MAR 1 1 2005
Place On Calendar

HOUSE FILE 711

BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 198)

Passed House, Date _3-29-05_ Passed Senate, Date _____

Vote: Ayes _84_ Nays _16_ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to judicial branch procedures involving the
2 appointment process of certain officers and judges and
3 applications for further review at the appellate level.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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1   Section 1. Section 46.12, Code 2005, is amended to read as
2 follows:
3   46.12 NOTIFICATION OF VACANCY AND RESIGNATION.
4   1. When a vacancy occurs or will occur within one hundred
5 twenty days in the supreme court, or the court of appeals, or
6 district-court, the state commissioner of elections shall
7 forthwith so notify the chairperson of the proper judicial
8 nominating commission,-unless-the-chief-justice-has-ordered
9 the-state-commissioner-of-elections-to-delay-sending-the
10 notification.---The-chief-justice-may-order-the-delay-for-up-to
11 one-hundred-eighty-days-for-budgetary-reasons. The
12 chairperson shall call a meeting of the commission within ten
13 days after such notice; if the chairperson fails to do so, the
14 chief justice shall call such meeting.
15   2. When a vacancy occurs or will occur within one hundred
16 twenty days in district court, the state commissioner of
17 elections shall forthwith so notify the chairperson of the
18 proper judicial nominating commission. The chief justice may
19 order the delay for budgetary reasons. The chairperson shall
20 call a meeting of the commission within ten days after such
21 notice; if the chairperson fails to do so, the chief justice
22 shall call such meeting.
23   3. When a judge of the supreme court, court of appeals, or
24 district court resigns, the judge shall submit a copy of the
25 resignation to the state commissioner of elections at the time
26 the judge submits the resignation to the governor; and when a
27 judge of the supreme court, court of appeals, or district
28 court dies, the clerk of district court of the county of the
29 judge's residence shall in writing forthwith notify the state
30 commissioner of elections of such fact.
31   Sec. 2. Section 602.1215, subsection 1, Code 2005, is
32 amended to read as follows:
33   1. Subject to the provisions of section 602.1209,
34 subsection 3, the district-judges chief judge of each judicial
35 election district, after consultation with the judges of the

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1 appropriate judicial election district, shall ~~by-majority-vote~~
2 appoint persons to serve as clerks of the district court
3 within the judicial ~~election~~ district. The ~~district-judges~~
4 chief judge of a judicial ~~election~~ district may appoint a
5 person to serve as clerk of the district court for more than
6 one but not more than four contiguous counties in the same
7 judicial district. A person does not qualify for appointment
8 to the office of clerk of the district court unless the person
9 is at the time of application a resident of the state. A
10 clerk of the district court may be removed from office for
11 cause by ~~a-majority-vote-of~~ the ~~district-judges~~ chief judge of
12 the judicial ~~election~~ district. Before removal, the clerk of
13 the district court shall be notified of the cause for removal.
14   Sec. 3. Section 602.1217, subsection 1, Code 2005, is
15 amended to read as follows:
16   1. The ~~district-judges-within-a~~ chief judge of each
17 judicial district, ~~by-majority-vote,~~ after consultation with
18 the judges of the judicial district, shall appoint a chief
19 juvenile court officer and may remove the officer for cause.
20   Sec. 4. Section 602.4102, subsection 5, Code 2005, is
21 amended to read as follows:
22   5. The court of appeals shall extend the time for filing
23 of an application if the court of appeals determines that a
24 failure to timely file an application was due to the failure
25 of the clerk of the court of appeals to notify the prospective
26 applicant of the filing of the decision. ~~If-an-application~~
27 ~~for-further-review-is-not-acted-upon-by-the-supreme-court~~
28 ~~within-thirty-days-after-the-application-was-filed,-the~~
29 ~~application-is-deemed-denied,-the-supreme-court-loses~~
30 ~~jurisdiction,-and-the-decision-of-the-court-of-appeals-is~~
31 ~~conclusive.~~
32   Sec. 5. Section 602.6301, Code 2005, is amended to read as
33 follows:
34   602.6301 NUMBER AND APPORTIONMENT OF DISTRICT ASSOCIATE
35 JUDGES.

1   There shall be one district associate judge in counties
2 having a population of more than thirty-five thousand and less
3 than eighty thousand; two in counties having a population of
4 eighty thousand or more and less than one hundred twenty-five
5 thousand; three in counties having a population of one hundred
6 twenty-five thousand or more and less than ~~two~~ one hundred
7 seventy-five thousand; four in counties having a population of
8 ~~two~~ one hundred seventy-five thousand or more and less than
9 two hundred ~~thirty-five~~ fifteen thousand; five in counties
10 having a population of two hundred ~~thirty-five~~ fifteen
11 thousand or more and less than two hundred ~~seventy~~ sixty
12 thousand; six in counties having a population of two hundred
13 ~~seventy~~ sixty thousand or more and less than three hundred
14 five thousand; and seven in counties having a population of
15 three hundred five thousand or more and less than three
16 hundred fifty thousand; eight in counties having a population
17 of three hundred fifty thousand or more and less than three
18 hundred ninety-five thousand; nine in counties having a
19 population of three hundred ninety-five thousand or more and
20 less than four hundred forty thousand; ten in counties having
21 a population of four hundred forty thousand or more and less
22 than four hundred eighty-five thousand; and one additional
23 judge for every population increment of thirty-five thousand
24 which is over four hundred eighty-five thousand in such
25 counties. However, a county shall not lose a district
26 associate judgeship solely because of a reduction in the
27 county's population. If the formula provided in this section
28 results in the allocation of an additional district associate
29 judgeship to a county, implementation of the allocation shall
30 be subject to prior approval of the supreme court and
31 availability of funds to the judicial branch. A district
32 associate judge appointed pursuant to section 602.6302 shall
33 not be counted for purposes of this section.
34   Sec. 6. 2003 Iowa Acts, chapter 151, section 64, is
35 amended to read as follows:

