



February 2, 2021

HOUSE BILL No. 1453

DIGEST OF HB 1453 (Updated February 2, 2021 2:32 pm - DI 106)

Citations Affected: IC 33-33.

Synopsis: Judicial selection in Lake and St. Joseph counties. Provides that the judicial nominating commission (commission) for the Lake and St. Joseph superior courts consists of five voting members, with three voting members appointed by the governor and two voting members appointed by the county board of commissioners, and provides that the chief justice of Indiana or the chief justice's designee serves ex officio as a nonvoting member and as chairperson of the commission. (Current law provides that the commission for the Lake superior court consists of nine members and the commission for St. Joseph superior court consists of seven members.) Provides that a voting member of the commission for: (1) the Lake superior court shall reside in Lake County; and (2) the St. Joseph superior court shall reside in St. Joseph County. Repeals provisions concerning the appointment of nonattorney commissioners and the election of attorney commissioners to the commission. Provides that after the commission has nominated and submitted to the governor the names of five persons to fill a vacancy in the Lake or St. Joseph superior court, the governor shall select the most qualified person to fill the vacancy. (Current law provides that the commission for the Lake superior court nominate and submit to the governor the names of three people to fill a vacancy in the superior court.) Makes conforming changes.

Effective: July 1, 2021.

Aylesworth, Teshka, Slager

January 14, 2021, read first time and referred to Committee on Judiciary.
February 2, 2021, amended, reported — Do Pass.

HB 1453—LS 6989/DI 131



February 2, 2021

First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

HOUSE BILL No. 1453

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 33-33-45-28, AS AMENDED BY P.L.2-2007,
2 SECTION 368, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2021]: Sec. 28. (a) The judicial nominating
4 commission (referred to in this chapter as the commission) consists of
5 ~~nine (9)~~ **five (5) voting** members, the majority of whom form a
6 quorum. ~~The chief justice of the supreme court (or a justice of the~~
7 ~~supreme court or judge of the court of appeals designated by the chief~~
8 ~~justice) shall be a member and shall act as chairman. The chief justice~~
9 ~~of Indiana or the chief justice's designee serves ex officio as a~~
10 ~~nonvoting member and as the chairperson of the commission.~~

11 (b) ~~Under sections 30 and 31 of this chapter, those admitted to the~~
12 ~~practice of law and residing in Lake County shall elect four (4) of their~~
13 ~~members to serve on the commission, subject to the following:~~

14 (1) ~~At least one (1) attorney member must be a minority~~
15 ~~individual (as defined in IC 21-13-1-6).~~

16 (2) ~~Two (2) attorney members must be women.~~

17 (3) ~~Two (2) attorney members must be men.~~

HB 1453—LS 6989/DI 131



1 (e) (b) The:

2 (1) **governor shall appoint three (3) members to the**
3 **commission; and**

4 (2) Lake County board of commissioners shall appoint ~~four (4)~~
5 ~~nonattorney citizens~~ **two (2) members** to the commission. ~~subject~~
6 ~~to the following:~~

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

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

14 (3) ~~At least one (1) nonattorney member must be a minority~~
15 ~~individual (as defined in IC 21-13-1-6).~~

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~~
19 ~~same political party.~~

20 The appointees must **reside in Lake County and** reflect the
21 composition of the community. If the Lake County board of
22 commissioners fails to appoint any of the ~~nonattorney~~ commission
23 members within the time required to do so in section 29 of this chapter,
24 the appointment shall be made by the ~~chief justice of the supreme~~
25 ~~court.~~ **chairperson of the commission.**

26 (d) (c) A member of the commission, other than a judge or justice,
27 may not hold any other elected public office. A member may not hold
28 an office in a political party or organization. ~~A nonattorney member of~~
29 ~~the commission may not hold an elected or salaried public office. A~~
30 ~~nonattorney member may not be an employee of the state or of a~~
31 ~~political subdivision of the state.~~

32 (e) (d) A member of the commission is not eligible for appointment
33 to a judicial office in Lake County if the member is a member of the
34 commission and for three (3) years thereafter.

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

38 SECTION 2. IC 33-33-45-29 IS AMENDED TO READ AS
39 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 29. (a) The Lake
40 County board of commissioners shall appoint ~~the four (4) nonattorney~~
41 **two (2) members** of the commission.

42 (b) One (1) month before the expiration of a term of office of a



1 **nonattorney** commissioner **appointed by the Lake County board of**
 2 **commissioners**, an appointment or reappointment shall be made in
 3 accordance with section 28 of this chapter. All appointments made by
 4 the Lake County board of commissioners shall be certified to the
 5 secretary of state, the clerk of the supreme court, and the clerk of Lake
 6 circuit court within ten (10) days after the appointment.

7 (c) Each **nonattorney** member **appointed by the Lake County**
 8 **board of commissioners** shall be appointed for a term of four (4)
 9 years.

