



March 26, 2021

ENGROSSED HOUSE BILL No. 1453

DIGEST OF HB 1453 (Updated March 24, 2021 7:02 pm - DI 136)

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 two voting members appointed by the governor and two voting members appointed by the county board of commissioners, and the chief justice of Indiana or the chief justice's designee serving ex officio as a voting member only to resolve tie vote and as chair person 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 the governor and the county board of commissioners must appoint to the commission one
(Continued next page)

Effective: Upon passage.

Aylesworth, Teshka, Slager

(SENATE SPONSORS — NIEMEYER, ROGERS)

January 14, 2021, read first time and referred to Committee on Judiciary.
February 2, 2021, amended, reported — Do Pass.
February 4, 2021, read second time, ordered engrossed. Engrossed.
February 8, 2021, read third time, passed. Yeas 63, nays 31.

SENATE ACTION

February 23, 2021, read first time and referred to Committee on Judiciary.
March 25, 2021, amended, reported favorably — Do Pass.

EH 1453—LS 6989/DI 131



Digest Continued

attorney member and one nonattorney member who has never been licensed to practice law. Provides that the chairperson of the commission shall have standing to dispute the validity of an appointed member. 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. Provides that a voting member may not have a prior felony conviction. 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.

EH 1453—LS 6989/DI 131



March 26, 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.

ENGROSSED 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 UPON PASSAGE]: 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 **voting member only to resolve tie votes and as the chairperson of**
11 **the commission.**

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

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

17 (2) Two (2) attorney members must be women.

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1 (3) Two (2) attorney members must be men.
2 ~~(e)~~ (b) The:
3 (1) **governor shall appoint two (2) members to the**
4 **commission, one (1) of whom must be an attorney and one (1)**
5 **of whom must be a nonattorney who has never been licensed**
6 **to practice law; and**
7 (2) Lake County board of commissioners shall appoint four ~~(4)~~
8 nonattorney citizens **two (2) members** to the commission, **one (1)**
9 **of whom must be an attorney and one (1) of whom must be a**
10 **nonattorney who has never been licensed to practice law.**
11 subject to the following:
12 (1) Each of the three ~~(3)~~ county commissioners shall appoint one
13 ~~(1)~~ nonattorney member who is a resident of the appointing
14 commissioner's district.
15 (2) After each county commissioner has had the opportunity to
16 make the county commissioner's appointment, the fourth
17 nonattorney member must be appointed by a majority vote of the
18 Lake County board of commissioners.
19 (3) At least one ~~(1)~~ nonattorney member must be a minority
20 individual (as defined in IC 21-13-1-6).
21 (4) Two (2) nonattorney members must be women.
22 (5) Two (2) nonattorney members must be men.
23 (6) Not more than two (2) of such appointees may be from the
24 same political party.
25 The appointees must **reside in Lake County, have no prior felony**
26 **conviction, and** reflect the composition of the community. If the Lake
27 County board of commissioners fails to appoint any of the nonattorney
28 commission members within the time required to do so in section 29 of
29 this chapter, the appointment shall be made by the chief justice of the
30 supreme court. **chairperson of the commission. The chairperson of**
31 **the commission shall have standing to dispute the validity of an**
32 **appointed member.**
33 ~~(d)~~ (c) A member of the commission, other than a judge or justice,
34 may not hold any other elected public office. A member may not hold
35 an office in a political party or organization. ~~A nonattorney member of~~
36 **the commission may not hold an elected or salaried public office. A**
37 **nonattorney member may not be an employee of the state or of a**
38 **political subdivision of the state.**
39 ~~(e)~~ (d) A member of the commission is not eligible for appointment
40 to a judicial office in Lake County if the member is a member of the
41 commission and for three (3) years thereafter.
42 ~~(f)~~ (e) **Except for the chief justice of Indiana or the chief justice's**



1 **designee**, if any **voting** member of the commission ~~other than a judge~~
 2 ~~or justice~~, terminates the member's residence in Lake County, the
 3 member is considered to have resigned from the commission.

