

House Study Bill 663

SENATE/HOUSE FILE _____
BY (PROPOSED JUDICIAL
DISTRICT AND JUDICIAL
RESOURCES INTERIM STUDY
COMMITTEE BILL)

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

A BILL FOR

1 An Act relating to the transfer and apportionment of district
2 associate judges and associate juvenile judges, and to the
3 qualifications of magistrates.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 5127IC 80
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1 1 Section 1. Section 602.6301, Code Supplement 2003, is
1 2 amended to read as follows:
1 3 602.6301 NUMBER AND APPORTIONMENT OF DISTRICT ASSOCIATE
1 4 JUDGES.
1 5 1. There shall be one district associate judge in counties
1 6 having a population of more than thirty-five thousand and less
1 7 than eighty thousand; two in counties having a population of
1 8 eighty thousand or more and less than one hundred twenty-five
1 9 thousand; three in counties having a population of one hundred
1 10 twenty-five thousand or more and less than two hundred
1 11 thousand; four in counties having a population of two hundred
1 12 thousand or more and less than two hundred thirty-five
1 13 thousand; five in counties having a population of two hundred
1 14 thirty-five thousand or more and less than two hundred seventy
1 15 thousand; six in counties having a population of two hundred
1 16 seventy thousand or more and less than three hundred five
1 17 thousand; and seven in counties having a population of three
1 18 hundred five thousand or more. However, a county shall not
1 19 lose a district associate judgeship solely because of a
1 20 reduction in the county's population. If the formula provided
1 21 in this section results in the allocation of an additional
1 22 district associate judgeship to a county, implementation of
1 23 the allocation shall be subject to prior approval of the
1 24 supreme court and availability of funds to the judicial
1 25 branch. A district associate judge appointed pursuant to
1 26 section 602.6302 shall not be counted for purposes of this
1 27 section. A district associate judgeship apportioned pursuant
1 28 to subsection 2, or a district associate judge transferred
1 29 pursuant to subsection 3, shall also not be counted for
1 30 purposes of this section.
1 31 2. If a vacancy in a district associate judgeship occurs,
1 32 and the chief justice of the supreme court makes a finding
1 33 that a substantial disparity exists in the allocation of
1 34 district associate judgeships and district associate judge
1 35 workloads between judicial election districts, the chief
2 1 justice may apportion the district associate judgeship from
2 2 the judicial election district where the vacancy occurs to
2 3 another judicial election district based upon the substantial
2 4 disparity finding. However, a district associate judgeship
2 5 shall not be apportioned pursuant to this subsection unless a
2 6 majority of the judicial council approves the apportionment.
2 7 3. If the chief justice of the supreme court determines a
2 8 substantial disparity exists in the allocation of district
2 9 associate judgeships and district associate judge workloads
2 10 between judicial election districts, the chief justice may
2 11 authorize a voluntary permanent transfer of a district
2 12 associate judge from one judicial election district to another
2 13 upon approval by a majority of the judicial council. After
2 14 approval by the judicial council, the chief justice shall
2 15 notify all eligible district associate judges of the intent to
2 16 seek applicants for a voluntary permanent transfer and the
2 17 terms of such a transfer. A district associate judge is not
2 18 eligible for a voluntary transfer unless the judge has served
2 19 a regular term of office as specified in section 46.16. Upon
2 20 approval of the judge's application, the chief justice may

~~2 21 transfer a district associate judge who consents to the~~
~~2 22 transfer within six months of the notification. The transfer~~
~~2 23 of a district associate judge shall take effect within sixty~~
~~2 24 days of the official announcement of the transfer by the chief~~
~~2 25 justice. A district associate judge transferred pursuant to~~
~~2 26 this subsection shall have six months from the date of the~~
~~2 27 announcement of the transfer to establish residency in the~~
~~2 28 judicial election district where the district associate judge~~
~~2 29 is transferred. A district associate judge who has been~~
~~2 30 transferred shall stand for retention in the judicial election~~
~~2 31 district to which the district associate judge has been~~
~~2 32 transferred as provided in chapter 46. A voluntary transfer~~
~~2 33 pursuant to this subsection shall not cause a vacancy of a~~
~~2 34 district associate judgeship in the judicial election district~~
~~2 35 from which the district associate judge was transferred.~~