10 (d) Whenever a vacancy occurs in the office of a **nonattorney**
 11 commissioner **appointed by the Lake County board of**
 12 **commissioners**, the **chairman chairperson** of the commission shall
 13 promptly notify the Lake County board of commissioners in writing of
 14 such fact. Vacancies in the office of **nonattorney** commissioners
 15 **appointed by the Lake County board of commissioners** shall be
 16 filled by appointment of the Lake County board of commissioners
 17 within sixty (60) days after notice of the vacancy is received. The term
 18 of the **nonattorney** commissioner **appointed by the Lake County**
 19 **board of commissioners** is for the unexpired term of the member
 20 whose vacancy the new member has filled.

21 SECTION 3. IC 33-33-45-30 IS REPEALED [EFFECTIVE JULY
 22 1, 2021]. ~~Sec. 30:~~ (a) Those admitted to the practice of law and residing
 23 in Lake County (referred to in this chapter as attorney electors) shall
 24 elect four (4) of their number to the commission. To be eligible for the
 25 office of attorney commissioner, a person must be on the current annual
 26 list of attorneys certified to the clerk of the supreme court and must be
 27 a resident of Lake County. The term of office of each elected attorney
 28 member is four (4) years, commencing on the first day of October
 29 following the attorney member's election. The election day is the date
 30 on which the ballots are counted and, for purposes of this section, is the
 31 first Tuesday in September 1995, and every four (4) years thereafter.
 32 Thereafter, during the month before the expiration of each attorney
 33 commissioner's term of office, an election shall be held to fill the
 34 succeeding four (4) year term of office.

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

39 SECTION 4. IC 33-33-45-31 IS REPEALED [EFFECTIVE JULY
 40 1, 2021]. ~~Sec. 31:~~ The attorney members of the commission shall be
 41 elected by the following process:

42 (1) The clerk of the Lake circuit court shall, at least ninety (90)



1 days before the date of election; notify all attorneys in Lake
2 County of the upcoming election by mail; informing them that
3 nominations must be made to the clerk of the circuit court at least
4 sixty (60) days before the election. The clerk shall secure a list of
5 all attorneys and their correct addresses from the clerk of the
6 supreme court.

7 (2) A nomination in writing; accompanied by a signed petition of
8 ten (10) attorney electors; and the written consent of the qualified
9 nominee shall be filed by any attorney elector or group of attorney
10 electors residing in Lake County; by mail or otherwise; in the
11 office of the clerk of the Lake circuit court at least sixty (60) days
12 before the election.

13 (3) The clerk of the Lake circuit court shall prepare and print
14 ballots containing the names and residential addresses of all
15 attorney nominees whose written nominations; petitions; and
16 written statements of consent have been received sixty (60) days
17 before the election.

18 (A) The ballot shall read:

19 "SUPERIOR COURT OF LAKE COUNTY
20 NOMINATING COMMISSION BALLOT

21 To be cast by individuals residing in Lake County and admitted
22 to the practice of law in Indiana. Vote for not more than four (4)
23 of the following candidates for the term commencing _____.

- | | |
|-----------|-----------|
| 24 (Name) | (Address) |
| 25 (Name) | (Address) |
| 26 (etc.) | (etc.) |

27 To be counted; this ballot must be completed; the accompanying
28 certificate completed and signed; and both together mailed or
29 delivered to the clerk of the Lake circuit court not later than
30 _____.

31 "DESTROY BALLOT IF NOT USED".

32 (B) The four (4) nominees receiving the most votes whose
33 election does not conflict with the requirements of section
34 28(b) of this chapter shall be elected.

35 (4) The clerk shall also supply with each ballot distributed by the
36 clerk a certificate; to be completed and signed and returned by the
37 attorney elector voting such ballot; certifying that the attorney
38 elector is admitted to the practice of law in Indiana; that the
39 attorney elector resides in Lake County; and that the attorney
40 elector voted the ballot returned. A ballot not accompanied by the
41 signed certificate of the voter shall not be counted.

42 (5) To maintain the secrecy of each vote; a separate envelope



1 shall be provided by the clerk for the ballot, in which only the
 2 voted ballot is to be placed. This envelope shall not be opened
 3 until the counting of the ballots:

4 (6) The clerk of the Lake circuit court shall mail a ballot and its
 5 accompanying material to all qualified attorney electors at least
 6 two (2) weeks before the date of election:

7 (7) Upon receiving the completed ballots and the accompanying
 8 certificate, the clerk shall ensure that the certificates have been
 9 completed in compliance with this chapter. All ballots that are
 10 accompanied by a valid certificate shall be placed in a package
 11 designated to contain ballots. All accompanying certificates shall
 12 be placed in a separate package:

13 (8) The clerk of the Lake circuit court, with the assistance of the
 14 Lake County election board, shall open and canvass all ballots
 15 after 4 p.m. on the day of election in the office of the clerk of the
 16 Lake circuit court. Ballots received after 4 p.m. may not be
 17 counted unless the chairman of the judicial nominating
 18 commission orders an extension of time because of extraordinary
 19 circumstances. Upon canvassing the ballots, the clerk shall place
 20 all ballots back in their package. These, along with the
 21 certificates, shall be retained in the clerk's office for six (6)
 22 months, and the clerk shall permit no one to inspect them except
 23 upon an order of the supreme court:

24 (9) In any election held for selection of attorney members of the
 25 commission, in case two (2) or more nominees are tied so that one
 26 (1) additional vote cast for one (1) of them would give the
 27 nominee a plurality, the canvasser shall resolve the tie by lot and
 28 the winner of the lot is considered to be elected:

29 SECTION 5. IC 33-33-45-32 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 32. After

31 (1) the **attorney voting** members of the commission have been
 32 elected; and

33 (2) the names of the nonattorney commissioners appointed by the
 34 governor **and the voting members of the commission appointed**
 35 **by the Lake County board of commissioners** have been
 36 certified to the secretary of state, clerk of the supreme court, and
 37 clerk of the Lake circuit court as this chapter provides,

38 the clerk of the Lake circuit court shall by regular mail notify the
 39 members of the commission of their election or appointment and shall
 40 notify the **chairman chairperson** of the judicial nominating
 41 commission of the same.

42 SECTION 6. IC 33-33-45-33 IS AMENDED TO READ AS

HB 1453—LS 6989/DI 131



1 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 33. A member of the
 2 judicial nominating commission may serve until the member's
 3 successor is appointed. ~~or elected. An attorney commissioner or a~~
 4 ~~nonattorney commissioner~~ **A voting member of the commission** is not
 5 eligible for more than two (2) successive ~~reelections or~~ reappointments.

6 SECTION 7. IC 33-33-45-34, AS AMENDED BY P.L.201-2011,
 7 SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2021]: Sec. 34. (a) When a vacancy occurs in the superior
 9 court of Lake County, the clerk of the court shall promptly notify the
 10 ~~chairman~~ **chairperson** and each member of the commission of the
 11 vacancy. The ~~chairman~~ **chairperson** shall call a meeting of the
 12 commission within ten (10) days following the notice. The commission
 13 shall submit its nominations of ~~three (3)~~ **five (5)** candidates for each
 14 vacancy and certify them to the governor as promptly as possible, and
 15 not later than sixty (60) days after the vacancy occurs. When it is
 16 known that a vacancy will occur at a definite future date within the
 17 term of the governor then serving, but the vacancy has not yet occurred,
 18 the clerk shall notify the ~~chairman~~ **chairperson** and each member of
 19 the commission immediately of the forthcoming vacancy, and the
 20 commission may within fifty (50) days of the notice of the vacancy
 21 make its nominations and submit to the governor the names of ~~three (3)~~
 22 **five (5)** persons nominated for the forthcoming vacancy.

23 (b) Meetings of the commission shall be called by its ~~chairman~~
 24 **chairperson** or, if the ~~chairman~~ **chairperson** fails to call a necessary
 25 meeting, upon the call of any ~~five (5)~~ **three (3)** members of the
 26 commission. The ~~chairman;~~ **chairperson**, whenever the ~~chairman~~
 27 **chairperson** considers a meeting necessary, or upon the request by any
 28 ~~five (5)~~ **three (3)** members of the commission for a meeting, shall give
 29 each member of the commission at least five (5) days written notice by
 30 mail of the date, time, and place of every meeting unless the
 31 commission at its previous meeting designated the date, time, and place
 32 of its next meeting.

33 (c) Meetings of the commission are to be held at the Lake County
 34 government center in Crown Point or another place, as the circuit court
 35 clerk of Lake County may arrange, at the direction of the ~~chairman~~
 36 **chairperson** of the commission.

37 (d) The commission may act only at a public meeting. IC 5-14-1.5
 38 applies to meetings of the commission. The commission may not meet
 39 in executive session under IC 5-14-1.5-6.1 for the consideration of a
 40 candidate for judicial appointment.

41 (e) The commission may act only by the concurrence of a majority
 42 of its **voting** members attending a meeting. ~~Five (5)~~ **Three (3) voting**



1 members constitute a quorum at a meeting.

2 (f) The commission may adopt reasonable and proper rules and
3 regulations for the conduct of its proceedings and the discharge of its
4 duties. These rules must provide for the receipt of public testimony
5 concerning the qualifications of candidates for nomination to the
6 governor.

7 SECTION 8. IC 33-33-45-35 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 35. In selecting the
9 ~~three (3)~~ **five (5)** nominees to be submitted to the governor, the
10 commission shall comply with the following requirements:

11 (1) The commission shall submit only the names of the ~~three (3)~~
12 **five (5)** most highly qualified candidates from among all those
13 eligible individuals considered. To be eligible for nomination as
14 a judge of the superior court of Lake County, a person must be
15 domiciled in the county of Lake, a citizen of the United States,
16 and admitted to the practice of law in Indiana.