1   SEC. 64.   The sections of this Act amending ~~section 46.12~~;
2 section 602.6304, subsections 2 and 3; and sections 602.6403,
3 602.7103B, and 633.20B are repealed on July 1, ~~2006~~ 2007.
4   Sec. 7.   DELAYS IN FILLING DISTRICT COURT JUDGE VACANCY.
5 When a vacancy occurs or will occur as provided in section
6 46.12, subsection 2, the chief justice may order the state
7 commissioner of elections to delay sending the notification.
8 The chief justice may order the delay for up to one hundred
9 eighty days for budgetary reasons. This section is repealed
10 on July 1, 2007.
11   EXPLANATION
12   This bill relates to practices and procedures of the
13 judicial branch.
14   The bill provides the chief justice may delay the
15 appointment of any trial court judge or magistrate for up to
16 180 days for budgetary reasons through July 1, 2007. Current
17 law provides that the chief justice may delay the appointment
18 of any judge or magistrate only through July 1, 2006.
19   The bill repeals the provisions permitting the chief
20 justice to delay the appointment of a supreme court justice or
21 court of appeals judge for up to 180 days for budgetary
22 reasons.
23   Under the bill, the chief judge of a judicial district
24 shall, after consultation with the judges of the judicial
25 election district, appoint to or remove from office the clerk
26 of the district court. Current law provides that the clerk of
27 the district court is appointed or removed from office by a
28 majority vote of the district judges within the judicial
29 election district.
30   The bill also provides that the chief judge of a judicial
31 district shall, after consultation with the judges of the
32 judicial district, appoint to or remove from office the chief
33 juvenile court officer. Current law provides the juvenile
34 court officer shall be appointed to or removed from office by
35 a majority vote of the district judges of the judicial

1 district.
2   The bill increases the number of district associate judges
3 eligible to be appointed in a county based upon the population
4 of that county.
5   The bill strikes the requirement that the supreme court has
6 30 days to act upon an application for further review from a
7 court of appeals decision. Current law requires the supreme
8 court to act upon an application for further review of a court
9 of appeals decision within 30 days after the application is
10 filed or the decision by the court of appeals is conclusive.
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H-1171

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 1     Amend House File 711 as follows:
 2     1.   Page 1, lines 18 and 19, by striking the words
 3 "The chief justice may order the delay for budgetary
 4 reasons."
 5     2.   Page 4, line 3, by striking the figure "2007"
 6 and inserting the following:  "2009".
 7     3.   Page 4, by striking line 4, and inserting the
 8 following:
 9     "Sec. ___.   DELAYS IN FILLING SUPREME COURT
10 JUSTICE, APPEALS COURT JUDGE, AND DISTRICT COURT JUDGE
11 VACANCIES.
12     1.   When a vacancy occurs or will occur as provided
13 in section 46.12, subsection 1, the chief justice may
14 order the state commissioner of elections to delay
15 sending the notification.  The chief justice may order
16 the delay for up to one hundred eighty days for
17 budgetary reasons.  This subsection is repealed on
18 July 1, 2006."
19     4.   Page 4, line 5, by inserting before the word
20 "When" the following:  "2."
21     5.   Page 4, lines 9 and 10, by striking the words
22 "This section is repealed on July 1, 2007" and
23 inserting the following:  "This subsection is repealed
24 on July 1, 2009".
25     6.   Title page, line 3, by inserting after the
26 word "level" the following:  ", and providing for
27 temporary delays in filling judgeships".
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By EICHHORN of Hamilton

SWAIM of Davis

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H-1171   FILED MARCH 23, 2005

Fiscal Services Division
Legislative Services Agency
Fiscal Note

HF 711 - Court Officers (LSB 1240 HV)
Analyst: Jennifer Acton (Phone: (515) 281-7846) (jennifer.acton@legis.state.ia.us)
Fiscal Note Version - New

Description

House File 711 relates to Judicial Branch procedures involving the appointment process of certain officers and judges and applications for further review at the appellate level.

Background

1. House File 694 (Courts Practices and Procedures Act) in the 2003 Legislative Session allowed the Chief Justice of the Supreme Court to delay, up to 180 days, the nomination process of a judge for budgetary reasons.
2. House File 711 extends the 180-day delay through FY 2007 for District Court Judge vacancies, but repeals provisions permitting the delay in the appointment of Supreme Court Justices or Court of Appeals Judges. Current law provides that the Chief Justice may delay the appointment of a judge for budgetary reasons through FY 2006.
3. Judges' salaries are set in the Section 602.1501, Code of Iowa.
4. The 2005 compensation (including salary and benefits) for a District Court Judge is $129,572; for a District Associate Judge and Associate Judges is $114,562; and Magistrates is $36,848.
5. House File 711 increases the number of District Associate Judges eligible to be appointed in a county, based on the population of that county. Currently, there are 54 District Associate Judges.
6. As part of the Judicial Branch's FY 2006 budget request, the Judicial Branch requested $1.0 million for five District Associate Judges, five three-fourths time court attendants, and five court reporters.