3 1 Sec. 2. Section 602.6304, subsection 3, Code Supplement
3 2 2003, is amended to read as follows:
3 3 3. Within thirty days after a county magistrate appointing
3 4 commission receives notification of an actual or impending
3 5 vacancy in the office of district associate judge, other than
3 6 a vacancy referred to in subsection 2, the commission shall
3 7 certify to the chief judge of the judicial district the names
3 8 of three applicants who are nominated by the commission for
3 9 the vacancy, unless the chief justice has ordered the
3 10 commission to delay the certification of the nominees to the
3 11 chief judge. The chief justice may order the delay of the
3 12 certification for up to one hundred eighty days for budgetary
3 13 reasons. The commission shall publicize notice of the vacancy
3 14 in at least two publications in the official county newspaper.
3 15 The commission shall accept applications for consideration for
3 16 nomination as district associate judge for a minimum of
3 17 fifteen days prior to certifying nominations. The commission
3 18 shall consider the applications and shall, by majority vote,
3 19 certify to the chief judge of the judicial district the names
3 20 of three applicants who are nominated by the commission for
3 21 the vacancy. If there are three or fewer applicants the
3 22 commission shall certify all applicants who meet the statutory
3 23 qualifications. Nominees shall be chosen solely on the basis
3 24 of the qualifications of the applicants, and political
3 25 affiliation shall not be considered. As used in this
3 26 subsection, a vacancy is created by the death, retirement,
3 27 resignation, or removal of a district associate judge, or by
3 28 an increase in the number of positions authorized. In
3 29 addition, if a vacancy occurs because a district associate
3 30 judge is apportioned pursuant to section 602.6301, the vacancy
3 31 is considered to have occurred in the judicial election
3 32 district receiving the apportioned district associate judge.

3 33 Sec. 3. Section 602.6305, subsection 3, Code Supplement
3 34 2003, is amended to read as follows:
3 35 3. A district associate judge must be a resident of a
4 1 county in which the office is held during the entire term of
4 2 office, unless the district associate judge is voluntarily
4 3 transferred pursuant to section 602.6301, subsection 3. A
4 4 district associate judge shall serve within the judicial
4 5 district in which appointed or transferred, as directed by the
4 6 chief judge, and is subject to reassignment under section
4 7 602.6108.

4 8 Sec. 4. Section 602.6404, subsections 1 and 3, Code 2003,
4 9 are amended to read as follows:

4 10 1. A magistrate shall be a resident of the county of
4 11 appointment or a contiguous county to the county of
4 12 appointment within thirty days of appointment, and shall
4 13 reside in the county of appointment or a contiguous county to
4 14 the county of appointment during the magistrate's term of
4 15 office. A magistrate shall serve within the judicial
4 16 district in which appointed, as directed by the chief judge,
4 17 provided that the chief judge may assign a magistrate to but
4 18 may hold court outside of the county of the magistrate's
4 19 residence for the orderly administration of justice. A
4 20 magistrate is subject to reassignment under section 602.6108.

4 21 3. A person is not required to must be admitted to the
4 22 practice of law in this state as a condition of being
4 23 appointed to the office of magistrate, but the magistrate
4 24 appointing commission shall first consider applicants who are
4 25 admitted to practice law in this state when selecting persons
4 26 for the office of magistrate. However, any nonlawyer
4 27 magistrate serving as a magistrate on July 1, 2004, may
4 28 continue to serve as a magistrate and is eligible to reapply
4 29 for appointment pursuant to section 602.6403.

4 30 Sec. 5. Section 602.7103B, subsection 3, Code Supplement
4 31 2003, is amended to read as follows:

4 32 3. Within thirty days after a county magistrate appointing
4 33 commission receives notification of an actual or impending
4 34 vacancy in the office of full-time associate juvenile judge,
4 35 other than a vacancy referred to in subsection 2, the
5 1 commission shall certify to the chief judge of the judicial
5 2 district the names of three applicants who are nominated by
5 3 the commission for the vacancy, unless the chief justice has
5 4 ordered the commission to delay the certification of the
5 5 nominees to the chief judge. The chief justice may order the
5 6 delay of the certification for up to one hundred eighty days
5 7 for budgetary reasons. The commission shall publicize notice
5 8 of the vacancy in at least two publications in the official
5 9 county newspaper. The commission shall accept applications
5 10 for consideration for nomination as full-time associate
5 11 juvenile judge for a minimum of fifteen days prior to
5 12 certifying nominations. The commission shall consider the
5 13 applications and shall, by majority vote, certify to the chief
5 14 judge of the judicial district the names of three applicants
5 15 who are nominated by the commission for the vacancy. If there
5 16 are three or fewer applicants, the commission shall certify
5 17 all applicants who meet the statutory qualifications.
5 18 Nominees shall be chosen solely on the basis of the
5 19 qualifications of the applicants, and political affiliation
5 20 shall not be considered. As used in this subsection, a
5 21 vacancy is created by the death, retirement, resignation, or
5 22 removal of a full-time associate juvenile judge, or by an
5 23 increase in the number of positions authorized. In addition,
5 24 if a vacancy occurs because an associate juvenile judge is
5 25 apportioned pursuant to subsection 5A, the vacancy is
5 26 considered to have occurred in the judicial election district
5 27 receiving the apportioned associate juvenile judge.

