

HOUSE BILL No. 1440

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-13-10-5; IC 33-11.6.

Synopsis: Small claims courts in Marion County. Provides for the election of Marion County small claims court judges on a countywide basis from a list of candidates compiled from two groups of five candidates selected by the major political parties. Provides for a unified salary schedule for small claims court personnel. Repeals provisions providing hearings in 1975 to determine which townships in Marion County would have full-time or part-time small claims courts. Makes other changes.

Effective: July 1, 1999.

Crawford, Mahern

January 19, 1999, read first time and referred to Committee on Courts and Criminal Code.

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Introduced

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

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HOUSE BILL No. 1440

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 3-13-10-5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) **This subsection**
3 **applies to a vacancy in the office of small claims court judge**
4 **occurring before January 1, 2003, and a vacancy in the office of**
5 **small claims court constable.** A vacancy in the office of judge of a
6 small claims court or small claims court constable not covered by
7 section 1 of this chapter shall be filled by the township board at a
8 regular or special meeting. The chairman of the township board shall
9 give notice of the meeting, which shall be held within thirty (30) days
10 after the vacancy occurs. The notice must:
11 (1) be in writing;
12 (2) state the purpose of the meeting;
13 (3) state the date, time, and place of the meeting; and
14 (4) be sent by first class mail to each board member at least ten
15 (10) days before the meeting.
16 (b) **After December 31, 2002, the governor shall appoint a**
17 **successor judge to fill a vacancy in a division of the small claims**



1 **court. The successor judge must meet the qualifications specified**
 2 **under IC 3-8-1-30 and must be a member of the same political**
 3 **party as the judge who is to be succeeded. The appointed successor**
 4 **shall serve the balance of the term of the vacating judge.**

5 SECTION 2. IC 33-11.6-1-5 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. ~~Divisions.~~ The small
 7 claims court shall be composed of one (1) or more divisions. There
 8 shall be a division for each township within the county. ~~except that a~~
 9 ~~township, in which there is a population of less than fifteen thousand~~
 10 ~~(15,000) persons according to the last United States decennial census,~~
 11 ~~may decide not to have a division within the township. The designation~~
 12 ~~of each division shall be " _____ Division" (Insert the name~~
 13 ~~of the township in which the division is located).~~

14 SECTION 3. IC 33-11.6-2-2 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. Each division of the
 16 small claims court shall be a full-time division or a part-time division
 17 ~~as the individual township boards shall determine following the hearing~~
 18 ~~provided for in section 3 of this chapter: **determined under the order**~~
 19 ~~**issued by the township board under section 5 of this chapter before**~~
 20 ~~**its repeal.**~~

21 SECTION 4. IC 33-11.6-3-1 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) Each judge of the
 23 small claims court shall be elected at the general election in 1986 and
 24 every four (4) years thereafter. ~~by the registered voters residing within~~
 25 ~~the township in which the division of the small claims court is located:~~

26 (b) **A candidate for judge shall run at large for the office of**
 27 **judge of the court and not as a candidate for judge of a particular**
 28 **division of the court.**

29 (c) **At the primary election a political party may nominate not**
 30 **more than five (5) candidates for judge of the court. The**
 31 **candidates shall be voted on at the general election. Other**
 32 **candidates may qualify under IC 3-8-6 to be voted on at the**
 33 **general election.**

34 (d) **The names of the party candidates nominated and properly**
 35 **certified to the Marion County election board and the names of**
 36 **other candidates who have qualified shall be placed on the ballot**
 37 **at the general election in the form prescribed by IC 3-11-2. All**
 38 **persons eligible to vote at the general election may vote for nine (9)**
 39 **candidates for judge of the court.**

40 (e) **The nine (9) candidates for judge of the court receiving the**
 41 **highest number of votes shall be elected to the vacancies. The**
 42 **names of the candidates elected as judges of the court shall be**



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1 certified to the county election board as provided by law.

