

2/22/96 State Gov

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SENATE FILE 2279
BY BENNETT

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act requiring court magistrates to stand for retention in
2 judicial elections and providing transition provisions and an
3 effective date provision.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 2279

1 Section 1. Section 46.15, unnumbered paragraph 1, Code
2 1995, is amended to read as follows:

3 All appointments to the supreme court and court of appeals
4 shall be made from the nominees of the state judicial
5 nominating commission, and all appointments to the district
6 court shall be made from the nominees of the district judicial
7 nominating commission. All magistrate appointments shall be
8 made by the county magistrate appointing commission. Nominees
9 to the court of appeals shall have the qualifications
10 prescribed for nominees to the supreme court.

11 Sec. 2. Section 46.20, Code 1995, is amended to read as
12 follows:

13 46.20 DECLARATION OF CANDIDACY.

14 At least one hundred four days before the judicial election
15 preceding expiration of the initial or regular term of office,
16 a judge of the supreme court, court of appeals, or district
17 court including district associate judges, a magistrate, or a
18 clerk of the district court who is required to stand for
19 retention under section 602.1216 may file a declaration of
20 candidacy with the state commissioner of elections to stand
21 for retention or rejection at that election. If a judge,
22 magistrate, or clerk fails to file the declaration, the office
23 shall be vacant at the end of the term. District associate
24 judges filing the declaration shall stand for retention in the
25 judicial election district of their residence. Magistrates
26 filing the declaration shall stand for retention in the county
27 of their residence.

28 Sec. 3. Section 46.21, Code 1995, is amended to read as
29 follows:

30 46.21 CONDUCT OF ELECTIONS.

31 At least sixty-nine days before each judicial election, the
32 state commissioner of elections shall certify to the county
33 commissioner of elections of each county a list of the judges
34 of the supreme court, court of appeals, and district court,
35 including district associate judges, magistrates, and clerks

1 of the district court to be voted on in each county at that
2 election. The county commissioner of elections shall place
3 the names upon the ballot in the order in which they appear in
4 the certificate, unless only one county is voting thereon.
5 The state commissioner of elections shall rotate the names in
6 the certificate by county, or the county commissioner of
7 elections shall rotate them upon the ballot by precinct if
8 only one county is voting thereon. The names of all judges,
9 magistrates, and clerks to be voted on shall be placed upon
10 one ballot, which shall be in substantially the following
11 form:

12 STATE OF IOWA
13 JUDICIAL BALLOT
14 (Date)

15 VOTE ON ALL NAMES BY PLACING AN X IN THE APPROPRIATE BOX
16 AFTER EACH NAME.

17 SUPREME COURT

18 Shall the following judges of the Supreme Court be retained
19 in office?

20 CANDIDATE'S NAME YES ___ NO ___
21 CANDIDATE'S NAME YES ___ NO ___

22 COURT OF APPEALS

23 Shall the following judges of the Court of Appeals be
24 retained in office?

25 CANDIDATE'S NAME YES ___ NO ___
26 CANDIDATE'S NAME YES ___ NO ___

27 DISTRICT COURT

28 Shall the following judge or associate judge of the
29 District Court be retained in office?

30 CANDIDATE'S NAME YES ___ NO ___

31 MAGISTRATE

32 Shall the following magistrate of _____ county (name of
33 county) be retained in office?

34 Shall the following clerk of the District Court be retained
35 in office?

1 amended by striking the subsection and inserting in lieu
2 thereof the following:

3 1. a. The term of office of a magistrate is four years,
4 commencing on the first day of January 1997 which is not a
5 Sunday or a legal holiday. A magistrate shall stand for
6 retention at the general election held every four years, com-
7 mencing with the general election in 1996.

8 b. When a vacancy occurs in the office of magistrate, the
9 clerk of the district court shall notify the state court ad-
10 ministrator and the chief judge of the judicial district. The
11 state court administrator shall notify the chairperson of the
12 county magistrate appointing commission of the vacancy.

