

**House File 343 - Introduced**

HOUSE FILE 343

BY HAGENOW

**A BILL FOR**

1 An Act relating to the membership and procedures of the state  
2 judicial nominating commission, the procedures of all  
3 judicial nominating commissions, and certain retention  
4 procedures, and including effective date provisions.  
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 46.1, Code 2011, is amended to read as  
2 follows:

3 **46.1 Appointment of state judicial nominating commissioners.**

4 The governor shall appoint, subject to confirmation by the  
5 senate, ~~one two~~ eligible elector electors of each congressional  
6 district to the state judicial nominating commission for a  
7 six-year term beginning and ending as provided in section  
8 69.19. At least one appointive member from each congressional  
9 district shall be a member, in good standing, of the bar. The  
10 terms of no more than three nor less than two of the members  
11 shall expire within the same two-year period. No more than a  
12 simple majority of the members appointed shall be of the same  
13 gender. The appointive members shall be voting members.

14 Sec. 2. NEW SECTION. **46.1A Legislative members of the state**  
15 **judicial nominating commission.**

16 The following persons or the persons' designees shall be  
17 voting members of the state judicial nominating commission:

- 18 1. The president of the senate.
- 19 2. The speaker of the house of representatives.
- 20 3. The minority leader of the senate.
- 21 4. The minority leader of the house of representatives.

22 Sec. 3. Section 46.2, Code 2011, is amended to read as  
23 follows:

24 **46.2 Election of state judicial nominating commissioners.**

25 The resident members of the bar of each congressional  
26 district shall elect ~~one two~~ eligible elector electors of  
27 the district to the state judicial nominating commission  
28 for a six-year term beginning July 1. The terms of no more  
29 than three nor less than two of the members shall expire  
30 within the same two-year period, the expiration dates being  
31 governed by the expiration dates of the terms of the original  
32 appointive members. The members of the bar of the respective  
33 congressional districts shall in January, immediately preceding  
34 the expiration of the term of a member of the commission, elect  
35 a successor for a like term. For the first elective term

1 open on or after July 1, 1987, in the odd-numbered districts  
2 the elected member shall be a woman and in the even-numbered  
3 districts the elected member shall be a man. Thereafter,  
4 the districts shall alternate between women and men elected  
5 members. The elected members shall be nonvoting advisory  
6 members of the commission.

7 Sec. 4. NEW SECTION. **46.2B Chairperson of the state**  
8 **judicial nominating commission.**

9 The lieutenant governor shall be the chairperson of the  
10 state judicial nominating commission. The chairperson shall be  
11 a nonvoting member of the commission.

12 Sec. 5. NEW SECTION. **46.2D State judicial nominating**  
13 **commission — procedures.**

14 1. As used in this section, "*publish*" means to publish  
15 electronically on the judicial branch's internet site.

16 2. The state judicial nominating commission shall adopt and  
17 publish internal rules and procedures. The rules shall require  
18 the commission to do the following:

19 a. Conduct at least one interview with each applicant  
20 seeking a nomination to the supreme court or court of appeals  
21 that is open to the public.

22 b. Publish a schedule of the public interviews at least ten  
23 days in advance of the interviews.

24 c. Publish all nonconfidential information included in each  
25 application at least ten days prior to the interview.

26 d. Publish the number of affirmative votes each interviewed  
27 applicant received for nomination immediately preceding the  
28 release of the names of the nominees.

29 Sec. 6. Section 46.6, Code 2011, is amended to read as  
30 follows:

31 **46.6 Equal seniority Chairperson of a district judicial**  
32 **nominating commission.**

33 1. The district judge with the longest service shall be the  
34 chairperson of the district judicial nominating commission.

35 2. If the judges of longest service (other than the chief

1 ~~justice) of the supreme court or of the district court~~ two or  
2 more judges with the longest service in a district are of equal  
3 service, the eldest of such judges shall be chairperson of the  
4 particular judicial nominating commission.

5 Sec. 7. Section 46.14, subsection 1, Code 2011, is amended  
6 to read as follows:

7 1. Each judicial nominating commission shall carefully  
8 consider the individuals available for judge, ~~and within sixty~~  
9 ~~days after receiving notice of a vacancy.~~ The application  
10 period for an individual to apply for a vacancy shall be sixty  
11 days from the date the commission receives notice of a vacancy.  
12 The commission shall certify to the governor and the chief  
13 justice the proper number of nominees, in alphabetical order  
14 within sixty days of the expiration of the application period.  
15 Such nominees shall be chosen by the affirmative vote of a  
16 majority of the full statutory number of voting commissioners  
17 upon the basis of their qualifications and without regard to  
18 political affiliation. Nominees shall be members of the bar  
19 of Iowa, shall be residents of the state or district of the  
20 court to which they are nominated, and shall be of such age  
21 that they will be able to serve an initial and one regular  
22 term of office to which they are nominated before reaching  
23 the age of seventy-two years. Nominees for district judge  
24 shall file a certified application form, to be provided by the  
25 supreme court, with the chairperson of the district judicial  
26 nominating commission. Absence of a commissioner or vacancy  
27 upon the commission shall not invalidate a nomination. The  
28 chairperson of the commission shall promptly certify the names  
29 of the nominees, in alphabetical order, to the governor and the  
30 chief justice.