4 SECTION 2. IC 33-33-45-29 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 29. (a) The Lake
 6 County board of commissioners shall appoint ~~the four (4)~~ **nonattorney**
 7 **two (2)** members of the commission.

8 (b) One (1) month before the expiration of a term of office of a
 9 ~~nonattorney~~ commissioner **appointed by the Lake County board of**
 10 **commissioners**, an appointment or reappointment shall be made in
 11 accordance with section 28 of this chapter. All appointments made by
 12 the Lake County board of commissioners shall be certified to the
 13 secretary of state, the clerk of the supreme court, and the clerk of Lake
 14 circuit court within ten (10) days after the appointment.

15 (c) Each ~~nonattorney~~ member **appointed by the Lake County**
 16 **board of commissioners** shall be appointed for a term of four (4)
 17 years.

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

29 SECTION 3. IC 33-33-45-30 IS REPEALED [EFFECTIVE UPON
 30 PASSAGE]. Sec. 30: (a) ~~Those admitted to the practice of law and~~
 31 ~~residing in Lake County (referred to in this chapter as attorney electors)~~
 32 ~~shall elect four (4) of their number to the commission. To be eligible~~
 33 ~~for the office of attorney commissioner, a person must be on the current~~
 34 ~~annual list of attorneys certified to the clerk of the supreme court and~~
 35 ~~must be a resident of Lake County. The term of office of each elected~~
 36 ~~attorney member is four (4) years, commencing on the first day of~~
 37 ~~October following the attorney member's election. The election day is~~
 38 ~~the date on which the ballots are counted and, for purposes of this~~
 39 ~~section, is the first Tuesday in September 1995, and every four (4)~~
 40 ~~years thereafter. Thereafter, during the month before the expiration of~~
 41 ~~each attorney commissioner's term of office, an election shall be held~~
 42 ~~to fill the 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
4 creating the vacancy by a special election:

5 SECTION 4. IC 33-33-45-31 IS REPEALED [EFFECTIVE UPON
6 PASSAGE]. Sec. 31. The attorney members of the commission shall be
7 elected by the following process:

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

15 (2) A nomination in writing, accompanied by a signed petition of
16 ten (10) attorney electors, and the written consent of the qualified
17 nominee shall be filed by any attorney elector or group of attorney
18 electors residing in Lake County, by mail or otherwise, in the
19 office of the clerk of the Lake circuit court at least sixty (60) days
20 before the election.

21 (3) The clerk of the Lake circuit court shall prepare and print
22 ballots containing the names and residential addresses of all
23 attorney nominees whose written nominations, petitions, and
24 written statements of consent have been received sixty (60) days
25 before the election:

26 (A) The ballot shall read:
27 "SUPERIOR COURT OF LAKE COUNTY
28 NOMINATING COMMISSION BALLOT

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

32 (Name) (Address)
33 (Name) (Address)
34 (etc.) (etc.)

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

39 "DESTROY BALLOT IF NOT USED".

40 (B) The four (4) nominees receiving the most votes whose
41 election does not conflict with the requirements of section
42 28(b) of this chapter shall be elected:



1 (4) The clerk shall also supply with each ballot distributed by the
 2 clerk a certificate, to be completed and signed and returned by the
 3 attorney elector voting such ballot, certifying that the attorney
 4 elector is admitted to the practice of law in Indiana; that the
 5 attorney elector resides in Lake County; and that the attorney
 6 elector voted the ballot returned. A ballot not accompanied by the
 7 signed certificate of the voter shall not be counted.

8 (5) To maintain the secrecy of each vote, a separate envelope
 9 shall be provided by the clerk for the ballot, in which only the
 10 voted ballot is to be placed. This envelope shall not be opened
 11 until the counting of the ballots.

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

15 (7) Upon receiving the completed ballots and the accompanying
 16 certificate, the clerk shall ensure that the certificates have been
 17 completed in compliance with this chapter. All ballots that are
 18 accompanied by a valid certificate shall be placed in a package
 19 designated to contain ballots. All accompanying certificates shall
 20 be placed in a separate package.

