

SENATE MOTION

MADAM PRESIDENT:

I move that House Bill 1266 be amended to read as follows:

- 1 Page 6, between lines 36 and 37, begin a new paragraph and insert:
2 "SECTION 18. IC 33-33-45-21 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 21. (a) The court is
4 divided into civil (including probate), criminal, county, and juvenile
5 divisions. The work of the court shall be divided among the divisions
6 by the rules of the court.
7 (b) Seven (7) judges comprise the civil division. Four (4) judges
8 comprise the criminal division. Four (4) judges comprise the county
9 division. One (1) judge comprises the juvenile division. However, the
10 court by rule may alter the number of judges assigned to a division
11 ~~other than the county division~~ of the court if the court determines that
12 the change is necessary for the efficient operation of the court.
13 (c) The court by rule may reassign a judge of the court from one (1)
14 division to another if the court determines that the change is necessary
15 for the efficient operation of the court. The court by rule ~~shall~~ **may**
16 establish a rotation schedule providing for the rotation of judges
17 through the various divisions. The rotation schedule may be used if ~~a~~
18 **judge the court** determines that an emergency exists. However, a
19 senior judge of any division ~~or a judge of the county division~~ may not
20 be reassigned or rotated to another division under this subsection.
21 (d) The chief judge of the court may assign a judge in one (1)
22 division of the court to hear a case originating in another division of the
23 court, and may reassign cases from one (1) judge to another, if the chief
24 judge determines that the change is necessary for the efficient operation
25 of the court.
26 **(e) A judge of a division of the court who has not been appointed**
27 **to the court under section 38 of this chapter is not eligible to be**
28 **reassigned, rotated, or transferred to the other divisions of the**
29 **court. However, a judge of a division of the court who has not been**
30 **appointed to the court under section 38 of this chapter may apply**

1 **to fill a vacancy in another division of the court through**
 2 **appointment as provided under this chapter.**

3 SECTION 19. IC 33-33-45-25 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JUNE 30, 2011]: Sec. 25. (a) ~~Unless the~~
 5 ~~judge is a judge of the county division,~~ At the general election
 6 immediately preceding the expiration of a judge's extended term, the
 7 question of that judge's retention in office or rejection shall be
 8 submitted to the electorate of Lake County under section 42 of this
 9 chapter. Thereafter, unless rejected by the electorate, each judge shall
 10 serve successive terms as provided in section 41(b) of this chapter.

11 (b) A judge of the county division ~~may serve a successive term if~~
 12 ~~elected to serve a successive term under section 43 of this chapter:~~
 13 **servng on June 30, 2011, is subject to the question of the judge's**
 14 **retention in office or rejection as provided in subsection (a) at the**
 15 **expiration of the judge's term of office under the law in effect on**
 16 **June 30, 2011.**

17 SECTION 20. IC 33-33-45-34 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 34. (a) When a vacancy
 19 occurs in the superior court of Lake County, ~~not including its county~~
 20 ~~division,~~ the clerk of the court shall promptly notify the chairman and
 21 each member of the commission of the vacancy. The chairman shall
 22 call a meeting of the commission within ten (10) days following the
 23 notice. The commission shall submit its nominations of three (3)
 24 candidates for each vacancy and certify them to the governor as
 25 promptly as possible, and not later than sixty (60) days after the
 26 vacancy occurs. When it is known that a vacancy will occur at a
 27 definite future date within the term of the governor then serving, but
 28 the vacancy has not yet occurred, the clerk shall notify the chairman
 29 and each member of the commission immediately of the forthcoming
 30 vacancy, and the commission may within fifty (50) days of the notice
 31 of the vacancy make its nominations and submit to the governor the
 32 names of three (3) persons nominated for the forthcoming vacancy.

33 (b) Meetings of the commission shall be called by its chairman or,
 34 if the chairman fails to call a necessary meeting, upon the call of any
 35 five (5) members of the commission. The chairman, whenever the
 36 chairman considers a meeting necessary, or upon the request by any
 37 five (5) members of the commission for a meeting, shall give each
 38 member of the commission at least five (5) days written notice by mail
 39 of the date, time, and place of every meeting unless the commission at
 40 its previous meeting designated the date, time, and place of its next
 41 meeting.

42 (c) Meetings of the commission are to be held at the Lake County
 43 government center in Crown Point or another place, as the circuit court
 44 clerk of Lake County may arrange, at the direction of the chairman of
 45 the commission.

46 (d) The commission may act only at a public meeting. IC 5-14-1.5

1 applies to meetings of the commission. The commission may not meet
 2 in executive session under IC 5-14-1.5-6.1 for the consideration of a
 3 candidate for judicial appointment.

4 (e) The commission may act only by the concurrence of a majority
 5 of its members attending a meeting. Five (5) members constitute a
 6 quorum at a meeting.

7 (f) The commission may adopt reasonable and proper rules and
 8 regulations for the conduct of its proceedings and the discharge of its
 9 duties. These rules must provide for the receipt of public testimony
 10 concerning the qualifications of candidates for nomination to the
 11 governor.

12 SECTION 21. IC 33-33-45-40 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 40. An appointment by
 14 the governor or chief justice, as required by section 38 ~~or 39~~ of this
 15 chapter, to the superior court of Lake County takes effect immediately
 16 if a vacancy exists at the date of the appointment. The appointment
 17 takes effect on the date the vacancy is created if a vacancy does not
 18 exist at the date of appointment.