Assumptions

1. There are typically two to three openings per year for either District Court Judges, District Associate Judges, or a combination thereof. There are rarely any vacancies at the Magistrate level.
2. The expansion of the District Associate Judge population formula entitles the Judicial Branch to add five additional judges, but current law and budgetary constraints restrict the Judicial Branch's ability to fill these positions. If the Judicial Branch added an additional judge ($115,000), they may also seek funds to add a court reporter ($70,000) and a three-fourths time court attendant ($29,000) as requested in the Judicial Branch's FY 2006 budget request.

Fiscal Impact

The cost savings to the Judicial Branch from extending the 180-day delay in filling District Court Judge vacancies for another year will range from $115,000 for two District Associate Judges to $194,000 for three District Court Judges.

The fiscal impact of adding five District Associate Judges, five three-fourths time court attendants, and five court reporters is $1.0 million.

Source

Judicial Branch

/s/ Holly M. Lyons

March 22, 2005

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

HOUSE FILE 711

BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 198)

(As Amended and Passed by the House March 29, 2005)

Re- Passed House, Date *4-19-06*   Passed Senate, Date *5-3-05*
Vote: Ayes *97* Nays *0*   Vote: Ayes *50* Nays *0*
                Approved _____ *Re-passed*
                                    5-24-05 50-0

A BILL FOR

1 An Act relating to judicial branch procedures involving the
2   appointment process of certain officers and judges and
3   applications for further review at the appellate level, and
4   providing for temporary delays in filling judgeships.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6
7   House Amendments _____
8   Deleted Language ✳

HOUSE FILE 711

S-3239
1   Amend House File 711, as amended, passed, and
2 reprinted by the House, as follows:
3   1. By striking page 1, line 30, through page 2,
4 line 12.
5   2. By renumbering as necessary.
                    By KEITH A. KREIMAN

S-3239 FILED MAY 3, 2005
ADOPTED

**SENATE AMENDMENT TO
HOUSE FILE 711**

H-1627
1   Amend House File 711, as amended, passed, and
2 reprinted by the House, as follows:
3   1. By striking page 1, line 30, through page 2,
4 line 12.
5   2. By renumbering as necessary.
                    RECEIVED FROM THE SENATE
H-1627 FILED MAY 5, 2005

1   Section 1.   Section 46.12, Code 2005, is amended to read as
2 follows:
3   46.12   NOTIFICATION OF VACANCY AND RESIGNATION.
4   1. When a vacancy occurs or will occur within one hundred
5 twenty days in the supreme court, or the court of appeals, or
6 district-court, the state commissioner of elections shall
7 forthwith so notify the chairperson of the proper judicial
8 nominating commission,-unless-the-chief-justice-has-ordered
9 the-state-commissioner-of-elections-to-delay-sending-the
10 notification.--The-chief-justice-may-order-the-delay-for-up-to
11 one-hundred-eighty-days-for-budgetary-reasons.   The
12 chairperson shall call a meeting of the commission within ten
13 days after such notice; if the chairperson fails to do so, the
14 chief justice shall call such meeting.
15   2. When a vacancy occurs or will occur within one hundred
16 twenty days in district court, the state commissioner of
17 elections shall forthwith so notify the chairperson of the
18 proper judicial nominating commission. The chairperson shall
19 call a meeting of the commission within ten days after such
20 notice; if the chairperson fails to do so, the chief justice
21 shall call such meeting.
22   3. When a judge of the supreme court, court of appeals, or
23 district court resigns, the judge shall submit a copy of the
24 resignation to the state commissioner of elections at the time
25 the judge submits the resignation to the governor; and when a
26 judge of the supreme court, court of appeals, or district
27 court dies, the clerk of district court of the county of the
28 judge's residence shall in writing forthwith notify the state
29 commissioner of elections of such fact.
30   Sec. 2.   Section 602.1215, subsection 1, Code 2005, is
31 amended to read as follows:
32   1.   Subject to the provisions of section 602.1209,
33 subsection 3, the district-judges chief judge of each judicial
34 election district, after consultation with the judges of the
35 appropriate judicial election district, shall by-majority-vote

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1 appoint persons to serve as clerks of the district court
2 within the judicial ~~election~~ district. The ~~district judges~~
3 chief judge of a judicial ~~election~~ district may appoint a
4 person to serve as clerk of the district court for more than
5 one but not more than four contiguous counties in the same
6 judicial district. A person does not qualify for appointment
7 to the office of clerk of the district court unless the person
8 is at the time of application a resident of the state. A
9 clerk of the district court may be removed from office for
10 cause by ~~a majority vote of~~ the ~~district judges~~ chief judge of
11 the judicial ~~election~~ district. Before removal, the clerk of
12 the district court shall be notified of the cause for removal.
13   Sec. 3. Section 602.1217, subsection 1, Code 2005, is
14 amended to read as follows:
15   1. The ~~district judges within a~~ chief judge of each
16 judicial district, ~~by majority vote,~~ after consultation with
17 the judges of the judicial district, shall appoint a chief
18 juvenile court officer and may remove the officer for cause.
19   Sec. 4. Section 602.4102, subsection 5, Code 2005, is
20 amended to read as follows:
21   5. The court of appeals shall extend the time for filing
22 of an application if the court of appeals determines that a
23 failure to timely file an application was due to the failure
24 of the clerk of the court of appeals to notify the prospective
25 applicant of the filing of the decision. ~~If an application~~
26 ~~for further review is not acted upon by the supreme court~~
27 ~~within thirty days after the application was filed, the~~
28 ~~application is deemed denied, the supreme court loses~~
29 ~~jurisdiction, and the decision of the court of appeals is~~
30 ~~conclusive.~~
31   Sec. 5. Section 602.6301, Code 2005, is amended to read as
32 follows:
33   602.6301 NUMBER AND APPORTIONMENT OF DISTRICT ASSOCIATE
34 JUDGES.
35   There shall be one district associate judge in counties