17 (2) In abiding by the mandate in subdivision (1), the commission
18 shall evaluate in writing each eligible individual on the following
19 factors:

20 (A) Law school record, including any academic honors and
21 achievements.

22 (B) Contribution to scholarly journals and publications,
23 legislative drafting, and legal briefs.

24 (C) Activities in public service, including:

25 (i) writings and speeches concerning public or civic affairs
26 that are on public record, including but not limited to
27 campaign speeches or writings, letters to newspapers, and
28 testimony before public agencies;

29 (ii) government service;

30 (iii) efforts and achievements in improving the
31 administration of justice; and

32 (iv) other conduct relating to the individual's profession.

33 (D) Legal experience, including the number of years of
34 practicing law, the kind of practice involved, and reputation as
35 a trial lawyer or judge.

36 (E) Probable judicial temperament.

37 (F) Physical condition, including age, stamina, and possible
38 habitual intemperance.

39 (G) Personality traits, including the exercise of sound
40 judgment, ability to compromise and conciliate, patience,
41 decisiveness, and dedication.

42 (H) Membership on boards of directors, financial interests, and



- 1 any other consideration that might create conflict of interest
 2 with a judicial office.
- 3 (I) Any other pertinent information that the commission feels
 4 is important in selecting the best qualified individuals for
 5 judicial office.
- 6 (3) These written evaluations shall not be made on an individual
 7 until the individual states in writing that the individual desires to
 8 hold a judicial office that is or will be created by vacancy.
- 9 (4) The political affiliations of any candidate may not be
 10 considered by the commission in evaluating and determining
 11 which eligible candidates shall be recommended to the governor
 12 for a vacancy on the superior court of Lake County.
- 13 (5) In determining which eligible candidates are recommended to
 14 the governor, the commission shall consider that racial and gender
 15 diversity enhances the quality of the judiciary.
- 16 SECTION 9. IC 33-33-45-36 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 36. (a) The commission
 18 shall submit with the list of ~~three (3)~~ **five (5)** nominees to the governor
 19 its written evaluation of the qualifications of each candidate.
- 20 (b) The names of the nominees and the written evaluations are
 21 public records that may be inspected and copied under IC 5-14-3.
- 22 (c) Every eligible candidate whose name was not submitted to the
 23 governor shall have access to any evaluation on the candidate by the
 24 commission and the right to make such evaluation public.
- 25 (d) Records specifically prepared for discussion or developed during
 26 discussion in an executive session under IC 5-14-1.5-6.1 are excepted
 27 from public disclosure, unless the records are prepared for use in the
 28 consideration of a candidate for judicial appointment.
- 29 SECTION 10. IC 33-33-45-37 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 37. (a) After the
 31 commission has nominated and submitted to the governor the names of
 32 ~~three (3)~~ **five (5)** persons for appointment to fill a vacancy of the
 33 superior court of Lake County:
- 34 (1) any name may be withdrawn for cause considered by the
 35 commission to be of a substantial nature affecting the nominee's
 36 qualifications to hold office; and
 37 (2) another name may be substituted;
 38 before the appointment is made to fill the vacancy.
- 39 (b) If a nominee dies or requests in writing that the nominee's name
 40 be withdrawn, the commission shall nominate another person to replace
 41 the nominee.
- 42 (c) If two (2) or more vacancies exist, the commission shall



1 nominate and submit to the governor a list of ~~three (3)~~ **five (5)** different
 2 persons for each of the vacancies. The commission may, before an
 3 appointment is made, withdraw the lists of nominations, change the
 4 names of any persons nominated from one (1) list to another, and
 5 resubmit them as changed, or may substitute a new name for any of
 6 those previously nominated.

7 SECTION 11. IC 33-33-45-38 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 38. (a) A vacancy
 9 occurring on the court shall be filled by appointment of the governor
 10 from a list of ~~three (3)~~ **five (5)** nominees presented to the governor by
 11 the judicial nominating commission. If the governor fails to make an
 12 appointment from the list within sixty (60) days after the day it is
 13 presented to the governor, the appointment shall be made by the chief
 14 justice or the acting chief justice of ~~the supreme court Indiana~~ from the
 15 same list, or altered list as provided for in section 37 of this chapter.

16 (b) The governor shall make all appointments to the court without
 17 regard to the political affiliation of any of the ~~three (3)~~ **five (5)**
 18 nominees submitted to the governor. In the interest of justice, the
 19 governor shall consider only those qualifications of the nominees
 20 included in section 35 of this chapter.

