

House Amendment to  
Senate File 638

S-3262

1 Amend Senate File 638, as amended, passed, and reprinted by  
2 the Senate, as follows:

3 1. Page 19, after line 15 by inserting:

4 <DIVISION \_\_\_\_  
5 ELECTIONS

6 Sec. \_\_\_\_\_. 2019 Iowa Acts, House File 692, section 33, if  
7 enacted, is amended to read as follows:

8 SEC. 33. EFFECTIVE DATE.

9 1. This division of this Act, being deemed of immediate  
10 importance, takes effect upon enactment.

11 2. Notwithstanding subsection 1, the section of this  
12 division of this Act amending section 39.2 takes effect July  
13 1, 2019.

14 Sec. \_\_\_\_\_. EFFECTIVE DATE. This division of this Act, being  
15 deemed of immediate importance, takes effect upon enactment.

16 Sec. \_\_\_\_\_. RETROACTIVE APPLICABILITY. This division of this  
17 Act applies retroactively to the date of enactment of 2019 Iowa  
18 Acts, House File 692, if enacted.>

19 2. Page 19, after line 15 by inserting:

20 <DIVISION \_\_\_\_  
21 JUDICIAL NOMINATING COMMISSION MODERNIZATION

22 Sec. \_\_\_\_\_. Section 46.1, Code 2019, is amended to read as  
23 follows:

24 **46.1 Appointment of state judicial nominating commissioners.**

25 1. The governor shall appoint, subject to confirmation by  
26 the senate, ~~one eligible elector of each congressional district~~  
27 nine eligible electors to the state judicial nominating  
28 commission ~~for a six-year term beginning and ending as provided~~  
29 ~~in [section 69.19](#).~~

30 2. The appointments made by the governor shall be  
31 staggered terms of six years each and shall begin and end  
32 in even-numbered years as provided in section 69.19. The  
33 terms of no more than three nor less than two of the ~~members~~  
34 commissioners shall expire within the same two-year period.

35 3. No more than a simple majority of the ~~members~~

1 commissioners appointed by the governor shall be of the same  
2 gender.

3 4. All commissioners shall be chosen without reference to  
4 political affiliation.

5 5. There shall be at least one commissioner appointed by  
6 the governor from each congressional district and there shall  
7 not be more than two commissioners appointed by the governor  
8 from a single congressional district unless each congressional  
9 district has at least two commissioners appointed by the  
10 governor.

11 6. A commissioner who has served a full six-year term on the  
12 state judicial nominating commission, whether the commissioner  
13 was appointed or elected, shall be ineligible to be appointed  
14 to a second six-year term.

15 7. No person may be appointed who holds an office of  
16 profit of the United States or of the state at the time of  
17 appointment.

18 Sec. \_\_\_\_\_. Section 46.2, Code 2019, is amended by striking  
19 the section and inserting in lieu thereof the following:

20 **46.2 Election of state judicial nominating commissioners.**

21 1. The resident members of the bar of each congressional  
22 district shall elect two eligible electors of different genders  
23 to the state judicial nominating commission.

24 2. The commissioners elected by the bar shall serve  
25 staggered terms of six years each and shall be elected in the  
26 month of January for terms commencing July 1 of odd-numbered  
27 years. The terms of no more than three of the commissioners  
28 shall expire within the same two-year period.

29 3. All of the commissioners elected by the bar shall be  
30 chosen without reference to political affiliation.

31 4. A commissioner who has served a full six-year term on the  
32 state judicial nominating commission, whether the commissioner  
33 was appointed or elected, shall be ineligible to be elected to  
34 a second six-year term.

35 5. No person may be elected who holds an office of profit of

1 the United States or of the state at the time of election.

2 Sec. \_\_\_\_\_. Section 46.2A, Code 2019, is amended by striking  
3 the section and inserting in lieu thereof the following:

4 **46.2A Special appointment of state judicial nominating**  
5 **commissioners and transition provisions.**

6 1. The initial term of the ninth commissioner appointed by  
7 the governor shall begin on the effective date of this division  
8 of this Act and shall expire on April 30, 2024.

9 2. After the initial term is served pursuant to subsection  
10 1, a new commissioner shall be appointed by the governor to a  
11 six-year term as provided in section 46.1.