1 having a population of more than thirty-five thousand and less
2 than eighty thousand; two in counties having a population of
3 eighty thousand or more and less than one hundred twenty-five
4 thousand; three in counties having a population of one hundred
5 twenty-five thousand or more and less than ~~two~~ one hundred
6 seventy-five thousand; four in counties having a population of
7 ~~two~~ one hundred seventy-five thousand or more and less than
8 two hundred ~~thirty-five~~ fifteen thousand; five in counties
9 having a population of two hundred ~~thirty-five~~ fifteen
10 thousand or more and less than two hundred ~~seventy~~ sixty
11 thousand; six in counties having a population of two hundred
12 ~~seventy~~ sixty thousand or more and less than three hundred
13 five thousand; and seven in counties having a population of
14 three hundred five thousand or more and less than three
15 hundred fifty thousand; eight in counties having a population
16 of three hundred fifty thousand or more and less than three
17 hundred ninety-five thousand; nine in counties having a
18 population of three hundred ninety-five thousand or more and
19 less than four hundred forty thousand; ten in counties having
20 a population of four hundred forty thousand or more and less
21 than four hundred eighty-five thousand; and one additional
22 judge for every population increment of thirty-five thousand
23 which is over four hundred eighty-five thousand in such
24 counties. However, a county shall not lose a district
25 associate judgeship solely because of a reduction in the
26 county's population. If the formula provided in this section
27 results in the allocation of an additional district associate
28 judgeship to a county, implementation of the allocation shall
29 be subject to prior approval of the supreme court and
30 availability of funds to the judicial branch. A district
31 associate judge appointed pursuant to section 602.6302 shall
32 not be counted for purposes of this section.
33   Sec. 6. 2003 Iowa Acts, chapter 151, section 64, is
34 amended to read as follows:
35   SEC. 64. The sections of this Act amending ~~section-46.12,~~

1 section 602.6304, subsections 2 and 3; and sections 602.6403,

2 602.7103B, and 633.20B are repealed on July 1, ~~2006~~ 2009.

3   Sec. 7.   DELAYS IN FILLING SUPREME COURT JUSTICE, APPEALS

4 COURT JUDGE, AND DISTRICT COURT JUDGE VACANCIES.

5   1.   When a vacancy occurs or will occur as provided in

6 section 46.12, subsection 1, the chief justice may order the

7 state commissioner of elections to delay sending the

8 notification. The chief justice may order the delay for up to

9 one hundred eighty days for budgetary reasons. This

10 subsection is repealed on July 1, 2006.

11   2.   When a vacancy occurs or will occur as provided in

12 section 46.12, subsection 2, the chief justice may order the

13 state commissioner of elections to delay sending the

14 notification. The chief justice may order the delay for up to

15 one hundred eighty days for budgetary reasons. This

16 subsection is repealed on July 1, 2009.

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S-5212

1   Amend the amendment, H-1627, to House File 711, as
2 amended, passed, and reprinted by the House, as
3 follows:
4   1. Page 1, by inserting after line 2 the
5 following:
6   "___ .· Page 1, by striking lines 1 through 29."
7   2. Page 1, by inserting after line 4 the
8 following:
9   "___ . By striking page 2, line 19, through page
10 4, line 16.
11   ___ . Title page, by striking lines 1 through 4,
12 and inserting the following: "An Act relating to the
13 appointment of a chief juvenile court officer.""

                                    RECEIVED FROM THE HOUSE

S-5212   FILED APRIL 19, 2006

HOUSE FILE 711

H-8561

1   Amend the amendment, H-1627, to House File 711, as
2 amended, passed, and reprinted by the House, as
3 follows:
4   1. Page 1, by inserting after line 2 the
5 following:
6   "___ . Page 1, by striking lines 1 through 29."
7   2. Page 1, by inserting after line 4 the
8 following:
9   "___ . By striking page 2, line 19, through page
10 4, line 16.
11   ___ . Title page, by striking lines 1 through 4,
12 and inserting the following: "An Act relating to the
13 appointment of a chief juvenile court officer.""

                                    By PAULSEN of Linn

H-8561   FILED APRIL 19, 2006
ADOPTED

Fiscal Services Division
Legislative Services Agency
Fiscal Note

HF 711 - Court Officers (LSB 1240 HV.1)
Analyst: Jennifer Acton (Phone: (515) 281-7846) (jennifer.acton@legis.state.ia.us)
Fiscal Note Version – As Amended and Passed by the House

Description

House File 711, as amended and passed by the House, relates to Judicial Branch procedures involving the appointment process of certain officers and judges and applications for further review at the appellate level, and providing for temporary delays in filling judgeships.