21 SECTION 12. IC 33-33-71-30 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 30. (a) The judicial
 23 nominating commission (referred to as the "commission" in this
 24 chapter) consists of ~~seven (7)~~ **five (5) voting** members, the majority of
 25 whom shall form a quorum. ~~The chief justice shall appoint a justice of~~
 26 ~~the supreme court or a judge of the court of appeals to serve as a~~
 27 ~~member and chairman of the commission until a successor is~~
 28 ~~appointed. Those admitted to the practice of law in Indiana and~~
 29 ~~residing in St. Joseph County or maintaining their principal law office~~
 30 ~~in St. Joseph County shall elect, under sections 32 and 33 of this~~
 31 ~~chapter, three (3) of their number to serve as attorney members of the~~
 32 ~~commission. If any attorney member of the commission terminates~~
 33 ~~residence in St. Joseph County or discontinues the maintenance of a~~
 34 ~~principal law office in St. Joseph County, the member shall be~~
 35 ~~considered to have resigned from the commission. The three (3)~~
 36 ~~remaining members of the commission must be persons not admitted~~
 37 ~~to the practice of law (referred to as "nonattorney members" in this~~
 38 ~~chapter) and residents of St. Joseph County. However, not more than~~
 39 ~~two (2) of the nonattorney members may be from the same political~~
 40 ~~party and that the appointment of the nonattorney members of the~~
 41 ~~commission shall be made under section 31 of this chapter. Not more~~
 42 ~~than four (4) commission members may be from the same political~~



1 party. **The governor shall appoint three (3) voting members to the**
 2 **commission and the St. Joseph County board of commissioners**
 3 **shall appoint two (2) voting members to the commission. The chief**
 4 **justice of Indiana or the chief justice's designee serves ex officio as**
 5 **a nonvoting member and as the chairperson of the commission.**
 6 **The voting appointees must reside in St. Joseph County and reflect**
 7 **the composition of the community.**

8 (b) A **voting** member of the commission may not hold any other
 9 salaried public office nor an office in a political party organization. A
 10 **voting** member of the commission is not eligible for appointment to a
 11 judicial office in St. Joseph County who has, within four (4) years
 12 immediately preceding an appointment, served on the commission. If
 13 any **nonattorney voting** member of the commission terminates
 14 residence in St. Joseph County, the member is considered to have
 15 resigned from the commission.

16 SECTION 13. IC 33-33-71-31 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 31. (a) ~~The~~
 18 ~~appointment to membership on the commission of the nonattorney~~
 19 ~~members shall be made by a selection committee consisting of the~~
 20 ~~judge of the St. Joseph circuit court, the president of the board of St.~~
 21 ~~Joseph County commissioners, and mayors in each of the two (2) cities~~
 22 ~~having the largest populations in St. Joseph County. These~~
 23 ~~appointments~~ **Members appointed to the commission by the St.**
 24 **Joseph County board of commissioners** shall be made by a majority
 25 vote of the ~~selection committee.~~ **St. Joseph County board of**
 26 **commissioners.** If a vacancy occurs on the commission among the
 27 ~~nonattorney members~~ **appointed by the St. Joseph County board of**
 28 **commissioners**, that fact shall be reported to the ~~judge of the St.~~
 29 ~~Joseph circuit court~~ **president of the St. Joseph County board of**
 30 **commissioners** by the commission. Upon notification, the ~~judge of the~~
 31 ~~St. Joseph circuit court~~ **president of the St. Joseph County board of**
 32 **commissioners** shall call into session the ~~selection committee;~~ **St.**
 33 **Joseph County board of commissioners**, which shall, by majority
 34 vote, select a person or persons ~~not admitted to the practice of law;~~ who
 35 shall serve the unexpired term of the vacant commission membership
 36 position and that this selection and appointment ~~by the selection~~
 37 ~~committee~~ shall be made within sixty (60) days after the date the ~~St.~~
 38 ~~Joseph circuit court~~ **president of the St. Joseph County board of**
 39 **commissioners** is notified of the creation of the vacancy. If the
 40 ~~selection committee~~ **St. Joseph County board of commissioners** fails
 41 to act to fill an unexpired term of a ~~nonattorney~~ member of the
 42 commission **previously appointed by the St. Joseph County board**



1 **of commissioners** within sixty (60) days after the notification that the
 2 vacancy exists, the vacancy shall be filled by a majority vote of the
 3 remaining members of the commission.

4 (b) Not less than sixty (60) days before the expiration of the term of
 5 a ~~nonattorney~~ member of the commission **appointed by the St. Joseph**
 6 **County board of commissioners**, the judge of the St. Joseph circuit
 7 **court president of the St. Joseph County board of commissioners**
 8 shall call into session the ~~selection committee~~ **St. Joseph County**
 9 **board of commissioners** that shall appoint, by a majority vote, a
 10 person to the commission to serve a new term. If the ~~selection~~
 11 ~~committee~~ **St. Joseph County board of commissioners** fails to act to
 12 fill an expired term of a ~~nonattorney~~ member of the commission
 13 **previously appointed by the St. Joseph County board of**
 14 **commissioners** by the date of expiration of the term, of a ~~nonattorney~~
 15 ~~member of the commission~~, the remaining members on the commission
 16 shall, by majority vote, appoint a person to serve for the succeeding
 17 term. All appointments made to the commission shall be certified
 18 within ten (10) days to the clerk of the St. Joseph superior court.

