

House Study Bill 638

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 district associate judges
2 and magistrates.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 5366DP 81
5 jm/je/5

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1 1 Section 1. Section 602.6301, Code 2005, is amended to read
1 2 as follows:
1 3 602.6301 NUMBER AND APPORTIONMENT OF DISTRICT ASSOCIATE
1 4 JUDGES.

1 5 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 one~~ hundred
1 11 ~~seventy~~ thousand; four in counties having a population of ~~two~~
1 12 ~~one~~ hundred ~~seventy~~ thousand or more and less than two hundred
1 13 ~~thirty-five~~ ~~fifteen~~ thousand; five in counties having a
1 14 population of two hundred ~~thirty-five~~ ~~fifteen~~ thousand or more
1 15 and less than two hundred ~~seventy~~ ~~sixty~~ thousand; six in
1 16 counties having a population of two hundred ~~seventy~~ ~~sixty~~
1 17 thousand or more and less than three hundred five thousand;
1 18 and seven in counties having a population of three hundred
1 19 five thousand or more ~~and less than three hundred fifty~~
1 20 ~~thousand; eight in counties having a population of three~~
1 21 ~~hundred fifty thousand or more and less than three hundred~~
1 22 ~~ninety-five thousand; nine in counties having a population of~~
1 23 ~~three hundred ninety-five thousand or more and less than four~~
1 24 ~~hundred forty thousand; ten in counties having a population of~~
1 25 ~~four hundred forty thousand or more and less than four hundred~~
1 26 ~~eighty-five thousand; and one additional judge for every~~
1 27 ~~population increment of thirty-five thousand which is over~~
1 28 ~~four hundred eighty-five thousand in such counties.~~ However,
1 29 a county shall not lose a district associate judgeship solely
1 30 because of a reduction in the county's population. If the
1 31 formula provided in this section results in the allocation of
1 32 an additional district associate judgeship to a county,
1 33 implementation of the allocation shall be subject to prior
1 34 approval of the supreme court and availability of funds to the
1 35 judicial branch. A district associate judge appointed
2 1 pursuant to section 602.6302 shall not be counted for purposes
2 2 of this section and the reduction of a district associate
2 3 judge pursuant to section 602.6303 also shall not be counted
2 4 for purposes of this section.

2 5 Sec. 2. NEW SECTION. 602.6303 APPOINTMENT OF MAGISTRATES
2 6 IN LIEU OF DISTRICT ASSOCIATE JUDGE.

2 7 1. The chief judge of the judicial district may designate
2 8 by order of substitution that three magistrates be appointed
2 9 pursuant to this section in lieu of the appointment of a
2 10 district associate judge under section 602.6304, subject to
2 11 the following limitations:
2 12 a. The substitution shall not result in the judicial
2 13 district receiving more magistrates than are authorized under
2 14 the magistrate formula in section 602.6401.
2 15 b. The substitution shall be approved by the supreme
2 16 court.
2 17 c. A majority of district judges in that judicial election
2 18 district, or in the case of an appointment involving more than
2 19 one judicial election district in the same judicial district,

2 20 a majority of the district judges in each judicial election
2 21 district, must vote in favor of the substitution and find that
2 22 the substitution will provide more timely and efficient
2 23 performance of judicial business within that judicial election
2 24 district.

2 25 2. An order of substitution shall not take effect unless a
2 26 copy of the order is received by the chairperson of the county
2 27 magistrate appointing commission or commissions no later than
2 28 May 31 of the year in which the substitution is to take
2 29 effect. The order shall designate the county of appointment
2 30 for each magistrate. A copy of the order shall also be sent
2 31 to the state court administrator.

2 32 3. For a county in which a substitution order is in
2 33 effect, the number of district associate judges actually
2 34 appointed pursuant to section 602.6304 shall be reduced by one
2 35 for each substitution order in effect.

3 1 4. Except as provided in subsections 1 through 3, a
3 2 substitution shall not increase or decrease the number of
3 3 district associate judges authorized by this article.

3 4 5. If a majority of the district judges in a judicial
3 5 election district determine that a substitution is no longer
3 6 desirable, then all three magistrate positions shall be
3 7 terminated. However, a reversion pursuant to this subsection
3 8 shall not take effect until the terms of the three magistrates
3 9 expire. Upon the termination of the magistrate positions
3 10 created under this section, an appointment shall be made to
3 11 reestablish the term of office for a district associate judge
3 12 as provided in sections 602.6304 and 602.6305.

3 13 Sec. 3. Section 602.6401, subsection 1, Code Supplement
3 14 2005, is amended to read as follows:

3 15 1. Two hundred six magistrates shall be apportioned among
3 16 the counties as provided in this section. Magistrates
3 17 appointed pursuant to section 602.6303 or 602.6402 shall not
3 18 be counted for purposes of this section.

3 19 Sec. 4. Section 602.6403, subsection 1, Code 2005, is
3 20 amended to read as follows:

3 21 1. By June 1 of each year in which magistrates' terms
3 22 expire, the county magistrate appointing commission shall
3 23 appoint, except as otherwise provided in section 602.6302, the
3 24 number of magistrates apportioned to the county by the state
3 25 court administrator under section 602.6401, the number of
3 26 magistrates required pursuant to substitution orders in effect
3 27 under section 602.6303, and may appoint an additional

3 28 magistrate when allowed by section 602.6402. The commission
3 29 shall not appoint more magistrates than are authorized for the
3 30 county by this article.

3 31 EXPLANATION

3 32 This bill relates to the appointment of district associate
3 33 judges and magistrates.

3 34 The bill increases the number of district associate judges
3 35 eligible to be appointed in a county based upon the population
4 1 of that county as provided in Code section 602.6301.

4 2 The bill provides that the chief judge of the judicial
4 3 election district may designate by order of substitution that
4 4 three magistrates be appointed in lieu of the appointment of a
4 5 vacant district associate judgeship. The appointment of the
4 6 three magistrates pursuant to the bill is subject to the
4 7 following limitations: the substitution shall not result in
4 8 the judicial district receiving more magistrates than are
4 9 authorized under the magistrate formula; the substitution is
4 10 approved by the supreme court; and a majority of district
4 11 judges in the judicial election district, or if the
4 12 appointments involve more than one judicial election district,
4 13 a majority of district judges in each election district, vote
4 14 to approve the substitution of three magistrates for one
4 15 district associate judgeship.

4 16 The bill requires a copy of the order of substitution be
4 17 received by the chairperson of the county magistrate
4 18 appointing commission or commissions no later than May 31 of
4 19 the year the order is to take effect. The bill also requires
4 20 the substitution order to designate the county of appointment
4 21 for each magistrate.

4 22 The bill provides that if a majority of district judges in
4 23 a judicial election district determines that a substitution
4 24 order is no longer desirable, then the substitution order
4 25 shall terminate. After the substitution order terminates
4 26 under the bill, and the terms of the magistrate positions
4 27 expire, an appointment shall be made to reestablish the term
4 28 of office for a district associate judge.