Background

1. House File 694 (Courts Practices and Procedures Act) in the 2003 Legislative Session allowed the Chief Justice of the Supreme Court to delay, up to 180 days, the nomination process of a judge for budgetary reasons.
2. House File 711, as amended and passed by the House, extends the 180-day delay through FY 2009 for District Court Judge vacancies, but repeals provisions permitting the delay in the appointment of Supreme Court Justices or Court of Appeals Judges. Current law provides that the Chief Justice may delay the appointment of a judge for budgetary reasons through FY 2006.
3. Judges' salaries are set in the Section 602.1501, Code of Iowa.
4. The 2005 compensation (including salary and benefits) for a District Court Judge is $129,572; for a District Associate Judge and Associate Judges is $114,562; and Magistrates is $36,848.
5. House File 711, as amended and passed by the House, increases the number of District Associate Judges eligible to be appointed in a county, based on the population of that county. Currently, there are 54 District Associate Judges.
6. As part of the Judicial Branch's FY 2006 budget request, the Judicial Branch requested $1.0 million for five District Associate Judges, five three-fourths time court attendants, and five court reporters.

Assumptions

1. There are typically two to three openings per year for either District Court Judges, District Associate Judges, or a combination thereof. There are rarely any vacancies at the Magistrate level.
2. The expansion of the District Associate Judge population formula entitles the Judicial Branch to add five additional judges, but current law and budgetary constraints restrict the Judicial Branch's ability to fill these positions. If the Judicial Branch added an additional judge ($115,000), they may also seek funds to add a court reporter ($70,000) and a three-fourths time court attendant ($29,000) as requested in the Judicial Branch's FY 2006 budget request.

Fiscal Impact

The cost savings in FY 2007 to the Judicial Branch from extending the 180-day delay in filling District Court Judge vacancies for another year will range from $115,000 for two District Associate Judges to $194,000 for three District Court Judges. These cost savings are estimated to be similar (although possibly slightly higher depending on cost-of-living increases for the judges) in FY 2008 and FY 2009.

The fiscal impact of adding five District Associate Judges, five three-fourths time court attendants, and five court reporters is $1.0 million.

Source

Judicial Branch

<div style="text-align: right;">

/s/ Holly M. Lyons

April 4, 2005

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Fiscal Services Division
Legislative Services Agency
Fiscal Note

HF 711 - Court Officers (LSB 1240 HV.3)
Analyst: Jennifer Acton (Phone: (515) 281-7846) (jennifer.acton@legis.state.ia.us)
Fiscal Note Version – As Amended and Passed by the Senate

Description

House File 711, as amended and passed by the Senate, relates to Judicial Branch procedures involving the appointment process of certain officers and judges and applications for further review at the appellate level, and providing for temporary delays in filling judgeships.

Background

1. House File 694 (Courts Practices and Procedures Act) in the 2003 Legislative Session allowed the Chief Justice of the Supreme Court to delay, up to 180 days, the nomination process of a judge for budgetary reasons.
2. House File 711, as amended and passed by the Senate, extends the 180-day delay through FY 2009 for District Court Judge vacancies, but repeals provisions permitting the delay in the appointment of Supreme Court Justices or Court of Appeals Judges. Current law provides that the Chief Justice may delay the appointment of a judge for budgetary reasons through FY 2006.
3. The Senate amendment restores current law regarding the appointment and removal of clerks of district court.
4. Judges' salaries are set in the Section 602.1501, **Code of Iowa**.
5. The 2005 compensation (including salary and benefits) for a District Court Judge is $129,572; for a District Associate Judge and Associate Judges is $114,562; and Magistrates is $36,848.
6. House File 711, as amended and passed by the Senate, increases the number of District Associate Judges eligible to be appointed in a county, based on the population of that county. Currently, there are 54 District Associate Judges.
7. As part of the Judicial Branch's FY 2006 budget request, the Judicial Branch requested $1.0 million for five District Associate Judges, five three-fourths time court attendants, and five court reporters.

Assumptions

1. There are typically two to three openings per year for either District Court Judges, District Associate Judges, or a combination thereof. There are rarely any vacancies at the Magistrate level.
2. The expansion of the District Associate Judge population formula entitles the Judicial Branch to add five additional judges, but current law and budgetary constraints restrict the Judicial Branch's ability to fill these positions. If the Judicial Branch added an additional judge ($115,000), they may also seek funds to add a court reporter ($70,000) and a three-fourths time court attendant ($29,000) as requested in the Judicial Branch's FY 2006 budget request.

Fiscal Impact

The cost savings in FY 2007 to the Judicial Branch from extending the 180-day delay in filling District Court Judge vacancies for another year will range from $115,000 for two District Associate Judges to $194,000 for three District Court Judges. These cost savings are estimated to be similar (although possibly slightly higher depending on cost-of-living increases for the judges) in FY 2008 and FY 2009.

The fiscal impact of adding five District Associate Judges, five three-fourths time court attendants, and five court reporters is $1.0 million.

Source

Judicial Branch

/s/ Holly M. Lyons

May 3, 2005

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

Suc
SF ⃝711

HSB 198
JUDICIARY

SENATE/HOUSE FILE _____

BY (PROPOSED JUDICIAL BRANCH
BILL)