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

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

37 SECTION 5. IC 33-33-45-32 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 32. After

39 (1) the attorney voting members of the commission have been
 40 elected; and

41 (2) the names of the nonattorney commissioners appointed by the
 42 governor and the voting members of the commission appointed



1 **by the Lake County board of commissioners** have been
 2 certified to the secretary of state, clerk of the supreme court, and
 3 clerk of the Lake circuit court as this chapter provides,
 4 the clerk of the Lake circuit court shall by regular mail notify the
 5 members of the commission of their election or appointment and shall
 6 notify the ~~chairman~~ **chairperson** of the judicial nominating
 7 commission of the same.

8 SECTION 6. IC 33-33-45-33 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 33. A member of
 10 the judicial nominating commission may serve until the member's
 11 successor is appointed. ~~or elected. An attorney commissioner or a~~
 12 ~~nonattorney commissioner~~ **A voting member of the commission** is not
 13 eligible for more than two (2) successive ~~reelections~~ or reappointments.

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

31 (b) Meetings of the commission shall be called by its ~~chairman~~
 32 **chairperson** or, if the ~~chairman~~ **chairperson** fails to call a necessary
 33 meeting, upon the call of any ~~five (5)~~ **three (3)** members of the
 34 commission. The ~~chairman,~~ **chairperson**, whenever the ~~chairman~~
 35 **chairperson** considers a meeting necessary, or upon the request by any
 36 ~~five (5)~~ **three (3)** members of the commission for a meeting, shall give
 37 each member of the commission at least five (5) days written notice by
 38 mail of the date, time, and place of every meeting unless the
 39 commission at its previous meeting designated the date, time, and place
 40 of its next meeting.

41 (c) Meetings of the commission are to be held at the Lake County
 42 government center in Crown Point or another place, as the circuit court



1 clerk of Lake County may arrange, at the direction of the ~~chairman~~
2 **chairperson** of the commission.

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

7 (e) The commission may act only by the concurrence of a majority
8 of its **voting** members attending a meeting. ~~Five (5)~~ **Three (3)** **voting**
9 members constitute a quorum at a meeting.

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

15 SECTION 8. IC 33-33-45-35 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 35. In selecting the
17 ~~three (3)~~ **five (5)** nominees to be submitted to the governor, the
18 commission shall comply with the following requirements:

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

25 (2) In abiding by the mandate in subdivision (1), the commission
26 shall evaluate in writing each eligible individual on the following
27 factors:

28 (A) Law school record, including any academic honors and
29 achievements.

30 (B) Contribution to scholarly journals and publications,
31 legislative drafting, and legal briefs.

32 (C) Activities in public service, including:

33 (i) writings and speeches concerning public or civic affairs
34 that are on public record, including but not limited to
35 campaign speeches or writings, letters to newspapers, and
36 testimony before public agencies;

37 (ii) government service;

38 (iii) efforts and achievements in improving the
39 administration of justice; and

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

41 (D) Legal experience, including the number of years of
42 practicing law, the kind of practice involved, and reputation as