12 3. The terms of any commissioner currently serving on  
13 the state judicial nominating commission or any commissioner  
14 already elected to begin serving on July 1, 2019, shall not be  
15 affected by this Act.

16 Sec. \_\_\_\_\_. Section 46.5, Code 2019, is amended to read as  
17 follows:

18 **46.5 Vacancies.**

19 1. When a vacancy occurs in the office of an appointive  
20 judicial nominating commissioner, the chairperson of the  
21 particular commission shall promptly notify the governor in  
22 writing of such fact or the governor may take note of such a  
23 vacancy. Vacancies in the office of an appointive judicial  
24 nominating commissioner shall be filled by appointment by the  
25 governor, consistent with eligibility requirements. The term  
26 of state judicial nominating commissioners so appointed shall  
27 commence upon their appointment pending confirmation by the  
28 senate at the then session of the general assembly or at its  
29 next session if it is not then in session. The term of district  
30 judicial nominating commissioners so appointed shall commence  
31 upon their appointment.

32 ~~2. Except where the term has less than ninety days~~  
33 ~~remaining, vacancies in the office of elective member of the~~  
34 ~~state judicial nominating commission shall be filled consistent~~  
35 ~~with eligibility requirements by a special election within the~~

1 ~~congressional district where the vacancy occurs, such election~~  
2 ~~to be conducted as provided in sections 46.9 and 46.10. An~~  
3 ~~appointive commissioner shall be deemed to have submitted a~~  
4 ~~resignation if the commissioner fails to attend a meeting of~~  
5 ~~the commission that is properly noticed under section 46.13~~  
6 ~~and at which the commission conducts interviews or selects~~  
7 ~~nominees for judicial office. The governor, in the governor's~~  
8 ~~discretion, may accept or reject the resignation. If the~~  
9 ~~governor accepts the resignation, the governor shall notify the~~  
10 ~~commissioner and the chairperson of the commission in writing~~  
11 ~~and shall then make another appointment.~~

12 3. ~~Vacancies in the office of elective judicial nominating~~  
13 ~~commissioner of district judicial nominating commissions shall~~  
14 ~~be filled consistent with eligibility requirements and by~~  
15 ~~majority vote of the authorized number of elective members of~~  
16 ~~the particular commission, at a meeting of such members called~~  
17 ~~in the manner provided in section 46.13. The term of judicial~~  
18 ~~nominating commissioners so chosen shall commence upon their~~  
19 ~~selection by a special election within the judicial election~~  
20 ~~district or congressional district where the vacancy occurs~~  
21 ~~unless the term has less than ninety days remaining, in which~~  
22 ~~case the office shall remain vacant. The special election~~  
23 ~~shall be completed within ninety days of the vacancy arising~~  
24 ~~and shall be conducted as provided in sections 46.9, 46.9A, and~~  
25 ~~46.10.~~

26 4. ~~If a vacancy occurs in the office of chairperson of a the~~  
27 ~~state judicial nominating commission, or in the members of the~~  
28 ~~commission shall elect a new chairperson as provided in section~~  
29 ~~46.6. If a vacancy occurs in the office of chairperson of a~~  
30 ~~district judicial nominating commission or in the absence of~~  
31 ~~the chairperson, the members of the particular commission shall~~  
32 ~~elect a temporary chairperson from their own number.~~

33 5. ~~When a vacancy in an office of an elective judicial~~  
34 ~~nominating commissioner occurs, the state court administrator~~  
35 ~~shall cause to be mailed to each member of the bar whose name~~

1 ~~appears on the certified list prepared pursuant to section 46.8~~  
2 ~~for the district or districts affected, a notice stating the~~  
3 ~~existence of the vacancy, the requirements for eligibility,~~  
4 ~~and the manner in which the vacancy will be filled. Other~~  
5 ~~items may be included in the same mailing if they are on sheets~~  
6 ~~separate from the notice. The election of a district judicial~~  
7 ~~nominating commissioner or the close of nominations for a state~~  
8 ~~judicial nominating commissioner shall not occur until thirty~~  
9 ~~days after the mailing of the notice. Notwithstanding section~~  
10 ~~69.1A, appointed and elected commissioners on the state and~~  
11 ~~district judicial nominating commissions shall not hold over~~  
12 ~~until their successor is elected and qualified.~~

13 6. All judicial nominating commissioners, including  
14 those elected by the bar, shall be subject to removal by  
15 the executive council in the same manner as appointive state  
16 officers under section 66.26. When the status of a judicial  
17 nominating commissioner is in question, the governor shall be  
18 the officer responsible for deciding whether a vacancy exists  
19 under section 69.2.