5 28 Sec. 6. Section 602.7103B, Code Supplement 2003, is
5 29 amended by adding the following new subsections:

5 30 NEW SUBSECTION. 5A. If a vacancy in an associate juvenile
5 31 judgeship occurs, and the chief justice of the supreme court
5 32 makes a finding that a substantial disparity exists in the
5 33 allocation of associate juvenile judgeships and associate
5 34 juvenile judge workloads between judicial election districts,
5 35 the chief justice may apportion the associate juvenile
6 1 judgeship from the judicial election district where the
6 2 vacancy occurs to another judicial election district based
6 3 upon the substantial disparity finding. However, an associate
6 4 judgeship shall not be apportioned pursuant to this subsection
6 5 unless a majority of the judicial council approves the
6 6 apportionment.

6 7 NEW SUBSECTION. 5B. If the chief justice of the supreme
6 8 court determines a substantial disparity exists in the
6 9 allocation of associate juvenile judgeships and associate
6 10 juvenile judge workloads between judicial election districts,
6 11 the chief justice may authorize a voluntary permanent transfer
6 12 of an associate juvenile judge from one judicial election
6 13 district to another upon approval by a majority of the
6 14 judicial council. After approval by the judicial council, the
6 15 chief justice shall notify all eligible associate juvenile
6 16 judges of the intent to seek applicants for a voluntary
6 17 permanent transfer and the terms of such a transfer. An
6 18 associate juvenile judge is not eligible for a voluntary
6 19 transfer unless the judge has served a regular term of office
6 20 as specified in section 46.16. Upon approval of the judge's
6 21 application, the chief justice may transfer an associate
6 22 juvenile judge who consents to the transfer within six months
6 23 of the notification. The transfer of an associate juvenile
6 24 judge shall take effect within sixty days of the official
6 25 announcement of the transfer by the chief justice. An
6 26 associate juvenile judge transferred pursuant to this
6 27 subsection shall have six months from the date of the
6 28 announcement of the transfer to establish residency in the
6 29 judicial election district where the associate juvenile judge
6 30 is transferred. An associate juvenile judge who has been
6 31 transferred shall stand for retention in the judicial election
6 32 district to which the associate juvenile judge has been
6 33 transferred as provided in chapter 46. A voluntary transfer
6 34 pursuant to this subsection shall not cause a vacancy of a
6 35 judgeship in the judicial election district from which the
7 1 associate juvenile judge was transferred.

7 2 Sec. 7. Section 602.7103C, subsection 3, Code 2003, is
7 3 amended to read as follows:

7 4 3. A full-time associate juvenile judge must be a resident
7 5 of a county in which the office is held during the entire term
7 6 of office, unless the associate juvenile judge voluntarily
7 7 transfers pursuant to section 602.7103B, subsection 5B. A

7 8 full-time associate juvenile judge shall serve within the
7 9 judicial district in which appointed or transferred, as
7 10 directed by the chief judge, and is subject to reassignment
7 11 under section 602.6108.

7 12 EXPLANATION

7 13 This bill relates to the transfer and apportionment of
7 14 district associate judges and associate juvenile judges, and
7 15 to the qualifications of magistrates.

7 16 The bill provides that if a vacancy in a district associate
7 17 judgeship occurs, and the chief justice makes a finding that a
7 18 substantial disparity exists in the allocation of district
7 19 associate judgeships and district associate judicial workloads
7 20 between judicial election districts, the chief justice may
7 21 apportion the vacant district associate judgeship to another
7 22 judicial election district if a majority of the judicial
7 23 council approves the apportionment.

7 24 Also under the bill, if the chief justice has determined
7 25 that a substantial disparity exists, the chief justice may
7 26 also authorize a voluntary permanent transfer of a district
7 27 associate judge from one judicial election district to
7 28 another, upon approval of a majority of the judicial council.
7 29 A judge who voluntarily transfers shall establish residency in
7 30 the new judicial election district within six months of the
7 31 transfer and shall stand for retention in the new judicial
7 32 election district. A district associate judge is not eligible
7 33 for a voluntary transfer unless the judge has served a regular
7 34 term of office.

7 35 The provisions of the bill relating to the apportionment of
8 1 a district associate judge to another judicial election
8 2 district and to the voluntary transfer of a district associate
8 3 judge also apply to associate juvenile judges.

8 4 The bill also requires that any newly appointed magistrates
8 5 be an attorney; provided, however, that current nonlawyer
8 6 magistrates would not lose their position as a result of this
8 7 change and would be eligible to apply and be reappointed as a
8 8 magistrate in the future.

8 9 The bill permits an applicant to be a resident of another
8 10 county when applying for a magistrate position, but the
8 11 applicant must be a resident of the county of appointment or a
8 12 county contiguous to the county of appointment within 30 days
8 13 of appointment.

8 14 The bill provides that a magistrate be allowed to serve as
8 15 magistrate in a county other than the magistrate's county of
8 16 residence without special approval from the chief judge.

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