

SENATE BILL No. 44

DIGEST OF INTRODUCED BILL

Citations Affected: IC 33-5-29.5.

Synopsis: Lake judicial nominating commission members. Changes the composition of the Lake County judicial nominating commission beginning October 1, 1998. Reduces the number of members from nine to seven members, to be selected as follows: (1) Two attorney members elected by the Lake County Bar Association, one of whom must be a member of the James C. Kimbrough-Thurgood Marshall Law Association. (2) One attorney member appointed by the mayor of the largest second class city in Lake County. (3) Three nonattorney members appointed by each of the three county commissioners of Lake County. (Current law provides that the chief justice of the supreme court is the seventh member.) Provides that the terms of the commission members serving on September 30, 1998, expire on that date.

Effective: July 1, 1998.

Randolph

January 6, 1998, read first time and referred to Committee on Judiciary.



Introduced

Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

SENATE BILL No. 44

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 33-5-29.5-29, AS AMENDED BY P.L.18-1995,
2 SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 1998]: Sec. 29. (a) The judicial nominating commission
4 (hereafter called the commission) shall consist of ~~nine (9)~~ **seven (7)**
5 members, the majority of whom shall form a quorum. The chief justice of
6 the Indiana supreme court (or a justice of the Indiana supreme court or
7 judge of the Indiana court of appeals designated by the chief justice) shall
8 be a member and shall act as chairman.
9 (b) Under sections 31 and 32 of this chapter, those admitted to the
10 practice of law and residing in Lake County shall elect ~~four (4)~~ **two (2)**
11 of their number to serve as members of the commission. ~~subject to the~~
12 ~~following:~~
13 (1) ~~At least one (1) attorney member must be a minority individual~~
14 ~~(as defined in IC 20-12-21.7-4):~~
15 (2) ~~Two (2) attorney members must be women:~~
16 (3) ~~Two (2) attorney members must be men:~~
17 **One (1) of the attorney members must be a member of the James C.**

1998

IN 44—LS 6104/DI 41+



1 **Kimbrough-Thurgood Marshall Law Association.**

2 (c) **The mayor of the largest second class city in the county shall**
3 **appoint to the commission one (1) member who must be an attorney.**

4 ~~(e)~~ **(d) Each of the three (3) members of the Lake County board of**
5 **commissioners shall appoint four (4) nonattorney citizens to the**
6 **commission; subject to the following:**

7 (1) ~~Each of the three (3) county commissioners~~ shall appoint one (1)
8 nonattorney member who is a resident of the appointing
9 commissioner's district.

10 (2) ~~After each county commissioner has had the opportunity to make~~
11 ~~the county commissioner's appointment, the fourth nonattorney~~
12 ~~member must be appointed by a majority vote of the Lake County~~
13 ~~board of commissioners.~~

14 (3) ~~At least one (1) nonattorney member must be a minority~~
15 ~~individual (as defined in IC 20-12-21.7-4).~~

16 (4) ~~Two (2) nonattorney members must be women.~~

17 (5) ~~Two (2) nonattorney members must be men.~~

18 (6) ~~Not more than two (2) of such appointees may be from the same~~
19 ~~political party.~~

20 The appointees shall reflect the composition of the community. If the Lake
21 County board of commissioners fails to appoint any of the nonattorney
22 commission members within the time required to do so in section 30 of
23 this chapter, such appointment shall be made by the chief justice of the
24 Indiana supreme court.

25 ~~(d)~~ **(e)** No member of the commission, other than a judge or justice,
26 shall hold any other elected public office. No member shall hold an office
27 in a political party or organization. A nonattorney member of the
28 commission may not hold an elected or a salaried public office. A
29 nonattorney member may not be an employee of the state or of a political
30 subdivision of the state.

31 ~~(e)~~ **(f)** A member of the commission is not eligible for appointment to
32 a judicial office in Lake County so long as the member is a member of the
33 commission and for a period of three (3) years thereafter.

34 ~~(f)~~ **(g)** If any member of the commission, other than a judge or justice,
35 terminates the member's residence in Lake County, the member shall be
36 considered to have resigned from the commission.

37 SECTION 2. IC 33-5-29.5-30, AS AMENDED BY P.L.18-1995,
38 SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
39 JULY 1, 1998]: Sec. 30. (a) On or before September 15, ~~1995~~, **1998**, the
40 Lake County board of commissioners shall appoint the ~~four (4)~~ **three (3)**
41 nonattorney members of the commission. The term of office for each of
42 the commissioners shall commence October 1, ~~1995~~, **1998**, and expires



1 as follows:

2 (1) The term of the member appointed from the first district of the
3 Lake County board of commissioners expires September 30, ~~1996~~.
4 **1999.**

5 (2) The term of the member appointed from the second district
6 expires September 30, ~~1997~~. **2000.**

7 (3) The term of the member appointed from the third district expires
8 September 30, ~~1998~~. **2001.**

9 ~~(4) The term of the member appointed by the majority vote of the
10 Lake County board of commissioners expires September 30, 1999.~~

11 (b) One (1) month prior to the expiration of a term of office of a
12 nonattorney commissioner, an appointment or a reappointment shall be
13 made in accordance with section 29 of this chapter. All appointments
14 made by the Lake County board of commissioners shall be certified to the
15 secretary of state, the clerk of the supreme court, and the clerk of Lake
16 circuit court within ten (10) days of the appointment.

