs in a district court, the Governor shall notify the chair of the Minnesota Judicial Merit Advisory Commission. The Governor shall advise the chair of the name of the person appointed to serve as a special member of the commission for the purpose of considering candidates to fill that judicial vacancy. The chair shall notify the members of the commission that a vacancy has occurred and shall call a meeting of the commission to consider the candidates for the vacancy to be held seven (7) to ten (10) days following the published application deadline.

When it is known that a future judicial vacancy will occur on a definite date, the Governor shall so notify the chair. The Governor shall advise the chair of the name of the person appointed to serve as a special member of the commission for the purpose of considering candidates to fill that judicial vacancy. The chair shall call a meeting of the commission to consider candidates for the judicial vacancy to be held not more than 4 months before the judicial vacancy is to occur nor less than 15 days after the chair takes the actions described in Section 'a' herein.

- a. The chair shall immediately issue a news release stating that a judicial vacancy has occurred or will occur; that applications from qualified persons are being accepted by the commission and must be received by the published application deadline to be considered candidates for nomination; and that any names submitted will be kept in strict confidence by the commission until the names of the nominees are transmitted to the Governor.

- b. The chair shall immediately distribute the news release to all media serving the judicial district in which the judicial vacancy has occurred or will occur and shall transmit copies of the news release to the presidents of the bar associations in the judicial district. The candidate solicitor shall encourage the local bar associations, where practical, to directly contact their members and advise them of the procedures to be followed if attorneys wish to apply for consideration by the commission.

6. Procedures

The chair shall convene and preside over all meetings of the commission. The chair shall designate a member to preside if the chair is absent.

A quorum for commission meetings shall be six (6) members.

The commission shall recommend to the Governor no more than five (5) nor fewer than three (3) candidates for each judicial vacancy, unless there are fewer than three candidates available, in which case the commission shall transmit those names to the Governor in the manner described in Article 8 herein. The commission shall not rank the candidates submitted to the Governor. The recommendations to the Governor shall be advisory.

7. Standards for Evaluation of Candidates

In evaluating the candidates, the commission shall give consideration to the following factors, as well as such other factors as the commission members deem important:

- a. integrity and moral courage;
- b. legal education and training;
- c. legal and trial experience;
- d. patience and courtesy;
- e. common sense and sound, mature judgment;
- f. ability to be objective and impartial;
- g. capacity for work;
- h. mental and physical health as they would affect the candidate's ability to perform judicial duties;
- i. good personal habits compatible with judicial dignity and deportment;
- j. knowledge and understanding of human nature; and,
- k. cooperativeness and ability to work with others.

8. Transmittal of Nominees to Governor

Within six weeks after the Governor has notified the chair that a judicial vacancy has occurred or when the commission has completed its work before a future judicial vacancy is to occur, the secretary shall transmit to the Governor the names of the

commission's recommended nominees. The names of the nominees shall be listed in alphabetical order. The secretary shall transmit to the Governor all of the applications submitted to the commission.

No other information shall be transmitted to the Governor, except that the members of the commission may consult with the Governor at his request and may provide him with any other information gathered by the commission during its deliberations.

If a vacancy occurs in the office of a judge in the same district for which the Governor filled a judicial vacancy within the past six months, and if the commission provided recommendations to the Governor for the prior judicial vacancy, then the Governor may elect to consider again the names submitted for the prior judicial vacancy as if those names had been submitted for the pending judicial vacancy. If the Governor so elects, he shall so inform the chair as soon thereafter as possible.

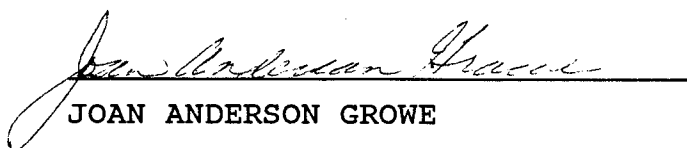
Pursuant to Minnesota Statutes 1988, Section 4.035, subd. 2, this Order shall be effective 15 days after its publication in the State Register and filing with the Secretary of State and shall remain in effect until rescinded by proper authority or it expires in accordance with Minnesota Statutes 1988, Section 4.035, subd. 3.

IN TESTIMONY WHEREOF, I have set my hand this 30th day of
June, 1989.

A large, stylized handwritten signature in black ink, reading "Rudy Perpich". The signature is written over a horizontal line.

RUDY PERPICH
Governor

Filed According to Law:

A handwritten signature in black ink, reading "Joan Anderson Growe". The signature is written over a horizontal line.

JOAN ANDERSON GROWE
Secretary of State