19 (c) Each ~~voting~~ appointee of a ~~nonattorney member~~ to the
 20 commission, except those who fill a vacancy, shall serve for four (4)
 21 years.

22 SECTION 14. IC 33-33-71-32 IS REPEALED [EFFECTIVE JULY
 23 1, 2021]. Sec. 32: (a) Each year in which an attorney member's term
 24 expires, those admitted to the practice of law in Indiana and residing in
 25 St. Joseph County (referred to as "attorney electors" in this chapter)
 26 shall elect three (3) of their number to serve on the commission. Each
 27 attorney member of the commission shall serve for four (4) years. The
 28 term of each attorney member begins on the first day of October
 29 following the member's election. The election day is the date on which
 30 the ballots are counted. During the month before the expiration of each
 31 attorney commissioner's term of office, an election shall be held to fill
 32 the succeeding four (4) year term of office.

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

37 SECTION 15. IC 33-33-71-33 IS REPEALED [EFFECTIVE JULY
 38 1, 2021]. Sec. 33: The attorney members of the commission shall be
 39 elected by the following process:

40 (1) The clerk of the St. Joseph superior court shall at least ninety
 41 (90) days before the date of election notify all attorneys in St.
 42 Joseph County of the upcoming election by mail, informing them



1 that nominations must be made to the clerk of the superior court
2 at least sixty (60) days before the election. The clerk shall secure
3 a list of all attorneys in the county and their correct addresses
4 from the clerk of the supreme court.

5 (2) A nomination in writing accompanied by a signed petition of
6 ten (10) attorney electors; and the written consent of the qualified
7 nominee shall be filed by an attorney elector or group of attorney
8 electors residing in St. Joseph County, by mail or otherwise; in the
9 office of the clerk of St. Joseph superior court at least sixty (60)
10 days before the election.

11 (3) The clerk of St. Joseph superior court shall prepare and print
12 ballots containing the names and residence addresses of all
13 attorney nominees whose written nominations, petitions and
14 written statements of consent have been received sixty (60) days
15 before the election:

16 The ballot must read:

17 "ST. JOSEPH SUPERIOR COURT
18 NOMINATING COMMISSION BALLOT

19 To be cast by individuals residing in St. Joseph County and admitted
20 to the practice of law in Indiana. Vote for one (1) of the following
21 candidates for the term commencing:

22 (Insert Date)

23	()	(Name)	(Address)
24	()	(Name)	(Address)
25	()	(etc.)	(etc.)

26 To be counted, this ballot must be completed; the accompanying
27 certificate completed and signed; and both together mailed or delivered
28 to the clerk of St. Joseph superior court not later than _____ (insert
29 date):

30 DESTROY BALLOT IF NOT USED".

31 (4) The nominee receiving the most votes is elected.

32 (5) The clerk shall also supply with each ballot distributed by the
33 clerk a certificate; to be completed and signed and returned by the
34 attorney elector voting that ballot; certifying that the attorney
35 elector is admitted to the practice of law in Indiana; resides in St.
36 Joseph County, and voted the ballot returned. A ballot not
37 accompanied by the signed certificate of the voter may not be
38 counted.

39 (6) To maintain the secrecy of each vote; a separate envelope
40 shall be provided by the clerk for the ballot; in which only the
41 voted ballot is to be placed. This envelope may not be opened
42 until the counting of the ballots.



1 (7) The clerk of St. Joseph superior court shall mail a ballot and
 2 its accompanying material to all qualified attorney electors at least
 3 two (2) weeks before the date of election.

4 (8) Upon receiving the completed ballots and the accompanying
 5 certificates, the clerk shall insure that the certificates have been
 6 completed in compliance with this chapter. All ballots that are
 7 accompanied by a valid certificate shall be placed in a package
 8 designated to contain ballots. All accompanying certificates shall
 9 be placed in a separate package.

10 (9) The clerk of St. Joseph superior court, with the assistance of
 11 the St. Joseph County election board, shall open and canvass all
 12 ballots at 4 p.m. on the day of election in the office of the clerk of
 13 St. Joseph superior court. Ballots received after 4 p.m. may not be
 14 counted. Upon canvassing the ballots the clerk shall place all
 15 ballots back in their package. These, along with the certificates,
 16 shall be retained in the clerk's office for six (6) months. The clerk
 17 may not allow a person to inspect them except upon an order of
 18 the court of appeals.