17 (c) Except as provided in subsection (a), each nonattorney member
18 shall be appointed for a term of four (4) years.

19 (d) Whenever a vacancy occurs in the office of a nonattorney
20 commissioner, the chairman of the commission shall promptly notify the
21 Lake County board of commissioners in writing of such fact. Vacancies
22 in the office of nonattorney commissioners shall be filled by appointment
23 of the Lake County board of commissioners within sixty (60) days after
24 notice of the vacancy is received. The term of the nonattorney
25 commissioner so appointed shall be for the unexpired term of the member
26 whose vacancy the new member has filled.

27 SECTION 3. IC 33-5-29.5-31, AS AMENDED BY P.L.18-1995,
28 SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
29 JULY 1, 1998]: Sec. 31. (a) In September ~~1995~~, **1998**, and thereafter,
30 those admitted to the practice of law and residing in Lake County
31 (hereinafter called attorney electors) shall elect ~~four (4)~~ **two (2)** of their
32 number to the commission. To be eligible for the office of attorney
33 commissioner a person must be on the current annual list of attorneys
34 certified to the clerk of the supreme court and must be a resident of Lake
35 County. The term of office of each elected attorney member shall be four
36 (4) years, commencing on the first day of October following the attorney
37 member's election. The election day is the date on which the ballots are
38 counted and for the purpose of this section shall be the first Tuesday in
39 September, ~~1995~~, **1998**, and every four (4) years thereafter. Thereafter,
40 during the month prior to the expiration of each such attorney
41 commissioner's term of office, an election shall be held to fill the
42 succeeding four (4) year term of office.



1 (b) Except when a term of office has less than ninety (90) days
 2 remaining, vacancies in the office of an attorney commissioner to the
 3 commission shall be filled for the unexpired term of the member creating
 4 the vacancy by a special election.

5 SECTION 4. IC 33-5-29.5-32, AS AMENDED BY P.L.18-1995,
 6 SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 1998]: Sec. 32. The attorney members of the commission shall
 8 be elected by the following process:

9 (a) The clerk of the Lake circuit court shall, at least ninety (90) days
 10 prior to the date of election, notify all attorneys in Lake County of the
 11 upcoming election by mail, informing them that nominations must be
 12 made to the clerk of the circuit court at least sixty (60) days prior to the
 13 election. Said clerk shall secure a list of all such attorneys and their
 14 correct addresses from the clerk of the supreme court of the state of
 15 Indiana, state house.

16 (b) A nomination in writing, accompanied by a signed petition of ten
 17 (10) attorney electors, and the written consent of the qualified nominee
 18 shall be filed by any attorney elector or group of attorney electors residing
 19 in Lake County, by mail or otherwise, in the office of the clerk of the Lake
 20 circuit court at least sixty (60) days prior to the election. **The nomination**
 21 **must indicate whether the nominee is a member of the James C.**
 22 **Kimbrough-Thurgood Marshall Law Association.**

23 (c) The clerk of the Lake circuit court shall prepare and print ballots
 24 containing the names and residence addresses of all attorney nominees
 25 whose written nominations, petitions, and written statements of consent
 26 have been received sixty (60) days prior to the election. **The clerk shall**
 27 **prepare a separate listing of nominees who are members of the**
 28 **James C. Kimbrough-Thurgood Marshall Law Association.**

29 (1) The ballot shall read:

30 "SUPERIOR COURT OF LAKE COUNTY
 31 NOMINATING COMMISSION BALLOT

32 To be cast by individuals residing in Lake County and admitted to the
 33 practice of law in Indiana. Vote for not more than ~~four (4)~~ **one (1)**
 34 **candidate from each** of the following ~~candidates lists~~ for the term
 35 commencing _____.

36 **List I: Nominees Who Are Not Members of the James C.**
 37 **Kimbrough-Thurgood Marshall Law Association:**

38 (Name) (Address)

39 (Name) (Address)

40 (etc.) (etc.)

41 **List II: Nominees Who Are Members of the James C.**
 42 **Kimbrough-Thurgood Marshall Law Association:**



1 **(Name)(Address)**

2 **(Name) (Address)**

3 To be counted, this ballot must be completed, the accompanying
4 certificate completed and signed, and both together mailed or delivered to
5 the clerk of the Lake circuit court not later than _____.

6 **DESTROY BALLOT IF NOT USED"**

7 (2) The ~~four (4)~~ **nominees nominee from each list** receiving the most
8 votes whose election does not conflict with the requirements of
9 section 29(b) of this chapter shall be elected.