19 SECTION 22. IC 33-33-45-41 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 41. (a) Each judge
 21 appointed under section 38 of this chapter serves an initial term, which
 22 begins on the effective date of the appointment of the judge and
 23 continues through December 31 in the year of the general election that
 24 follows the expiration of two (2) years after the effective date of the
 25 judge's appointment.

26 (b) Unless rejected by the electorate of Lake County under section
 27 42 of this chapter, a judge of the ~~civil division, criminal division, and~~
 28 ~~juvenile division~~ **superior court** shall serve successive six (6) year
 29 terms.

30 ~~(c) The term of office of a judge of the county division of the~~
 31 ~~superior court is six (6) years. A judge appointed under section 39 of~~
 32 ~~this chapter to fill a vacancy in the county division of the Lake superior~~
 33 ~~court serves for the unexpired term of the vacating judge and until the~~
 34 ~~appointed judge's successor is elected and qualified.~~

35 ~~(d)~~ (c) Each six (6) year term begins on the first day of January
 36 following the expiration of the preceding initial term or the preceding
 37 six (6) year term, as the case may be, and continues for six (6) years.

38 SECTION 23. IC 33-33-45-42, AS AMENDED BY P.L.58-2005,
 39 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2011]: Sec. 42. (a) The question of the retention in office or
 41 rejection of each judge of ~~the following divisions~~ of the superior court
 42 of Lake County shall be submitted to the electorate of Lake County at
 43 the general election immediately preceding expiration of the term of
 44 the judge.

45 (1) ~~Civil division.~~

46 (2) ~~Criminal division.~~

1 ~~(3) Juvenile division.~~

2 (b) At the general election, the question of the retention in office or
3 rejection of a judge described in subsection (a) shall be submitted to
4 the electorate of Lake County in the form prescribed by IC 3-11 and
5 must state "Shall Judge (insert name) of the superior court of Lake
6 County be retained in office for an additional term?".

7 (c) If a majority of the ballots cast by the electors voting on any
8 question is "Yes", the judge whose name appeared on the question shall
9 be approved for a six (6) year term beginning January 1 following the
10 general election as provided in section 41(b) of this chapter.

11 (d) If a majority of the ballots cast by the electors voting on any
12 question is "No", the judge whose name appeared on the question shall
13 be rejected. The office of the rejected judge is vacant on January 1
14 following the rejection. The vacancy shall be filled by appointment by
15 the governor under section 38 of this chapter.

16 (e) The Lake County election board shall submit the question of the
17 retention in office or rejection of a judge described in subsection (a) to
18 the electorate of Lake County. The submission of the question is
19 subject to the provisions of IC 3 that are not inconsistent with this
20 chapter.

21 (f) If a judge who is appointed does not desire to serve any further
22 term, the judge shall notify in writing the clerk of the Lake circuit court
23 at least sixty (60) days before any general election, in which case the
24 question of that judge's retention in office or rejection shall not be
25 submitted to the electorate, and the office becomes vacant at the
26 expiration of the term.

27 SECTION 24. IC 33-33-45-44 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 44. (a) A judge of the
29 superior court may not during a term of office as judge of the superior
30 court do any of the following:

31 (1) Engage in the practice of law.

32 (2) Run for elective office. ~~unless the elective office is that of~~
33 ~~judge of the county division of the Lake superior court.~~

34 (3) Take part in any political campaign. ~~unless the judge is~~
35 ~~running for election as judge of the county division and the~~
36 ~~political campaign is conducted for that office.~~

37 (b) Failure to comply with this section is sufficient cause for the
38 commission on judicial qualifications to recommend to the supreme
39 court that the judge be censured or removed.

40 (c) A political party may not directly or indirectly campaign for or
41 against a judge subject to retention or rejection under this chapter."

42 Page 8, between lines 41 and 42, begin a new paragraph and insert:
43 "SECTION 33. THE FOLLOWING ARE REPEALED
44 [EFFECTIVE JULY 1, 2011]: IC 33-33-45-39; IC 33-33-45-43."

45 Page 10, between lines 36 and 37, begin a new paragraph and insert:
46 "SECTION 38. [EFFECTIVE JUNE 30, 2011] (a) **Notwithstanding**

1 **the amendment and repeal by this act of provisions in IC 33-33-45,**
2 **and except as provided in subsection (c), the term of a judge of the**
3 **county division of the Lake superior court who is in office on June**
4 **30, 2011, does not terminate until the date that the term would**
5 **have terminated under the law in effect on June 30, 2011.**

6 **(b) Except as provided in subsection (c), the question of**
7 **retention or rejection of a judge of the county division of the Lake**
8 **superior court described in IC 33-33-45-25, as amended by this act,**
9 **shall be placed on the ballot at the general election immediately**
10 **preceding the date on which the term of the judge occupying the**
11 **position on June 30, 2011, would have terminated under the law in**
12 **effect on June 30, 2011.**

13 **(c) A vacancy that occurs on the Lake superior court county**
14 **division after June 30, 2011, shall be filled as provided in**
15 **IC 33-33-45-34, as amended by this act. A person appointed to fill**
16 **a vacancy under this subsection serves an initial term as provided**
17 **in IC 33-33-45-41, as amended by this act.**

18 **(d) This SECTION expires January 2, 2017."**

19 Renumber all SECTIONS consecutively.

(Reference is to EHB 1266 as printed March 18, 2011.)

Senator LANDSKE