13 c. Within thirty days following receipt of notification of
14 a vacancy in the office of magistrate, the commission shall
15 appoint a person to the office to serve the remainder of the
16 unexpired term. If an appointment is made to fill a vacancy
17 more than one hundred twenty days before the general election
18 in which the office is to be filled, the appointee shall stand
19 for retention at that general election. Otherwise, the
20 appointee shall stand for retention at the next general
21 election.

22 d. For purposes of this section, "vacancy" means a death,
23 resignation, retirement, or removal of a magistrate, other
24 than removal if a substitution is made under section 602.6302,
25 or an increase in the number of magistrate positions due to an
26 allocation under section 602.6301.

27 Sec. 7. Section 602.6403, subsection 3, Code 1995, is
28 amended by striking the subsection.

29 Sec. 8. Section 602.6403, subsection 4, Code 1995, is
30 amended to read as follows:

31 ~~4. The term of office of a magistrate is four years,~~
32 ~~commencing August 17, 1989. However, the terms of all~~
33 ~~magistrates in a county are deemed to expire if~~ If a
34 substitution under section 602.6302 or the allocation under
35 section 602.6401 results in a reduction in the number of

1 magistrates in a county where the magistrates hold office, the
2 magistrate with the least seniority shall not be qualified to
3 run for retention under section 602.6406. If no magistrate is
4 senior to any other magistrate in the county, those
5 magistrates qualified to run for retention shall be chosen by
6 lot.

7 Sec. 9. Section 602.6404, Code 1995, is amended to read as
8 follows:

9 602.6404 QUALIFICATIONS.

10 1. A magistrate shall be a resident of the county of
11 appointment or retention during the magistrate's term of
12 office. A magistrate shall serve within the judicial district
13 in which appointed or retained, as directed by the chief
14 judge, provided that the chief judge may assign a magistrate
15 to hold court outside of the county of the magistrate's
16 residence only if it is necessary for the orderly
17 administration of justice. ~~A-magistrate-is-subject-to~~
18 ~~reassignment-under-section-602-6408-~~

19 2. A person is not qualified for appointment or retention
20 as a magistrate unless the person files a certified
21 application form, to be provided by the supreme court, with
22 the chairperson of the county magistrate appointing
23 commission. A person is not qualified for appointment or
24 retention as a magistrate if at the time of appointment the
25 person has reached age seventy-two.

26 3. A person is not required to be admitted to the practice
27 of law in this state as a condition of being appointed to or
28 retained in the office of magistrate, but the magistrate
29 appointing commission shall first consider applicants who are
30 admitted to practice law in this state when ~~selecting~~
31 appointing persons for to the office of magistrate.

32 Sec. 10. NEW SECTION. 602.6406 RETENTION OF MAGISTRATES
33 -- ELECTION.

34 Magistrates shall stand for retention every four years at a
35 judicial election held at the time of the general election

1 commencing in 1996. Magistrates shall stand for retention in
2 the manner provided for judicial elections in sections 46.17
3 to 46.24.

4 Sec. 11. TRANSITION. Magistrates in office on the
5 effective date of this Act are eligible to stand for
6 retention. Those terms of magistrates in office on the
7 effective date of this Act which are set to expire July 31,
8 1996, shall extend to the first day of January 1997 which is
9 not a Sunday or a legal holiday.

10 Sec. 12. EFFECTIVE DATE. This Act, being deemed of
11 immediate importance, takes effect upon enactment.

12 EXPLANATION

13 This bill requires that judicial magistrates stand for
14 retention in the general election every four years commencing
15 in 1996. Currently, a county magistrate appointing commission
16 appoints magistrates for four-year terms beginning August 1.
17 Under this bill, the commission would continue to make
18 appointments in the case of vacancies.

19 The bill allows magistrates in office on the effective date
20 of the bill to stand for retention and extends their terms
21 until the first day of January 1997 that is not a Sunday or a
22 legal holiday.

23 The bill takes effect upon enactment.

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