- 1 a trial lawyer or judge.
 2 (E) Probable judicial temperament.
 3 (F) Physical condition, including age, stamina, and possible
 4 habitual intemperance.
 5 (G) Personality traits, including the exercise of sound
 6 judgment, ability to compromise and conciliate, patience,
 7 decisiveness, and dedication.
 8 (H) Membership on boards of directors, financial interests, and
 9 any other consideration that might create conflict of interest
 10 with a judicial office.
 11 (I) Any other pertinent information that the commission feels
 12 is important in selecting the best qualified individuals for
 13 judicial office.
- 14 (3) These written evaluations shall not be made on an individual
 15 until the individual states in writing that the individual desires to
 16 hold a judicial office that is or will be created by vacancy.
- 17 (4) The political affiliations of any candidate may not be
 18 considered by the commission in evaluating and determining
 19 which eligible candidates shall be recommended to the governor
 20 for a vacancy on the superior court of Lake County.
- 21 (5) In determining which eligible candidates are recommended to
 22 the governor, the commission shall consider that racial and gender
 23 diversity enhances the quality of the judiciary.
- 24 SECTION 9. IC 33-33-45-36 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 36. (a) The
 26 commission shall submit with the list of ~~three (3)~~ **five (5)** nominees to
 27 the governor its written evaluation of the qualifications of each
 28 candidate.
- 29 (b) The names of the nominees and the written evaluations are
 30 public records that may be inspected and copied under IC 5-14-3.
- 31 (c) Every eligible candidate whose name was not submitted to the
 32 governor shall have access to any evaluation on the candidate by the
 33 commission and the right to make such evaluation public.
- 34 (d) Records specifically prepared for discussion or developed during
 35 discussion in an executive session under IC 5-14-1.5-6.1 are excepted
 36 from public disclosure, unless the records are prepared for use in the
 37 consideration of a candidate for judicial appointment.
- 38 SECTION 10. IC 33-33-45-37 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37. (a) After the
 40 commission has nominated and submitted to the governor the names of
 41 ~~three (3)~~ **five (5)** persons for appointment to fill a vacancy of the
 42 superior court of Lake County:



1 (1) any name may be withdrawn for cause considered by the
 2 commission to be of a substantial nature affecting the nominee's
 3 qualifications to hold office; and

4 (2) another name may be substituted;
 5 before the appointment is made to fill the vacancy.

6 (b) If a nominee dies or requests in writing that the nominee's name
 7 be withdrawn, the commission shall nominate another person to replace
 8 the nominee.

9 (c) If two (2) or more vacancies exist, the commission shall
 10 nominate and submit to the governor a list of ~~three (3)~~ **five (5)** different
 11 persons for each of the vacancies. The commission may, before an
 12 appointment is made, withdraw the lists of nominations, change the
 13 names of any persons nominated from one (1) list to another, and
 14 resubmit them as changed, or may substitute a new name for any of
 15 those previously nominated.

16 SECTION 11. IC 33-33-45-38 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 38. (a) A vacancy
 18 occurring on the court shall be filled by appointment of the governor
 19 from a list of ~~three (3)~~ **five (5)** nominees presented to the governor by
 20 the judicial nominating commission. If the governor fails to make an
 21 appointment from the list within sixty (60) days after the day it is
 22 presented to the governor, the appointment shall be made by the chief
 23 justice or the acting chief justice of ~~the supreme court~~ **Indiana** from the
 24 same list, or altered list as provided for in section 37 of this chapter.

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

30 SECTION 12. IC 33-33-71-30 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 30. (a) The judicial
 32 nominating commission (referred to as the "commission" in this
 33 chapter) consists of ~~seven (7)~~ **five (5) voting** members, the majority of
 34 whom shall form a quorum. ~~The chief justice shall appoint a justice of~~
 35 ~~the supreme court or a judge of the court of appeals to serve as a~~
 36 ~~member and chairman of the commission until a successor is~~
 37 ~~appointed. Those admitted to the practice of law in Indiana and~~
 38 ~~residing in St. Joseph County or maintaining their principal law office~~
 39 ~~in St. Joseph County shall elect, under sections 32 and 33 of this~~
 40 ~~chapter, three (3) of their number to serve as attorney members of the~~
 41 ~~commission. If any attorney member of the commission terminates~~
 42 ~~residence in St. Joseph County or discontinues the maintenance of a~~



