

FILED MAR 14 2005

SENATE FILE 380
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1154)

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

A BILL FOR

1 An Act relating to judicial branch procedures involving
2 applications for further review and the appointment of
3 judicial officers and chief juvenile court officers.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 380

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

35 1. The district judges within a chief judge of each

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

4 Sec. 3. Section 602.4102, subsection 5, Code 2005, is
5 amended to read as follows:

6 5. The court of appeals shall extend the time for filing
7 of an application if the court of appeals determines that a
8 failure to timely file an application was due to the failure
9 of the clerk of the court of appeals to notify the prospective
10 applicant of the filing of the decision. ~~If-an-application~~
11 ~~for-further-review-is-not-acted-upon-by-the-supreme-court~~
12 ~~within-thirty-days-after-the-application-was-filed,~~ ~~the~~
13 ~~application-is-deemed-denied,~~ ~~the-supreme-court-loses~~
14 ~~jurisdiction,~~ ~~and-the-decision-of-the-court-of-appeals-is~~
15 ~~conclusive.~~

16 Sec. 4. Section 602.6301, Code 2005, is amended to read as
17 follows:

18 602.6301 NUMBER AND APPORTIONMENT OF DISTRICT ASSOCIATE
19 JUDGES.

20 There shall be one district associate judge in counties
21 having a population of more than thirty-five thousand and less
22 than eighty thousand; two in counties having a population of
23 eighty thousand or more and less than one hundred twenty-five
24 thousand; three in counties having a population of one hundred
25 twenty-five thousand or more and less than ~~two~~ one hundred
26 seventy-five thousand; four in counties having a population of
27 ~~two~~ one hundred seventy-five thousand or more and less than
28 two hundred ~~thirty-five~~ fifteen thousand; five in counties
29 having a population of two hundred ~~thirty-five~~ fifteen
30 thousand or more and less than two hundred ~~seventy~~ sixty
31 thousand; six in counties having a population of two hundred
32 ~~seventy~~ sixty thousand or more and less than three hundred
33 five thousand; and seven in counties having a population of
34 three hundred five thousand or more and less than three
35 hundred fifty thousand; eight in counties having a population

1 of three hundred fifty thousand or more and less than three
2 hundred ninety-five thousand; nine in counties having a
3 population of three hundred ninety-five thousand or more and
4 less than four hundred forty thousand; ten in counties having
5 a population of four hundred forty thousand or more and less
6 than four hundred eighty-five thousand; and one additional
7 judge for every population increment of thirty-five thousand
8 which is over four hundred eighty-five thousand in such
9 counties. However, a county shall not lose a district
10 associate judgeship solely because of a reduction in the
11 county's population. If the formula provided in this section
12 results in the allocation of an additional district associate
13 judgeship to a county, implementation of the allocation shall
14 be subject to prior approval of the supreme court and
15 availability of funds to the judicial branch. A district
16 associate judge appointed pursuant to section 602.6302 shall
17 not be counted for purposes of this section.

18 Sec. 5. Section 602.6304, subsections 2 and 3, Code 2005,
19 are amended to read as follows:

20 2. In November of any year in which an impending vacancy
21 is created because a district associate judge is not retained
22 in office pursuant to a judicial election, the county
23 magistrate appointing commission shall publicize notice of the
24 vacancy in at least two publications in the official county
25 newspaper. The commission shall accept applications for
26 consideration for nomination as district associate judge for a
27 minimum of fifteen days prior to certifying nominations. The
28 commission shall consider the applications and shall, by
29 majority vote, certify to the chief judge of the judicial
30 district not later than December 15 of that year the names of
31 three applicants who are nominated by the commission for the
32 vacancy, unless the chief justice has ordered the commission
33 to delay the certification of the nominees to the chief judge.
34 The chief justice may order the delay of the certification for
35 up-to-one-hundred-eighty-days for budgetary reasons. If there

1 are three or fewer applicants the commission shall certify all
2 applicants who meet the statutory qualifications. Nominees
3 shall be chosen solely on the basis of the qualifications of
4 the applicants, and political affiliation shall not be
5 considered.