10 (d) The clerk shall also supply with each ballot distributed by the clerk
11 a certificate, to be completed and signed and returned by the attorney
12 elector voting such ballot, certifying that the attorney elector is admitted
13 to the practice of law in Indiana, that the attorney elector resides in Lake
14 County, and that the attorney elector voted the ballot returned. A ballot
15 not accompanied by the signed certificate of the voter shall not be
16 counted.

17 (e) To maintain the secrecy of each vote, a separate envelope shall be
18 provided by the clerk for the ballot, in which only the voted ballot is to be
19 placed. This envelope shall not be opened until the counting of the ballots.

20 (f) The clerk of the Lake circuit court shall mail a ballot and its
21 accompanying material to all qualified attorney electors at least two (2)
22 weeks before the date of election.

23 (g) Upon receiving the completed ballots and the accompanying
24 certificate, the clerk shall insure that the certificates have been completed
25 in compliance with this chapter. All ballots that are accompanied by a
26 valid certificate shall be placed in a package designated to contain ballots.
27 All accompanying certificates shall be placed in a separate package.

28 (h) The clerk of the Lake circuit court, with the assistance of the Lake
29 County election board, shall open and canvass all ballots after four (4)
30 o'clock P.M. on the day of election in the office of the clerk of the Lake
31 circuit court. No ballots received after four (4) o'clock P.M. are to be
32 counted unless the chairman of the judicial nominating commission orders
33 an extension of time because of extraordinary circumstances. Upon
34 canvassing the ballots the clerk shall place all ballots back in their
35 package. These, along with the certificates, shall be retained in the clerk's
36 office for a period of six (6) months, and the clerk shall permit no one to
37 inspect them except upon an order of the Indiana supreme court.

38 (I) In any election held for selection of attorney members of the
39 commission, in case two (2) or more nominees are tied so that one (1)
40 additional vote cast for one (1) of them would give the nominee a
41 plurality, the canvasser shall resolve the tie by lot and the winner of the
42 lot shall be deemed to have been elected.



1 SECTION 5. IC 33-5-29.5-35, AS AMENDED BY P.L.18-1995,
 2 SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 1998]: Sec. 35. (a) When a vacancy occurs in the superior court
 4 of Lake County, the clerk of such court shall promptly notify the chairman
 5 and each member of the commission of such vacancy. The chairman shall
 6 call a meeting of the commission within ten (10) days following such
 7 notice. The commission shall submit its nominations of three (3)
 8 candidates for each vacancy and certify them to the governor as promptly
 9 as possible, and in any event not later than sixty (60) days from the time
 10 such vacancy occurs. When it is known that a vacancy will occur at a
 11 definite future date within the term of the governor then serving, but the
 12 vacancy has not yet occurred, the clerk shall notify the chairman and each
 13 member of the commission immediately of the forthcoming vacancy and
 14 the commission may within fifty (50) days of such notice of such vacancy
 15 make its nominations and submit to the governor the names of three (3)
 16 persons nominated for such forthcoming vacancy.

17 (b) Meetings of the commission shall be called by its chairman, or in
 18 the event of the chairman's failure to call a necessary meeting, upon the
 19 call of any ~~five (5)~~ **four (4)** members of the commission. The chairman,
 20 whenever the chairman considers a meeting necessary, or upon the request
 21 by any ~~five (5)~~ **four (4)** members of the commission for a meeting, shall
 22 give each member of the commission at least five (5) days written notice
 23 by mail of the time and place of every meeting unless the commission at
 24 its previous meeting designated the time and place of its next meeting.

25 (c) Meetings of the commission are to be held at such a place in the
 26 Lake County government center in Crown Point, Indiana, or such other
 27 place, as the circuit court clerk of Lake County may arrange, at the
 28 direction of the chairman of the commission.

29 (d) The commission shall act only at a public meeting. IC 5-14-1.5
 30 applies to meetings of the commission. The commission may not meet in
 31 executive session under IC 5-14-1.5-6.1 for the consideration of a
 32 candidate for judicial appointment.

33 (e) The commission may act only by the concurrence of a majority of
 34 its members attending a meeting. ~~Five (5)~~ **Four (4)** members are required
 35 to constitute a quorum at a meeting.

36 (f) The commission shall have power to adopt reasonable and proper
 37 rules and regulations for the conduct of its proceedings and the discharge
 38 of its duties. These rules must provide for the receipt of public testimony
 39 concerning the qualifications of candidates for nomination to the
 40 governor.

41 SECTION 6. [EFFECTIVE JULY 1, 1998] **(a) The terms of the**
 42 **members of the judicial nominating commission established under**



- 1 **IC 33-5-29.5-29, as amended by this act, who are serving on**
- 2 **September 30, 1998, expire September 30, 1998.**
- 3 **(b) This SECTION expires October 1, 1999.**