1 principal law office in St. Joseph County; the member shall be
 2 considered to have resigned from the commission. The three (3)
 3 remaining members of the commission must be persons not admitted
 4 to the practice of law (referred to as "nonattorney members" in this
 5 chapter) and residents of St. Joseph County. However, not more than
 6 two (2) of the nonattorney members may be from the same political
 7 party and that the appointment of the nonattorney members of the
 8 commission shall be made under section 31 of this chapter. Not more
 9 than four (4) commission members may be from the same political
 10 party. **The governor shall appoint two (2) voting members to the**
 11 **commission, one (1) of whom must be an attorney and one (1) of**
 12 **whom must be a nonattorney who has never been licensed to**
 13 **practice law, and the St. Joseph County board of commissioners**
 14 **shall appoint two (2) voting members to the commission, one (1) of**
 15 **whom must be an attorney and one (1) of whom must be a**
 16 **nonattorney who has never been licensed to practice law. The chief**
 17 **justice of Indiana or the chief justice's designee serves ex officio as**
 18 **a voting member only to resolve tie votes and as the chairperson of**
 19 **the commission. The voting appointees must reside in St. Joseph**
 20 **County, have no prior felony conviction, and reflect the**
 21 **composition of the community. The chairperson of the commission**
 22 **shall have standing to dispute the validity of a voting appointee.**

23 (b) **This subsection does not apply to the chief justice of Indiana**
 24 **or the chief justice's designee.** A voting member of the commission
 25 may not hold any other salaried public office nor an office in a political
 26 party organization. A voting member of the commission is not eligible
 27 for appointment to a judicial office in St. Joseph County who has,
 28 within four (4) years immediately preceding an appointment, served on
 29 the commission. If any nonattorney voting member of the commission
 30 terminates residence in St. Joseph County, the member is considered
 31 to have resigned from the commission.

32 SECTION 13. IC 33-33-71-31 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 31. (a) ~~The~~
 34 ~~appointment to membership on the commission of the nonattorney~~
 35 ~~members shall be made by a selection committee consisting of the~~
 36 ~~judge of the St. Joseph circuit court, the president of the board of St.~~
 37 ~~Joseph County commissioners, and mayors in each of the two (2) cities~~
 38 ~~having the largest populations in St. Joseph County. These~~
 39 ~~appointments~~ **Members appointed to the commission by the St.**
 40 **Joseph County board of commissioners** shall be made by a majority
 41 vote of the ~~selection committee.~~ **St. Joseph County board of**
 42 **commissioners.** If a vacancy occurs on the commission among the



1 nonattorney members **appointed by the St. Joseph County board of**
 2 **commissioners**, that fact shall be reported to the ~~judge of the St.~~
 3 ~~Joseph circuit court~~ **president of the St. Joseph County board of**
 4 **commissioners** by the commission. Upon notification, the ~~judge of the~~
 5 ~~St. Joseph circuit court~~ **president of the St. Joseph County board of**
 6 **commissioners** shall call into session the ~~selection committee~~; **St.**
 7 **Joseph County board of commissioners**, which shall, by majority
 8 vote, select a person or persons ~~not admitted to the practice of law~~; who
 9 shall serve the unexpired term of the vacant commission membership
 10 position and that this selection and appointment ~~by the selection~~
 11 ~~committee~~ shall be made within sixty (60) days after the date the ~~St.~~
 12 ~~Joseph circuit court~~ **president of the St. Joseph County board of**
 13 **commissioners** is notified of the creation of the vacancy. If the
 14 ~~selection committee~~ **St. Joseph County board of commissioners** fails
 15 to act to fill an unexpired term of a nonattorney member of the
 16 commission **previously appointed by the St. Joseph County board**
 17 **of commissioners** within sixty (60) days after the notification that the
 18 vacancy exists, the vacancy shall be filled by a majority vote of the
 19 remaining members of the commission.

20 (b) Not less than sixty (60) days before the expiration of the term of
 21 a nonattorney member of the commission **appointed by the St. Joseph**
 22 **County board of commissioners**, the ~~judge of the St. Joseph circuit~~
 23 ~~court~~ **president of the St. Joseph County board of commissioners**
 24 shall call into session the ~~selection committee~~ **St. Joseph County**
 25 **board of commissioners** that shall appoint, by a majority vote, a
 26 person to the commission to serve a new term. If the ~~selection~~
 27 ~~committee~~ **St. Joseph County board of commissioners** fails to act to
 28 fill an expired term of a nonattorney member of the commission
 29 **previously appointed by the St. Joseph County board of**
 30 **commissioners** by the date of expiration of the term, ~~of a nonattorney~~
 31 ~~member of the commission~~; the remaining members on the commission
 32 shall, by majority vote, appoint a person to serve for the succeeding
 33 term. All appointments made to the commission shall be certified
 34 within ten (10) days to the clerk of the St. Joseph superior court.