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

A BILL FOR

1 An Act relating to the appointment of a judicial officer, a clerk
2   of the district court, or a chief juvenile court officer.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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1   Section 1. Section 46.12, Code 2005, is amended to read as
2 follows:
3   46.12 NOTIFICATION OF VACANCY AND RESIGNATION.
4   1. When a vacancy occurs or will occur within one hundred
5 twenty days in the supreme court, or the court of appeals, or
6 district court, the state commissioner of elections shall
7 forthwith so notify the chairperson of the proper judicial
8 nominating commission, unless the chief justice has ordered
9 the state commissioner of elections to delay sending the
10 notification. The chief justice may order the delay for up to
11 one hundred eighty days for budgetary reasons. The
12 chairperson shall call a meeting of the commission within ten
13 days after such notice; if the chairperson fails to do so, the
14 chief justice shall call such meeting.
15   2. When a vacancy occurs or will occur within one hundred
16 twenty days in district court, the state commissioner of
17 elections shall forthwith so notify the chairperson of the
18 proper judicial nominating commission, unless the chief
19 justice has ordered the state commissioner of elections to
20 delay sending the notification. The chief justice may order
21 the delay for budgetary reasons. The chairperson shall call a
22 meeting of the commission within ten days after such notice;
23 if the chairperson fails to do so, the chief justice shall
24 call such meeting.
25   3. When a judge of the supreme court, court of appeals, or
26 district court resigns, the judge shall submit a copy of the
27 resignation to the state commissioner of elections at the time
28 the judge submits the resignation to the governor; and when a
29 judge of the supreme court, court of appeals, or district
30 court dies, the clerk of district court of the county of the
31 judge's residence shall in writing forthwith notify the state
32 commissioner of elections of such fact.
33   Sec. 2. Section 602.1215, subsection 1, Code 2005, is
34 amended to read as follows:
35   1. Subject to the provisions of section 602.1209,

1 subsection 3, the ~~district-judges~~ chief judge of each judicial
2 ~~election~~ district, after consultation with the judges of the
3 appropriate judicial election district, shall ~~by-majority-vote~~
4 appoint persons to serve as clerks of the district court
5 within the judicial ~~election~~ district. The ~~district-judges~~
6 chief judge of a judicial ~~election~~ district may appoint a
7 person to serve as clerk of the district court for more than
8 one but not more than four contiguous counties in the same
9 judicial district. A person does not qualify for appointment
10 to the office of clerk of the district court unless the person
11 is at the time of application a resident of the state. A
12 clerk of the district court may be removed from office for
13 cause by ~~a-majority-vote-of~~ the ~~district-judges~~ chief judge of
14 the judicial ~~election~~ district. Before removal, the clerk of
15 the district court shall be notified of the cause for removal.
16   Sec. 3. Section 602.1217, subsection 1, Code 2005, is
17 amended to read as follows:
18   1. The ~~district-judges-within-a~~ chief judge of each
19 judicial district, ~~by-majority-vote,~~ after consultation with
20 the judges of the judicial district, shall appoint a chief
21 juvenile court officer and may remove the officer for cause.
22   Sec. 4. Section 602.4102, subsection 5, Code 2005, is
23 amended to read as follows:
24   5. The court of appeals shall extend the time for filing
25 of an application if the court of appeals determines that a
26 failure to timely file an application was due to the failure
27 of the clerk of the court of appeals to notify the prospective
28 applicant of the filing of the decision. ~~If-an-application~~
29 ~~for-further-review-is-not-acted-upon-by-the-supreme-court~~
30 ~~within-thirty-days-after-the-application-was-filed,-the~~
31 ~~application-is-deemed-denied,-the-supreme-court-loses~~
32 ~~jurisdiction,-and-the-decision-of-the-court-of-appeals-is~~
33 ~~conclusive.~~
34   Sec. 5. Section 602.6301, Code 2005, is amended to read as
35 follows:

1 602.6301 NUMBER AND APPORTIONMENT OF DISTRICT ASSOCIATE
2 JUDGES.
3   There shall be one district associate judge in counties
4 having a population of more than thirty-five thousand and less
5 than eighty thousand; two in counties having a population of
6 eighty thousand or more and less than one hundred twenty-five
7 thousand; three in counties having a population of one hundred
8 twenty-five thousand or more and less than ~~two~~ one hundred
9 seventy-five thousand; four in counties having a population of
10 ~~two~~ one hundred seventy-five thousand or more and less than
11 two hundred ~~thirty-five~~ fifteen thousand; five in counties
12 having a population of two hundred ~~thirty-five~~ fifteen
13 thousand or more and less than two hundred ~~seventy~~ sixty
14 thousand; six in counties having a population of two hundred
15 ~~seventy~~ sixty thousand or more and less than three hundred
16 five thousand; and seven in counties having a population of
17 three hundred five thousand or more and less than three
18 hundred fifty thousand; eight in counties having a population
19 of three hundred fifty thousand or more and less than three
20 hundred ninety-five thousand; nine in counties having a
21 population of three hundred ninety-five thousand or more and
22 less than four hundred forty thousand; ten in counties having
23 a population of four hundred forty thousand or more and less
24 than four hundred eighty-five thousand; and one additional
25 judge for every population increment of thirty-five thousand
26 which is over four hundred eighty-five thousand in such
27 counties. However, a county shall not lose a district
28 associate judgeship solely because of a reduction in the
29 county's population. If the formula provided in this section
30 results in the allocation of an additional district associate
31 judgeship to a county, implementation of the allocation shall
32 be subject to prior approval of the supreme court and
33 availability of funds to the judicial branch. A district
34 associate judge appointed pursuant to section 602.6302 shall
35 not be counted for purposes of this section.