20 Sec. \_\_\_\_ . Section 46.6, Code 2019, is amended to read as  
21 follows:

22 **46.6 Equal seniority Chairperson.**

23 ~~If the judges of longest service, other than the chief~~  
24 ~~justice, of the supreme court or of the district court in~~  
25 ~~a district are of equal service, the eldest of such judges~~  
26 ~~shall be chairperson of the particular judicial nominating~~  
27 ~~commission.~~

28 1. The commissioners of the state judicial nominating  
29 commission shall elect a chairperson from their own number.  
30 The chairperson shall serve a two-year term that expires  
31 on April 30 of even-numbered years. A commissioner may be  
32 reelected for a second or third term as chairperson. If a  
33 chairperson of a judicial nominating commission desires to  
34 be relieved of the duties of chairperson while retaining the  
35 status of commissioner, the chairperson shall notify the

1 governor and the other commissioners of the commission. At the  
2 next meeting of the commission, the commissioners shall elect a  
3 new chairperson for the remainder of the two-year term.

4 2. The judge of longest service in the district shall serve  
5 as the chair of a particular district judicial nominating  
6 commission. If the judges of longest service in the district  
7 are of equal service, the eldest of such judges shall be  
8 chairperson of the particular judicial nominating commission.

9 Sec. \_\_\_\_\_. Section 46.7, Code 2019, is amended to read as  
10 follows:

11 **46.7 Eligibility to vote.**

12 To be eligible to vote in elections of judicial nominating  
13 commissioners, a member of the bar must be eligible to  
14 practice and must be a resident of the state of Iowa and of  
15 the appropriate congressional district or judicial election  
16 ~~district as shown by the member's most recent filing with the~~  
17 ~~supreme court for the purposes of showing compliance with~~  
18 ~~the court's continuing legal education requirements, or for~~  
19 ~~members of the bar eligible to practice who are not required~~  
20 ~~to file such compliance, any paper on file by July 1 with the~~  
21 ~~state court administrator, for the purpose of establishing~~  
22 ~~eligibility to vote under [this section](#), which the court~~  
23 ~~determines to show the requisite residency requirements at the~~  
24 time the member votes in the election. The member's residency  
25 shall be determined by the home address shown on the member's  
26 most recent electronic or paper submission to the commission  
27 on continuing education and the client security commission or  
28 on the member's bar admission records. A judge who has been  
29 admitted to the bar of the state of Iowa shall be considered a  
30 member of the bar.

31 Sec. \_\_\_\_\_. Section 46.8, Code 2019, is amended to read as  
32 follows:

33 **46.8 Certified list.**

34 1. Each year the The state court administrator shall certify  
35 a maintain a certified list of the names, addresses, electronic

1 mail addresses, and years of admission of members of the bar  
2 who are eligible to vote for state and district judicial  
3 nominating commissioners.

4 2. Upon request, the state court administrator shall  
5 provide the certified list in electronic form and without  
6 charge to any properly qualified nominee for state or district  
7 judicial nominating commissioner.

8 Sec. \_\_\_\_ . Section 46.9, Code 2019, is amended to read as  
9 follows:

10 **46.9 Conduct of elections.**

11 1. When an election of judicial nominating commissioners  
12 is to be held, the state court administrator shall administer  
13 the voting. The state court administrator may administer  
14 the voting by electronic notification and voting or by paper  
15 ballot mailed to each eligible attorney. The state court  
16 administrator shall mail paper ballots to eligible attorneys or  
17 electronically notify and enable eligible attorneys to vote.  
18 ~~The elector receiving the most votes shall be elected. When~~  
19 ~~more than one commissioner is to be elected, the electors~~  
20 ~~receiving the most votes shall be elected, in the same number~~  
21 ~~as the offices to be filled.~~

22 2. The state court administrator shall provide a voting  
23 period of at least twenty-one days from when the electronic  
24 voting notification is sent or the paper ballots are mailed  
25 during which eligible attorneys may vote electronically or  
26 submit a paper ballot.

27 3. In an election to elect a single commissioner, each  
28 eligible attorney may cast a single vote, and the qualified  
29 eligible elector receiving the most votes shall be elected.