35 (c) Each **voting** appointee of a nonattorney member to the
 36 commission, except those who fill a vacancy, shall serve for four (4)
 37 years.

38 SECTION 14. IC 33-33-71-32 IS REPEALED [EFFECTIVE UPON
 39 PASSAGE]. Sec. 32. (a) Each year in which an attorney member's term
 40 expires, those admitted to the practice of law in Indiana and residing in
 41 St. Joseph County (referred to as "attorney electors" in this chapter)
 42 shall elect three (3) of their number to serve on the commission. Each



1 attorney member of the commission shall serve for four (4) years. The
2 term of each attorney member begins on the first day of October
3 following the member's election. The election day is the date on which
4 the ballots are counted. During the month before the expiration of each
5 attorney commissioner's term of office, an election shall be held to fill
6 the succeeding four (4) year term of office.

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

11 SECTION 15. IC 33-33-71-33 IS REPEALED [EFFECTIVE UPON
12 PASSAGE]. Sec. 33. The attorney members of the commission shall be
13 elected by the following process:

14 (1) The clerk of the St. Joseph superior court shall at least ninety
15 (90) days before the date of election notify all attorneys in St.
16 Joseph County of the upcoming election by mail, informing them
17 that nominations must be made to the clerk of the superior court
18 at least sixty (60) days before the election. The clerk shall secure
19 a list of all attorneys in the county and their correct addresses
20 from the clerk of the supreme court.

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

27 (3) The clerk of St. Joseph superior court shall prepare and print
28 ballots containing the names and residence addresses of all
29 attorney nominees whose written nominations, petitions and
30 written statements of consent have been received sixty (60) days
31 before the election.

32 The ballot must read:

33 "ST. JOSEPH SUPERIOR COURT
34 NOMINATING COMMISSION BALLOT

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

38 (Insert Date)

39	()	(Name)	(Address)
40	()	(Name)	(Address)
41	()	(etc.)	(etc.)

42 To be counted, this ballot must be completed, the accompanying



1 certificate completed and signed; and both together mailed or delivered
 2 to the clerk of St. Joseph superior court not later than _____ (insert
 3 date):

4 **DESTROY BALLOT IF NOT USED":**

5 (4) The nominee receiving the most votes is elected:

6 (5) The clerk shall also supply with each ballot distributed by the
 7 clerk a certificate; to be completed and signed and returned by the
 8 attorney elector voting that ballot; certifying that the attorney
 9 elector is admitted to the practice of law in Indiana; resides in St.
 10 Joseph County; and voted the ballot returned: A ballot not
 11 accompanied by the signed certificate of the voter may not be
 12 counted:

13 (6) To maintain the secrecy of each vote; a separate envelope
 14 shall be provided by the clerk for the ballot; in which only the
 15 voted ballot is to be placed: This envelope may not be opened
 16 until the counting of the ballots:

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

20 (8) Upon receiving the completed ballots and the accompanying
 21 certificates; the clerk shall insure that the certificates have been
 22 completed in compliance with this chapter: All ballots that are
 23 accompanied by a valid certificate shall be placed in a package
 24 designated to contain ballots: All accompanying certificates shall
 25 be placed in a separate package:

26 (9) The clerk of St. Joseph superior court; with the assistance of
 27 the St. Joseph County election board; shall open and canvass all
 28 ballots at 4 p.m. on the day of election in the office of the clerk of
 29 St. Joseph superior court: Ballots received after 4 p.m. may not be
 30 counted: Upon canvassing the ballots the clerk shall place all
 31 ballots back in their package: These; along with the certificates;
 32 shall be retained in the clerk's office for six (6) months: The clerk
 33 may not allow a person to inspect them except upon an order of
 34 the court of appeals:

35 (10) In any election held for selection of attorney members of the
 36 commission; in case two (2) or more nominees are tied so that one
 37 (1) additional vote cast for one (1) of them would give that
 38 nominee a plurality; the canvassers shall resolve the tie by lot; and
 39 the winner of the lot is considered elected:

40 SECTION 16. IC 33-33-71-34 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 34. After:

42 (1) the attorney **voting** members of the commission have been



1 ~~elect~~; **appointed by the governor**; and

2 (2) the names of the ~~nonattorney~~ **voting** commissioners appointed
3 by the ~~selection committee~~ **St. Joseph County board of**
4 **commissioners** have been certified to the secretary of state, clerk
5 of the supreme court, and the clerk of St. Joseph superior court
6 under this chapter;

7 the clerk of St. Joseph superior court shall by regular mail notify the
8 members of the commission of their election or appointment, and shall
9 notify the ~~chairman~~ **chairperson** of the commission of the same.

10 SECTION 17. IC 33-33-71-35 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 35. A person who
12 has been ~~elect~~ or appointed to a full four (4) year term upon the
13 commission may not succeed himself or herself or be eligible for
14 ~~election~~ or appointment to the commission for four (4) years after the
15 expiration of the term to which the person was ~~elect~~ or appointed.

16 SECTION 18. IC 33-33-71-36, AS AMENDED BY P.L.173-2015,
17 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
18 UPON PASSAGE]: Sec. 36. (a) When a vacancy occurs in the St.
19 Joseph superior court, the clerk of the court shall promptly notify the
20 ~~chairman~~ **chairperson** of the commission of the vacancy. The
21 ~~chairman~~ **chairperson** shall call a meeting of the commission within
22 ten (10) days following this notice. The commission shall submit its
23 nominations of five (5) candidates for each vacancy and certify them
24 to the governor as promptly as possible, and not later than sixty (60)
25 days after the vacancy occurs. When it is known that a vacancy will
26 occur at a definite future date within the term of the serving governor,
27 but the vacancy has not yet occurred, the clerk shall notify the
28 commission immediately. The commission may within fifty (50) days
29 of the notice of vacancy make its nominations and submit to the
30 governor the names of five (5) persons nominated for the forthcoming
31 vacancy.

32 (b) Meetings of the commission shall be called by the ~~chairman~~
33 **chairperson** or, if the ~~chairman~~ **chairperson** fails to call a necessary
34 meeting, upon the call of any ~~four (4)~~ **three (3)** members of the
35 commission. The ~~chairman~~; **chairperson**, whenever the ~~chairman~~
36 **chairperson** considers a meeting necessary, or upon the request by any
37 ~~four (4)~~ **three (3)** members of the commission for a meeting, shall give
38 each member of the commission at least five (5) days written notice by
39 mail of the time and place of every meeting unless the commission at
40 its previous meeting designated the time and place of its next meeting.

41 (c) Meetings of the commission must be held at a place in:

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



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

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

8 SECTION 19. IC 33-33-71-40 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 40. (a) A vacancy
 10 occurring in the St. Joseph superior court shall be filled by appointment
 11 of the governor from a list of nominees presented to the governor by
 12 the judicial nominating commission. If the governor fails to make an
 13 appointment from the list within sixty (60) days from the day it is
 14 presented to the governor, the appointment shall be made by the chief
 15 justice or the acting chief justice of ~~the supreme court~~ **Indiana** from the
 16 same list presented to the governor.

17 (b) The governor shall make all appointments to the St. Joseph
 18 superior court without regard to the political affiliation of any of the
 19 nominees submitted to the governor. In the interest of justice, the
 20 governor shall consider only those qualifications of the nominees
 21 included in section 37 of this chapter.