1   Sec. 6. Section 602.6304, subsections 2 and 3, Code 2005,
2 are amended to read as follows:
3   2. In November of any year in which an impending vacancy
4 is created because a district associate judge is not retained
5 in office pursuant to a judicial election, the county
6 magistrate appointing commission shall publicize notice of the
7 vacancy in at least two publications in the official county
8 newspaper. The commission shall accept applications for
9 consideration for nomination as district associate judge for a
10 minimum of fifteen days prior to certifying nominations. The
11 commission shall consider the applications and shall, by
12 majority vote, certify to the chief judge of the judicial
13 district not later than December 15 of that year the names of
14 three applicants who are nominated by the commission for the
15 vacancy, unless the chief justice has ordered the commission
16 to delay the certification of the nominees to the chief judge.
17 The chief justice may order the delay of the certification ~~for~~
18 ~~up-to-one-hundred-eighty-days~~ for budgetary reasons. If there
19 are three or fewer applicants the commission shall certify all
20 applicants who meet the statutory qualifications. Nominees
21 shall be chosen solely on the basis of the qualifications of
22 the applicants, and political affiliation shall not be
23 considered.
24   3. Within thirty days after a county magistrate appointing
25 commission receives notification of an actual or impending
26 vacancy in the office of district associate judge, other than
27 a vacancy referred to in subsection 2, the commission shall
28 certify to the chief judge of the judicial district the names
29 of three applicants who are nominated by the commission for
30 the vacancy, unless the chief justice has ordered the
31 commission to delay the certification of the nominees to the
32 chief judge. The chief justice may order the delay of the
33 certification ~~for-up-to-one-hundred-eighty-days~~ for budgetary
34 reasons. The commission shall publicize notice of the vacancy
35 in at least two publications in the official county newspaper.

1 The commission shall accept applications for consideration for
2 nomination as district associate judge for a minimum of
3 fifteen days prior to certifying nominations. The commission
4 shall consider the applications and shall, by majority vote,
5 certify to the chief judge of the judicial district the names
6 of three applicants who are nominated by the commission for
7 the vacancy. If there are three or fewer applicants the
8 commission shall certify all applicants who meet the statutory
9 qualifications. Nominees shall be chosen solely on the basis
10 of the qualifications of the applicants, and political
11 affiliation shall not be considered. As used in this
12 subsection, a vacancy is created by the death, retirement,
13 resignation, or removal of a district associate judge, or by
14 an increase in the number of positions authorized.
15   Sec. 7. Section 602.6403, subsection 3, Code 2005, is
16 amended to read as follows:
17   3. Within thirty days following receipt of notification of
18 a vacancy in the office of magistrate, the commission shall
19 appoint a person to the office to serve the remainder of the
20 unexpired term, unless the chief justice has ordered the
21 commission to delay the appointment ~~for-up-to-one-hundred~~
22 ~~eighty-days~~ for budgetary reasons. For purposes of this
23 section, vacancy means a death, resignation, retirement, or
24 removal of a magistrate, or an increase in the number of
25 positions authorized.
26   Sec. 8. Section 602.7103B, subsections 2 and 3, Code 2005,
27 are amended to read as follows:
28   2. In November of any year in which an impending vacancy
29 is created because a full-time associate juvenile judge is not
30 retained in office pursuant to a judicial election, the county
31 magistrate appointing commission shall publicize notice of the
32 vacancy in at least two publications in the official county
33 newspaper. The commission shall accept applications for
34 consideration for nomination as full-time associate juvenile
35 judge for a minimum of fifteen days prior to certifying

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

1 qualifications of the applicants, and political affiliation
2 shall not be considered. As used in this subsection, a
3 vacancy is created by the death, retirement, resignation, or
4 removal of a full-time associate juvenile judge, or by an
5 increase in the number of positions authorized.
6   Sec. 9. Section 633.20B, subsections 2 and 3, Code 2005,
7 are amended to read as follows:
8   2. In November of any year in which an impending vacancy
9 is created because a full-time associate probate judge is not
10 retained in office pursuant to a judicial election, the county
11 magistrate appointing commission shall publicize notice of the
12 vacancy in at least two publications in the official county
13 newspaper. The commission shall accept applications for
14 consideration for nomination as full-time associate probate
15 judge for a minimum of fifteen days prior to certifying
16 nominations. The commission shall consider the applications
17 and shall, by majority vote, certify to the chief judge of the
18 judicial district not later than December 15 of that year the
19 names of three applicants who are nominated by the commission
20 for the vacancy, unless the chief justice has ordered the
21 commission to delay the certification of the nominees to the
22 chief judge. The chief justice may order the delay of the
23 certification ~~for-up-to-one-hundred-eighty-days~~ for budgetary
24 reasons. If there are three or fewer applicants, the
25 commission shall certify all applicants who meet the statutory
26 qualifications. Nominees shall be chosen solely on the basis
27 of the qualifications of the applicants, and political
28 affiliation shall not be considered.
29   3. Within thirty days after a county magistrate appointing
30 commission receives notification of an actual or impending
31 vacancy in the office of full-time associate probate judge,
32 other than a vacancy referred to in subsection 2, the
33 commission shall certify to the chief judge of the judicial
34 district the names of three applicants who are nominated by
35 the commission for the vacancy, unless the chief justice has