6 3. Within thirty days after a county magistrate appointing
7 commission receives notification of an actual or impending
8 vacancy in the office of district associate judge, other than
9 a vacancy referred to in subsection 2, the commission shall
10 certify to the chief judge of the judicial district the names
11 of three applicants who are nominated by the commission for
12 the vacancy, unless the chief justice has ordered the
13 commission to delay the certification of the nominees to the
14 chief judge. The chief justice may order the delay of the
15 certification ~~for-up-to-one-hundred-eighty-days~~ for budgetary
16 reasons. The commission shall publicize notice of the vacancy
17 in at least two publications in the official county newspaper.
18 The commission shall accept applications for consideration for
19 nomination as district associate judge for a minimum of
20 fifteen days prior to certifying nominations. The commission
21 shall consider the applications and shall, by majority vote,
22 certify to the chief judge of the judicial district the names
23 of three applicants who are nominated by the commission for
24 the vacancy. 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. As used in this
29 subsection, a vacancy is created by the death, retirement,
30 resignation, or removal of a district associate judge, or by
31 an increase in the number of positions authorized.

32 Sec. 6. Section 602.6403, subsection 3, Code 2005, is
33 amended to read as follows:

34 3. Within thirty days following receipt of notification of
35 a vacancy in the office of magistrate, the commission shall

1 appoint a person to the office to serve the remainder of the
2 unexpired term, unless the chief justice has ordered the
3 commission to delay the appointment ~~for-up-to-one-hundred~~
4 ~~eighty-days~~ for budgetary reasons. For purposes of this
5 section, vacancy means a death, resignation, retirement, or
6 removal of a magistrate, or an increase in the number of
7 positions authorized.

8 Sec. 7. Section 602.7103B, subsections 2 and 3, Code 2005,
9 are amended to read as follows:

10 2. In November of any year in which an impending vacancy
11 is created because a full-time associate juvenile judge is not
12 retained in office pursuant to a judicial election, the county
13 magistrate appointing commission shall publicize notice of the
14 vacancy in at least two publications in the official county
15 newspaper. The commission shall accept applications for
16 consideration for nomination as full-time associate juvenile
17 judge for a minimum of fifteen days prior to certifying
18 nominations. The commission shall consider the applications
19 and shall, by majority vote, certify to the chief judge of the
20 judicial district not later than December 15 of that year the
21 names of three applicants who are nominated by the commission
22 for the vacancy, unless the chief justice has ordered the
23 commission to delay the certification of the nominees to the
24 chief judge. The chief justice may order the delay of the
25 certification ~~for-up-to-one-hundred-eighty-days~~ for budgetary
26 reasons. If there are three or fewer applicants, the
27 commission shall certify all applicants who meet the statutory
28 qualifications. Nominees shall be chosen solely on the basis
29 of the qualifications of the applicants, and political
30 affiliation shall not be considered.

31 3. Within thirty days after a county magistrate appointing
32 commission receives notification of an actual or impending
33 vacancy in the office of full-time associate juvenile judge,
34 other than a vacancy referred to in subsection 2, the
35 commission shall certify to the chief judge of the judicial

1 district the names of three applicants who are nominated by
2 the commission for the vacancy, unless the chief justice has
3 ordered the commission to delay the certification of the
4 nominees to the chief judge. The chief justice may order the
5 delay of the certification ~~for-up-to-one-hundred-eighty-days~~
6 for budgetary reasons. The commission shall publicize notice
7 of the vacancy in at least two publications in the official
8 county newspaper. The commission shall accept applications
9 for consideration for nomination as full-time associate
10 juvenile judge for a minimum of fifteen days prior to
11 certifying nominations. The commission shall consider the
12 applications and shall, by majority vote, certify to the chief
13 judge of the judicial district the names of three applicants
14 who are nominated by the commission for the vacancy. If there
15 are three or fewer applicants, the commission shall certify
16 all applicants who meet the statutory qualifications.
17 Nominees shall be chosen solely on the basis of the
18 qualifications of the applicants, and political affiliation
19 shall not be considered. As used in this subsection, a
20 vacancy is created by the death, retirement, resignation, or
21 removal of a full-time associate juvenile judge, or by an
22 increase in the number of positions authorized.