31 Sec. 8. NEW SECTION. **46.26 Retention vote —**  
32 **disqualification.**

33 A judge not receiving more affirmative votes than negative  
34 votes at the judicial election shall be disqualified from  
35 submitting an application for nomination for any judicial

1 officer position for a period of two years from the date of the  
2 judicial election.

3 Sec. 9. END OF VOTING RIGHTS OF ELECTED MEMBERS. The voting  
4 rights of the current elected members of the state judicial  
5 nominating commission end on the effective date of this section  
6 of this Act.

7 Sec. 10. EFFECTIVE UPON ENACTMENT. The section of this Act  
8 relating to the end of voting rights of elected members, being  
9 deemed of immediate importance, takes effect upon enactment.

10 Sec. 11. EFFECTIVE DATE. The following provisions of this  
11 Act take effect January 1, 2013:

12 1. The section of this Act amending section 46.1.

13 2. The section of this Act amending section 46.2.

14

EXPLANATION

15 This bill relates to the membership of the state judicial  
16 nominating commission, procedures for all judicial nominating  
17 commissions, and retention procedures.

18 The bill specifies that members appointed to the state  
19 judicial nominating commission by the governor shall be  
20 voting members of the commission and members elected to the  
21 commission by members of the state bar shall be advisory,  
22 nonvoting members of the commission. Current law provides  
23 that both appointed and elected members of the state judicial  
24 nominating commission are voting members. The voting rights of  
25 the current elected members on the state judicial nominating  
26 commission end immediately upon enactment of the bill.

27 The bill does not modify Code section 46.2A which terminates  
28 the terms each appointed and elected member of the state  
29 judicial nominating commission on December 31, 2012, and  
30 establishes new staggered transitional terms begin January  
31 1, 2013, based upon the four congressional districts being  
32 established following the 2010 decennial census. The bill  
33 does amend Code sections 46.1 and 46.2 to reflect the fact  
34 the governor appoints two members from each of the four new  
35 congressional districts effective January 1, 2013, and the

1 state bar elects two members to the state judicial nominating  
2 commission, on January 1, 2013, from each of the four new  
3 congressional districts.

4 The bill, beginning with governor appointments on or after  
5 January 1, 2013, requires at least one member appointed by the  
6 governor to the state judicial nominating commission from each  
7 congressional district be a member, in good standing, of the  
8 bar.

9 The remainder of the bill takes effect on July 1 after  
10 enactment.

11 The bill makes the president of the senate, the speaker  
12 of the house of representatives, the minority leader of the  
13 senate, and the minority leader of the house, voting members  
14 of the state judicial nominating commission. The bill also  
15 provides a legislative member of the commission may appoint a  
16 designee to act in the place of the legislative leader on the  
17 state judicial nominating commission.

18 The bill strikes a provision making the supreme court  
19 justice with the longest tenure the chairperson of the state  
20 judicial nominating commission. The bill makes the lieutenant  
21 governor the chairperson of the commission and provides the  
22 lieutenant governor shall be a voting member of the commission.

23 The bill requires the state judicial nominating commission  
24 to adopt and publish internal rules and procedures and publish  
25 the rules on the judicial branch's internet site. The bill  
26 requires the commission to establish the following rules:  
27 conduct at least one interview with each applicant seeking a  
28 nomination to the supreme court or court of appeals that is  
29 open to the public; publish a schedule of the public interviews  
30 at least 10 days in advance of the interviews; publish all  
31 nonconfidential information included in each application at  
32 least 10 days prior to the interview; and publish the number  
33 of affirmative votes each interviewed applicant received for  
34 nomination immediately preceding the release of the names of  
35 the nominees.

1 The bill modifies the timeline an applicant must apply and  
2 be nominated for appointment to the supreme court or court  
3 of appeals. The bill provides that when the state judicial  
4 nominating commission is notified a vacancy has occurred or  
5 will occur an applicant has 60 days to submit an application.  
6 Under the bill, the state judicial nominating commission has  
7 60 days from the expiration of the application period to  
8 nominate persons for appointment by the governor to the supreme  
9 court or court of appeals. Current law provides the state  
10 judicial nominating commission has 60 days from the date the  
11 state judicial nominating commission is notified a vacancy has  
12 occurred or will occur to nominate persons for appointment by  
13 the governor to the supreme court or court of appeals.

14 The bill disqualifies a judge who was not retained by the  
15 voters at the time of a judicial election from applying for  
16 any judicial officer position two years from the date of the  
17 judicial election where the judge lost the retention vote.