1 ordered the commission to delay the certification of the
2 nominees to the chief judge. The chief justice may order the
3 delay of the certification ~~for-up-to-one-hundred-eighty-days~~
4 for budgetary reasons. The commission shall publicize notice
5 of the vacancy in at least two publications in the official
6 county newspaper. The commission shall accept applications
7 for consideration for nomination as full-time associate
8 probate judge for a minimum of fifteen days prior to
9 certifying nominations. The commission shall consider the
10 applications and shall, by majority vote, certify to the chief
11 judge of the judicial district the names of three applicants
12 who are nominated by the commission for the vacancy. If there
13 are three or fewer applicants, the commission shall certify
14 all applicants who meet the statutory qualifications.
15 Nominees shall be chosen solely on the basis of the
16 qualifications of the applicants, and political affiliation
17 shall not be considered. As used in this subsection, a
18 vacancy is created by the death, retirement, resignation, or
19 removal of a full-time associate probate judge, or by an
20 increase in the number of positions authorized.
21   Sec. 10. DELAYS IN FILLING SUPREME COURT OR COURT OF
22 APPEALS VACANCY. When a vacancy occurs or will occur as
23 provided for in section 46.12, subsection 1, the chief justice
24 may order the state commissioner of elections to delay sending
25 the notification. The chief justice may order the delay for
26 up to one hundred eighty days for budgetary reasons. This
27 section is repealed on July 1, 2006.
28   Sec. 11. 2003 Iowa Acts, chapter 151, section 64, is
29 repealed.
30   EXPLANATION
31   This bill relates to practices and procedures of the
32 judicial branch.
33   The bill provides the chief justice may delay the
34 appointment of a judge or magistrate for budgetary reasons.
35 Current law provides only through July 1, 2006, that the chief

1 justice may delay the appointment of a judge or magistrate for
2 up to 180 days for budgetary reasons.
3   The bill does not change current law regarding the chief
4 justice delaying the appointment of a supreme court justice or
5 court of appeals judge for up to 180 days for budgetary
6 reasons. The repeal of this provision remains effective July
7 1, 2006; thus after July 1, 2006, the chief justice will no
8 longer be able to delay the appointment of a supreme court
9 justice or court of appeals judge for budgetary reasons.
10   Under the bill, the chief judge of a judicial district
11 shall, after consultation with the judges of the judicial
12 election district, appoint to or remove from office the clerk
13 of the district court. Current law provides that the clerk of
14 the district court is appointed or removed from office by a
15 majority vote of the district judges within the judicial
16 election district.
17   The bill also provides the chief judge of a judicial
18 district shall, after consultation with the judges of the
19 judicial district, appoint to or remove from office the chief
20 juvenile court officer. Current law provides the juvenile
21 court officer shall be appointed to or removed from office by
22 a majority vote of the district judges of the judicial
23 district.
24   The bill increases the number of district associate judges
25 eligible to be appointed in a county based upon the population
26 of that county.
27   The bill strikes the requirement that the supreme court has
28 30 days to act upon an application for further review from a
29 court of appeals decision. Current law requires the supreme
30 court to act upon an application for further review of a court
31 of appeals decision within 30 days after the application is
32 filed or the decision by the court of appeals is conclusive.
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MEMORANDUM

TO: MEMBERS OF THE GENERAL ASSEMBLY

FROM: IOWA JUDICIAL BRANCH

DATE: February 3, 2005

RE: TLSB 1240DP

This bill proposes statutory changes regarding the appointment process for certain judicial officers and employees of the judicial branch, and revises the current statutory formula for district associate judgeships.

Currently, the district judges sitting en banc in each judicial district are responsible for the hiring and removal of the clerk of the district court in each county and the district's chief juvenile court officer. The current system results in multiple bosses to whom an employee is answerable, which can lead to conflicting directions and confusion concerning procedures. This also weakens employee accountability and undermines the efficacy of disciplinary procedures. Sections 2 and 3 of the proposed bill would authorize the chief judge of each judicial district, after consultation with the judges of the district, to hire and remove these employees. Giving the power to hire and remove and employee to a single supervisor, in this case the chief judge of the district would improve uniformity in practices and procedures. This would in turn enhance productivity. The change would also enhance employee accountability.

The population formula for district associate judges was last updated in 1994 when the limit on was raised from four judges for counties having a population of 200,000 or more, to seven judges for counties having a population of 305,000 or more. The limit needs to be raised and adjusted to address the population growth in the state's most populous counties. In addition, the current formula ties the number of judges to which a county is entitled to a variety of population increments, which on its face appears to be inequitable. This inequity would be removed if there were fewer or no variations in the population increments. The proposal in section 5 of the bill uses population increments of 45,000 per judge except for the initial population range. This revision would not result in any counties losing a judge, but it would make a number of counties eligible for more district associate judges. However, the statute currently includes a provision that ties allocation of additional judges subject to approval of the supreme court and availability of funds.

Chapter 151, Iowa Acts 2003, authorized the chief justice to order the state commission of elections to delay sending the notification of vacancy to the appropriate nominating commission for up to 180 days for budgetary reasons. The laws are set to sunset July 1, 2006. This new procedure expands the types of cost cutting measures available to the judicial branch. More importantly, it enables the Supreme Court to more equitably balance budget cuts across all court components with no exceptions by law. Lifting the time restriction and making this procedure permanent would provide the branch with the crucial management flexibility tough fiscal times demand.

AN ACT
RELATING TO THE APPOINTMENT OF A CHIEF JUVENILE COURT OFFICER.

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

Section 1. Section 602.1217, subsection 1, Code 2005, is amended to read as follows:

1. The ~~district-judges-within-a~~ chief judge of each judicial district, ~~by-majority-vote,~~ after consultation with the judges of the judicial district, shall appoint a chief juvenile court officer and may remove the officer for cause.

_____

CHRISTOPHER C. RANTS
Speaker of the House

_____

JEFFREY M. LAMBERTI
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 711, Eighty-first General Assembly.

_____

MARGARET THOMSON
Chief Clerk of the House

Approved _____, 2006

_____

THOMAS J. VILSACK
Governor

H.F. 711