30 4. In an election to elect one male commissioner and one  
31 female commissioner, each eligible attorney may cast one vote  
32 for male commissioner and one vote for female commissioner, and  
33 the qualified eligible elector of each gender receiving the  
34 most votes shall each be elected.

35 5. The election results, including the number of votes cast

1 for each elector and the total number of the members of the  
2 bar eligible to vote in each election, shall be made publicly  
3 available on the judicial branch internet site and shall be  
4 reported to the governor and to the general assembly within ten  
5 days after the conclusion of the election.

6 Sec. \_\_\_\_\_. Section 46.9A, Code 2019, is amended to read as  
7 follows:

8 **46.9A Notice preceding nomination of elective nominating**  
9 **commissioners.**

10 At least sixty days prior to the expiration of the term of an  
11 elective state or district judicial nominating commissioner or  
12 the expiration of the period within which a special election  
13 must be held, the state court administrator shall mail paper  
14 ballots to eligible attorneys or electronically notify and  
15 enable eligible attorneys to vote. An eligible attorney is  
16 a member of the bar whose name appears on the certified list  
17 prepared pursuant to [section 46.8](#) for the district or districts  
18 affected provide notice of the current or upcoming vacancy  
19 and the nomination and election process by making the notice  
20 publicly available on the judicial branch internet site,  
21 issuing a press release, and electronically notifying members  
22 of the bar. The election shall not commence until at least  
23 thirty days after the issuance of the notice required by this  
24 section.

25 Sec. \_\_\_\_\_. Section 46.10, Code 2019, is amended to read as  
26 follows:

27 **46.10 Nomination of elective judicial nominating**  
28 **commissioners.**

29 1. In order to have an eligible elector's name printed  
30 on the ballot for state or district judicial nominating  
31 commissioner, the eligible elector must file in the office of  
32 the state court administrator at least thirty days prior to  
33 expiration of the period within which the election must be  
34 held a nominating petition signed by at least ~~fifty resident~~  
35 ~~members of the bar~~ ten eligible electors of the congressional



1 district in case of a candidate for state judicial nominating  
2 commissioner, or at least ten ~~resident members of the bar~~  
3 eligible electors of the judicial district in case of a  
4 candidate for district judicial nominating commissioner. ~~No~~  
5 ~~member of the bar may sign more nominating petitions for state~~  
6 ~~or district judicial nominating commissioner than there are~~  
7 ~~such commissioners to be elected.~~

8 2. Ballots or electronic voting forms for state and district  
9 judicial nominating commissioners shall contain blank lines  
10 equal to the number of such commissioners to be elected, where  
11 names may be written in. Any electronic voting form must  
12 permit a voter to write in the name of any eligible elector.

13 Sec. \_\_\_\_\_. Section 46.11, Code 2019, is amended to read as  
14 follows:

15 **46.11 Certification of commissioners.**

16 ~~The~~ Upon making an appointment, the governor and the state  
17 ~~court administrator respectively~~ shall promptly certify  
18 the names and addresses of ~~appointive and elective~~ judicial  
19 nominating commissioners to the state commissioner of  
20 elections ~~and the chairperson of the respective nominating~~  
21 ~~commissions.~~ Upon the completion of an election, the state  
22 court administrator shall certify the names and addresses of  
23 the elected judicial nominating commissioners to the state  
24 commissioner of elections and the governor.

25 Sec. \_\_\_\_\_. Section 46.12, subsection 1, Code 2019, is amended  
26 to read as follows:

27 1. When a vacancy occurs or will occur within one hundred  
28 twenty days in the supreme court, the court of appeals, or  
29 district court, the state commissioner of elections shall  
30 forthwith so notify the ~~chairperson of the proper judicial~~  
31 ~~nominating commission~~ governor. ~~The chairperson~~ governor shall  
32 call a meeting of the proper judicial nominating commission  
33 within ten days after such notice; if the ~~chairperson~~ governor  
34 fails to do so, the chief justice shall call such meeting.

35 Sec. \_\_\_\_\_. Section 46.13, Code 2019, is amended to read as

1 follows:

2 **46.13 Notice of meetings and application process.**

3 1. The governor or chairperson of each judicial nominating  
4 commission shall give the members of the commission at least  
5 five days' written notice by mail or electronic mail of the  
6 time and place of every meeting, except as to members who  
7 execute written waivers of notice at or before the meeting or  
8 unless the commission at its next previous meeting designated  
9 the time and place of the meeting.