19 (10) In any election held for selection of attorney members of the
 20 commission, in case two (2) or more nominees are tied so that one
 21 (1) additional vote cast for one (1) of them would give that
 22 nominee a plurality, the canvassers shall resolve the tie by lot, and
 23 the winner of the lot is considered elected.

24 SECTION 16. IC 33-33-71-34 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 34. After:

26 (1) the attorney **voting** members of the commission have been
 27 elected; **appointed by the governor**; and

28 (2) the names of the **nonattorney voting** commissioners appointed
 29 by the **selection committee St. Joseph County board of**
 30 **commissioners** have been certified to the secretary of state, clerk
 31 of the supreme court, and the clerk of St. Joseph superior court
 32 under this chapter;

33 the clerk of St. Joseph superior court shall by regular mail notify the
 34 members of the commission of their election or appointment, and shall
 35 notify the **chairman chairperson** of the commission of the same.

36 SECTION 17. IC 33-33-71-35 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 35. A person who has
 38 been ~~elected or~~ appointed to a full four (4) year term upon the
 39 commission may not succeed himself or herself or be eligible for
 40 ~~election or~~ appointment to the commission for four (4) years after the
 41 expiration of the term to which the person was ~~elected or~~ appointed.

42 SECTION 18. IC 33-33-71-36, AS AMENDED BY P.L.173-2015,



1 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 2 JULY 1, 2021]: Sec. 36. (a) When a vacancy occurs in the St. Joseph
 3 superior court, the clerk of the court shall promptly notify the ~~chairman~~
 4 **chairperson** of the commission of the vacancy. The ~~chairman~~
 5 **chairperson** shall call a meeting of the commission within ten (10)
 6 days following this notice. The commission shall submit its
 7 nominations of five (5) candidates for each vacancy and certify them
 8 to the governor as promptly as possible, and not later than sixty (60)
 9 days after the vacancy occurs. When it is known that a vacancy will
 10 occur at a definite future date within the term of the serving governor,
 11 but the vacancy has not yet occurred, the clerk shall notify the
 12 commission immediately. The commission may within fifty (50) days
 13 of the notice of vacancy make its nominations and submit to the
 14 governor the names of five (5) persons nominated for the forthcoming
 15 vacancy.

16 (b) Meetings of the commission shall be called by the ~~chairman~~
 17 **chairperson** or, if the ~~chairman~~ **chairperson** fails to call a necessary
 18 meeting, upon the call of any ~~four (4)~~ **three (3)** members of the
 19 commission. The ~~chairman;~~ **chairperson**, whenever the ~~chairman~~
 20 **chairperson** considers a meeting necessary, or upon the request by any
 21 ~~four (4)~~ **three (3)** members of the commission for a meeting, shall give
 22 each member of the commission at least five (5) days written notice by
 23 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 must be held at a place in:

26 (1) the St. Joseph County courthouse; or

27 (2) another building owned or operated by St. Joseph County;
 28 in South Bend as the clerk of the St. Joseph superior court may arrange.

29 (d) The commission shall act only at a meeting and may act only by
 30 the concurrence of a majority of its members. ~~Four (4)~~ **Three (3)**
 31 **voting** members are required to constitute a quorum at a meeting. The
 32 commission may adopt reasonable and proper rules and regulations for
 33 the conduct of its proceedings and the discharge of its duties.

34 SECTION 19. IC 33-33-71-40 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 40. (a) A vacancy
 36 occurring in the St. Joseph superior court shall be filled by appointment
 37 of the governor from a list of nominees presented to the governor by
 38 the judicial nominating commission. If the governor fails to make an
 39 appointment from the list within sixty (60) days from the day it is
 40 presented to the governor, the appointment shall be made by the chief
 41 justice or the acting chief justice of ~~the supreme court~~ **Indiana** from the
 42 same list presented to the governor.



1 (b) The governor shall make all appointments to the St. Joseph
 2 superior court without regard to the political affiliation of any of the
 3 nominees submitted to the governor. In the interest of justice, the
 4 governor shall consider only those qualifications of the nominees
 5 included in section 37 of this chapter.

6 (c) If the St. Joseph County judicial nominating commission, by a
 7 vote of any ~~five (5)~~ **three (3)** of its **voting** members, determines that,
 8 of the persons considered for any existing or expected vacancy in the
 9 St. Joseph superior court, less than five (5) are qualified for judicial
 10 office, within the scope of this chapter, the commission shall certify
 11 that determination to the governor together with the name or names of
 12 the person or persons found to be qualified under this chapter. In that
 13 event, the governor, chief justice, or acting chief justice shall make the
 14 selection or, if only one (1) name is submitted, make the appointment.

15 SECTION 20. IC 33-33-71-47 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 47. (a) The commission
 17 on judicial qualifications shall meet periodically as necessary to
 18 discharge its statutory responsibilities. Meetings of the commission on
 19 judicial qualifications shall be called in the same manner as prescribed
 20 for the judicial nominating commission. A quorum for the transaction
 21 of business is ~~four (4)~~ **three (3)** members.