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

31 SECTION 20. IC 33-33-71-47 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 47. (a) The
 33 commission on judicial qualifications shall meet periodically as
 34 necessary to discharge its statutory responsibilities. Meetings of the
 35 commission on judicial qualifications shall be called in the same
 36 manner as prescribed for the judicial nominating commission. A
 37 quorum for the transaction of business is ~~four (4)~~ **three (3)** members.

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

41 (c) The commission on judicial qualifications may act only at a
 42 meeting. The commission on judicial qualifications may adopt



1 reasonable and proper rules and regulations for the conduct of its
2 meetings and discharge of its duties.

3 SECTION 21. IC 33-33-71-55 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 55. (a) At the date,
5 time, and place set for hearing, the commission on judicial
6 qualifications may proceed with the hearing whether or not the judge
7 has filed an answer or appears at the hearing.

8 (b) The failure of the judge to answer or to appear at the hearing,
9 standing alone, may not be taken as evidence of the truth of the facts
10 alleged to constitute grounds for censure, retirement, or removal. In any
11 proceeding for involuntary retirement for disability, the failure of the
12 judge to testify in the judge's own behalf or to submit to a medical
13 examination requested by the commission on judicial qualifications
14 may be considered, unless the failure to appear was due to
15 circumstances beyond the judge's control.

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

17 (d) At least ~~four (4)~~ **three (3)** members of the commission on
18 judicial qualifications must be present when the evidence is produced.

19 SECTION 22. IC 33-33-71-60 IS AMENDED TO READ AS
20 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 60. If the
21 commission on judicial qualifications finds good cause, it shall
22 recommend to the supreme court the censure, retirement, or removal
23 of the judge. The affirmative vote of ~~four (4)~~ **three (3)** members of the
24 commission on judicial qualifications, including a majority of those
25 who were present at the hearing or hearings when the evidence was
26 produced, is required for a recommendation of discipline, retirement,
27 or removal of a judge.

28 SECTION 23. **An emergency is declared for this act.**



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.

COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred House Bill No. 1453, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Replace the effective dates in SECTIONS 1 through 22 with "[EFFECTIVE UPON PASSAGE]".

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

Page 1, line 10, after "member" insert "**only to resolve tie votes**".

Page 2, line 2, delete "three (3)" and insert "**two (2)**".

Page 2, line 3, delete "commission;" and insert "**commission, one (1) of whom must be an attorney and one (1) of whom must be a nonattorney who has never been licensed to practice law;**".

Page 2, line 5, delete "commission." and insert "**commission, one (1) of whom must be an attorney and one (1) of whom must be a nonattorney who has never been licensed to practice law.**".

Page 2, line 20, delete "County" and insert "**County, have no prior felony conviction,**".

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Page 2, line 25, after "commission." insert "**The chairperson of the commission shall have standing to dispute the validity of an appointed member.**".

Page 2, line 35, delete "If" and insert "**Except for the chief justice of Indiana or the chief justice's designee, if**".

Page 10, line 1, delete "three (3)" and insert "**two (2)**".

Page 10, line 2, delete "commission" and insert "**commission, one (1) of whom must be an attorney and one (1) of whom must be a nonattorney who has never been licensed to practice law,**".

Page 10, line 3, delete "commission." and insert "**commission, one (1) of whom must be an attorney and one (1) of whom must be a nonattorney who has never been licensed to practice law.**".

Page 10, line 5, delete "nonvoting" and insert "**voting**".

Page 10, line 5, after "member" insert "**only to resolve tie votes**".

Page 10, line 6, delete "County" and insert "**County, have no prior felony conviction,**".

Page 10, line 7, after "community." insert "**The chairperson of the commission shall have standing to dispute the validity of a voting appointee.**".

Page 10, line 8, after "(b)" insert "**This subsection does not apply to the chief justice of Indiana or the chief justice's designee.**".

Page 16, after line 10, begin a new paragraph and insert:

"**SECTION 23. An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1453 as printed February 2, 2021.)

BROWN L, Chairperson

Committee Vote: Yeas 5, Nays 4.