10 2. Each commission, with the technical support of the  
11 judicial branch, shall publish all of the following on the  
12 judicial branch internet site:

13 a. Notice that the commission is accepting applications  
14 for judge or justice along with a copy of the application form  
15 at least two weeks before applications are required to be  
16 submitted to the commission.

17 b. Copies of nonconfidential application materials submitted  
18 by applicants.

19 c. The schedule of applicant interviews before the  
20 commission.

21 d. The list of nominees submitted by the commission to the  
22 governor and the chief justice.

23 3. Commissioners shall be permitted to conduct individual  
24 interviews with applicants in advance of the commission's  
25 meetings to choose the nominees.

26 4. The state judicial nominating commission shall adopt  
27 uniform rules for the state and district judicial nominating  
28 commissions that shall be consistent with this chapter  
29 and shall provide for a uniform and fair process for the  
30 commissions to consider applicants and select nominees. The  
31 state judicial nominating commission shall provide for a public  
32 comment period of at least thirty days on its proposed uniform  
33 rules prior to adopting the rules and shall adopt the rules  
34 within six months of the effective date of this division of  
35 this Act. Such rules shall be made publicly available on the

1 judicial branch internet site.

2 Sec. \_\_\_\_ . NEW SECTION. **46.15A Severability and judicial**  
3 **review.**

4 1. If any provision or clause of this chapter or any  
5 application of this chapter to any person or circumstances  
6 is held invalid, such invalidity shall not affect other  
7 provisions, clauses, or applications of this chapter which can  
8 be given effect without the invalid provision or application,  
9 and to this end the provisions and clauses of this chapter are  
10 declared to be severable.

11 2. Notwithstanding any provision of law to the contrary,  
12 if any provision of this chapter is preliminarily enjoined,  
13 no judicial nominating commission shall meet to nominate  
14 persons to serve as a judge or justice while the preliminary  
15 injunction is in effect or while any appeal of the preliminary  
16 injunction or a related permanent injunction is pending unless  
17 the injunction is subsequently stayed or otherwise lifted.

18 Sec. \_\_\_\_ . EFFECTIVE UPON ENACTMENT. This division of this  
19 Act, being deemed of immediate importance, takes effect upon  
20 enactment.

21 DIVISION \_\_\_\_

22 CHIEF JUSTICE SELECTION

23 Sec. \_\_\_\_ . Section 602.4103, Code 2019, is amended to read  
24 as follows:

25 **602.4103 Chief justice.**

26 ~~The justices of the supreme court shall select one justice as~~  
27 ~~chief justice, to serve during that justice's term of office.~~

28 1. At the first meeting in each odd-numbered year, the  
29 justices of the supreme court by majority vote shall designate  
30 one justice as chief justice, to serve for a two-year term.  
31 A vacancy in the office of chief justice shall be filled for  
32 the remainder of the unexpired term by majority vote of the  
33 justices of the supreme court, after any vacancy on the court  
34 has been filled.

35 2. If the chief justice desires to be relieved of the duties

1 of chief justice while retaining the status of justice of the  
2 supreme court, the chief justice shall notify the governor and  
3 the other justices of the supreme court. The office of chief  
4 justice shall be deemed vacant, and shall be filled as provided  
5 in this section.

6 3. The chief justice is eligible for reselection.

7 4. The chief justice shall appoint one of the other justices  
8 to act during the absence or inability of the chief justice  
9 to act, and when so acting the appointee has all the rights,  
10 duties, and powers of the chief justice.

11 Sec. \_\_\_\_ . NEW SECTION. 602.4103A Transition provisions.

12 1. The term of the chief justice serving on the effective  
13 date of this division of this Act shall expire on January  
14 15, 2021, or upon the conclusion of the first meeting of the  
15 justices of the supreme court in January 2021, whichever occurs  
16 earlier.

17 2. If the office of chief justice becomes vacant prior to  
18 the expiration of the term in January 2021, the office shall be  
19 filled for the remainder of the unexpired term as provided for  
20 in section 602.4103.

21 3. This section is repealed July 1, 2021.>

22 3. By renumbering as necessary.