2 (f) For each township in the county, the county election board
3 shall determine the political party of the candidate for the court
4 who received the highest number of votes in the township. Not later
5 than January 1 following the general election, the county election
6 board shall certify its determination to the court.

7 (g) The judges shall be assigned to the various divisions of the
8 court as provided by the affirmative vote of at least seven (7) of the
9 small claims court judges sitting in the county. However, unless all
10 judges of the same political party have been assigned to other
11 divisions of the court, the judges shall assign a judge to a township
12 who is of the same political party as the candidate for the court
13 receiving the highest number of votes in the township in the last
14 general election. Whenever possible, an incumbent judge shall be
15 allowed the option of remaining in a particular division.

16 SECTION 5. IC 33-11.6-3-6 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) **This subsection
18 applies to the salaries of small claims court personnel before
19 January 1, 2003.** Within each county the salary of a member of a small
20 claims court who serves full time shall be in an amount determined by
21 the township board of the township in which the small claims court is
22 located.

23 (b) **This subsection applies to the salaries of small claims court
24 personnel before January 1, 2003.** The salary of each member of the
25 small claims court who serves part time shall be in an amount
26 determined by the township board and approved by the county council.

27 (c) **This subsection applies to the salaries of small claims court
28 personnel after December 31, 2002.** Within each county the
29 township trustees of each township that has a small claims court
30 shall adopt a unified schedule for the salaries of full-time and
31 part-time members of small claims courts. The amount of the
32 salary in a schedule adopted by an affirmative vote of a majority
33 of the township trustees eligible to vote and approved by the county
34 legislative body shall be the salary of a member of a small claims
35 court.

36 (d) The salary of a member of the small claims court shall not be
37 reduced during his term of office.

38 ~~(d)~~ (e) **This subsection applies to the salaries of small claims
39 court personnel before January 1, 2003.** At any other time, salaries
40 of any full-time or part-time member of a small claims court may be
41 increased or decreased by the township board of the township in which
42 the small claims court is located.



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1 **(f) This subsection applies to the salaries of small claims court**
2 **personnel after December 31, 2002. At any other time, salaries of**
3 **any full-time or part-time member of a small claims court may be**
4 **increased or decreased by amendment of the unified schedule of**
5 **full-time and part-time salaries in the manner provided under**
6 **subsection (c) for the adoption of a unified schedule.**

7 SECTION 6. IC 33-11.6-3-15 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 15. (a) The resignation
9 of any judge shall be delivered to the clerk of the circuit court who
10 shall advise the circuit court and, **before January 1, 2003, the**
11 **appropriate township board and after December 31, 2002, the**
12 **governor.**

13 (b) A vacancy occurring in a judgeship shall be filled under
14 IC 3-13-10.

15 SECTION 7. THE FOLLOWING ARE REPEALED [EFFECTIVE
16 JULY 1, 1999]: IC 33-11.6-2-3; IC 33-11.6-2-4; IC 33-11.6-2-5.

17 SECTION 8. [EFFECTIVE JULY 1, 1999] (a) **IC 33-11.6, as**
18 **amended by this act, does not apply to a small claims court judge**
19 **elected before January 1, 1999. The judge may serve the balance**
20 **of the judge's term of office for which the judge was elected.**

21 (b) **Notwithstanding IC 33-11.6-3-6, as amended by this act, the**
22 **township trustees in Marion County shall adopt a unified schedule**
23 **for the salaries of full-time and part-time members of the small**
24 **claims courts in Marion County after January 1, 2002, and before**
25 **July 1, 2002, and submit the schedule to the Marion County**
26 **city-county council before August 1, 2002, for approval. The**
27 **Marion County city-county council shall review the proposed**
28 **unified schedule before the time required for adopting a budget for**
29 **the following calendar year. The unified schedule adopted under**
30 **this SECTION applies to the salaries of small claims court**
31 **personnel in Marion County after December 31, 2002, until**
32 **amended or repealed by a subsequent schedule.**

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