22 (b) The clerk of the St. Joseph circuit court shall make arrangements
 23 for a meeting place in St. Joseph County as the commission may
 24 request.

25 (c) The commission on judicial qualifications may act only at a
 26 meeting. The commission on judicial qualifications may adopt
 27 reasonable and proper rules and regulations for the conduct of its
 28 meetings and discharge of its duties.

29 SECTION 21. IC 33-33-71-55 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 55. (a) At the date,
 31 time, and place set for hearing, the commission on judicial
 32 qualifications may proceed with the hearing whether or not the judge
 33 has filed an answer or appears at the hearing.

34 (b) The failure of the judge to answer or to appear at the hearing,
 35 standing alone, may not be taken as evidence of the truth of the facts
 36 alleged to constitute grounds for censure, retirement, or removal. In any
 37 proceeding for involuntary retirement for disability, the failure of the
 38 judge to testify in the judge's own behalf or to submit to a medical
 39 examination requested by the commission on judicial qualifications
 40 may be considered, unless the failure to appear was due to
 41 circumstances beyond the judge's control.

42 (c) The proceedings at the hearing shall be reported verbatim.



1 (d) At least ~~four (4)~~ **three (3)** members of the commission on
2 judicial qualifications must be present when the evidence is produced.
3 SECTION 22. IC 33-33-71-60 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 60. If the commission
5 on judicial qualifications finds good cause, it shall recommend to the
6 supreme court the censure, retirement, or removal of the judge. The
7 affirmative vote of ~~four (4)~~ **three (3)** members of the commission on
8 judicial qualifications, including a majority of those who were present
9 at the hearing or hearings when the evidence was produced, is required
10 for a recommendation of discipline, retirement, or removal of a judge.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1453, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 5, after "(5)" insert "**voting**".

Page 1, line 8, delete "governor shall appoint the" and insert "**chief justice of Indiana or the chief justice's designee serves ex officio as a nonvoting member and as the chairperson of the commission.**".

Page 1, delete line 9.

Page 2, line 24, delete "chairman" and insert "**chairperson**".

Page 2, line 34, after "any" insert "**voting**".

Page 3, line 11, strike "chairman" and insert "**chairperson**".

Page 5, line 30, delete "members" and insert "**voting members**".

Page 5, line 33, delete "members" and insert "**voting members**".

Page 5, line 39, strike "chairman" and insert "**chairperson**".

Page 6, line 2, after "A" insert "**voting**".

Page 6, line 8, strike "chairman" and insert "**chairperson**".

Page 6, line 9, strike "chairman" and insert "**chairperson**".

Page 6, line 16, strike "chairman" and insert "**chairperson**".

Page 6, line 21, strike "chairman" and insert "**chairperson**".

Page 6, line 22, strike "chairman" and insert "**chairperson**".

Page 6, line 23, strike "chairman," and insert "**chairperson,**".

Page 6, line 24, strike "chairman" and insert "**chairperson**".

Page 6, line 32, strike "chairman" and insert "**chairperson**".

Page 6, line 39, after "its" insert "**voting**".

Page 6, line 39, after "(3)" insert "**voting**".

Page 9, line 11, strike "the supreme court" and insert "**Indiana**".

Page 9, line 21, after "(5)" insert "**voting**".

Page 9, line 39, after "(3)" insert "**voting**".

Page 9, line 41, after "(2)" insert "**voting**".

Page 9, line 42, delete "governor shall appoint the chairman of the commission." and insert "**chief justice of Indiana or the chief justice's designee serves ex officio as a nonvoting member and as the chairperson of the commission.**".

Page 10, line 1, delete "appointees" and insert "**voting appointees**".

Page 10, line 3, after "A" insert "**voting**".

Page 10, line 4, delete "A member" and insert "**A voting member**".

Page 10, line 8, after "nonattorney" insert "**voting**".

Page 11, line 14, after "Each" insert "**voting**".

Page 13, line 20, after "attorney" insert "**voting**".



Page 13, line 22, delete "commissioners" and insert "**voting** commissioners".

Page 13, line 29, strike "chairman" and insert "**chairperson**".

Page 13, line 39, strike "chairman" and insert "**chairperson**".

Page 13, line 40, strike "chairman" and insert "**chairperson**".

Page 14, line 9, strike "chairman" and insert "**chairperson**".

Page 14, line 10, strike "chairman" and insert "**chairperson**".

Page 14, line 11, strike "chairman," and insert "**chairperson,**".

Page 14, line 12, strike "chairman" and insert "**chairperson**".

Page 14, line 23, after "(3)" insert "**voting**".

Page 14, line 34, strike "the supreme court" and insert "**Indiana**".

Page 14, line 42, after "its" insert "**voting**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1453 as introduced.)

TORR

Committee Vote: yeas 6, nays 4.