23 Sec. 8. Section 633.20B, subsections 2 and 3, Code 2005,
24 are amended to read as follows:

25 2. In November of any year in which an impending vacancy
26 is created because a full-time associate probate judge is not
27 retained in office pursuant to a judicial election, the county
28 magistrate appointing commission shall publicize notice of the
29 vacancy in at least two publications in the official county
30 newspaper. The commission shall accept applications for
31 consideration for nomination as full-time associate probate
32 judge for a minimum of fifteen days prior to certifying
33 nominations. The commission shall consider the applications
34 and shall, by majority vote, certify to the chief judge of the
35 judicial district not later than December 15 of that year the

1 names of three applicants who are nominated by the commission
2 for the vacancy, unless the chief justice has ordered the
3 commission to delay the certification of the nominees to the
4 chief judge. The chief justice may order the delay of the
5 certification ~~for-up-to-one-hundred-eighty-days~~ for budgetary
6 reasons. If there are three or fewer applicants, the
7 commission shall certify all applicants who meet the statutory
8 qualifications. Nominees shall be chosen solely on the basis
9 of the qualifications of the applicants, and political
10 affiliation shall not be considered.

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

1 removal of a full-time associate probate judge, or by an
2 increase in the number of positions authorized.

3 Sec. 9. DELAYS IN FILLING SUPREME COURT OR COURT OF
4 APPEALS VACANCY. When a vacancy occurs or will occur as
5 provided for in section 46.12, subsection 1, the chief justice
6 may order the state commissioner of elections to delay sending
7 the notification. The chief justice may order the delay for
8 up to one hundred eighty days for budgetary reasons. This
9 section is repealed on July 1, 2006.

10 Sec. 10. 2003 Iowa Acts, chapter 151, section 64, is
11 repealed.

12 EXPLANATION

13 This bill relates to practices and procedures of the
14 judicial branch.

15 The bill provides the chief justice may delay the
16 appointment of a judge or magistrate for budgetary reasons.
17 Current law provides only through July 1, 2006, that the chief
18 justice may delay the appointment of a judge or magistrate for
19 up to 180 days for budgetary reasons.

20 The bill does not change current law regarding the chief
21 justice delaying the appointment of a supreme court justice or
22 court of appeals judge for up to 180 days for budgetary
23 reasons. The repeal of this provision remains effective July
24 1, 2006; thus after July 1, 2006, the chief justice will no
25 longer be able to delay the appointment of a supreme court
26 justice or court of appeals judge for budgetary reasons.

27 The bill also provides the chief judge of a judicial
28 district shall, after consultation with the judges of the
29 judicial district, appoint to or remove from office the chief
30 juvenile court officer. Current law provides the juvenile
31 court officer shall be appointed to or removed from office by
32 a majority vote of the district judges of the judicial
33 district.

34 The bill increases the number of district associate judges
35 eligible to be appointed in a county based upon the population

1 of that county.

2 The bill strikes the requirement that the supreme court has
3 30 days to act upon an application for further review from a
4 court of appeals decision. Current law requires the supreme
5 court to act upon an application for further review of a court
6 of appeals decision within 30 days after the application is
7 filed or the decision by the court of appeals is conclusive.

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Fraiser co-chair
Ward co-chair
Kreiman
McKibben

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HF ~~154~~
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SSB# 1154
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 an 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.