
HOUSE BILL No. 1676

DIGEST OF INTRODUCED BILL

Citations Affected: IC 33-27-5; IC 33-33.

Synopsis: Judicial retention elections. Requires the judicial nominating commission (commission) to solicit public comment as to whether a justice of the supreme court, a judge of the court of appeals, or a judge of the tax court whose retention in office is on a general election ballot should be retained in office. Requires the state bar association to survey attorneys and make a recommendation to the commission as to whether a justice or judge should be retained in office. Requires the commission to consider public comments, information from a justice or judge who is seeking retention, and the state bar association recommendations in making a recommendation as to whether a justice or judge should be retained in office. Requires the commission to disseminate its recommendations so as to reach the greatest number of members of the public who are eligible to vote in the general election at which the question of the retention of a justice or judge is on the ballot. Requires the judicial nominating commissions in Lake and St. Joseph counties to follow a similar procedure for superior court judges subject to a retention election in those counties. Requires the county bar associations in Lake and St. Joseph counties to survey attorneys in those counties and make a recommendation to the judicial nominating commission of the county as to whether a judge should be retained in office.

Effective: July 1, 2007.

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January 23, 2007, read first time and referred to Committee on Judiciary.

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First Regular Session 115th General Assembly (2007)

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 2006 Regular Session of the General Assembly.

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HOUSE BILL No. 1676

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 33-27-5 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2007]:

4 **Chapter 5. Duties of the Commission; Retention of Justices and**
5 **Judges**

6 **Sec. 1. This chapter applies to the retention of any of the**
7 **following:**

- 8 (1) **A justice of the supreme court.**
- 9 (2) **A judge of the court of appeals.**
- 10 (3) **A judge of the tax court.**

11 **Sec. 2. As used in this chapter, "commission" refers to the**
12 **judicial nominating commission established under IC 33-27-2.**

13 **Sec. 3. (a) After:**

- 14 (1) **a justice or a judge of the tax court files a statement under**
15 **IC 33-24-2-2; or**
- 16 (2) **a judge files a statement under IC 33-25-2-2;**

17 **indicating that the justice or judge wishes to be retained in office,**



1 the commission shall, not later than August 1 of the year in which
 2 the question of the retention of the justice or judge is to be placed
 3 on the general election ballot, give the notice described in this
 4 section.

5 (b) The notice required by subsection (a) shall include at least
 6 the following information:

7 (1) The name of each justice or judge who has filed a
 8 statement indicating that the justice or judge wishes to be
 9 retained in office.

10 (2) The office held by each justice or judge.

11 (3) A statement that the justice or judge has filed a statement
 12 indicating that the justice or judge wishes to be retained in
 13 office.

14 (4) The date of the general election at which the justice's or
 15 judge's name will appear on the ballot.

16 (5) A statement that the commission is seeking comments
 17 from the general public on the question of whether the justice
 18 or judge shall be retained in office.

19 (6) The methods by which the general public may submit
 20 comments, including:

21 (A) the date, time, and place of any public meetings
 22 scheduled;

23 (B) a postal address for written comments; and

24 (C) an electronic mail address for electronic comments.

25 (7) A deadline for the submission of comments.

26 (8) Any other information the commission determines to
 27 include in the notice.

28 (c) The commission shall give the notice by all means and
 29 methods, as determined by the commission, that are the most likely
 30 to reach the greatest number of members of the public who are
 31 eligible to vote in the general election at which the question of the
 32 retention of the justice or judge is on the ballot.

33 Sec. 4. (a) A meeting held under this chapter by the commission
 34 to receive comments concerning the retention of a justice or judge
 35 is a public meeting subject to IC 5-14-1.5.

36 (b) Comments received under this chapter by the commission
 37 concerning the retention of a justice or judge are public records to
 38 the same extent as attributable communications received by the
 39 commission under IC 33-27-3-2.

40 Sec. 5. (a) The commission may request:

41 (1) written information from; or

42 (2) attendance at a public meeting of the commission by;

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1 a justice or judge who is seeking retention.
 2 (b) Without a request from the commission, a justice or judge
 3 who is seeking retention may:
 4 (1) submit written information to; or
 5 (2) request a public meeting with;
 6 the commission.
 7 Sec. 6. (a) Not later than October 1 of the year in which the
 8 question of the retention of a justice or judge is on the general
 9 election ballot, the Indiana State Bar Association shall:
 10 (1) survey all attorneys admitted to practice law in Indiana
 11 who are on the current annual list of attorneys certified to the
 12 clerk of the supreme court on the question of whether a
 13 justice or judge who is on the general election ballot shall be
 14 retained in office; and
 15 (2) after receiving the survey results, prepare and submit to
 16 the commission a recommendation for each justice or judge
 17 who is on the general election ballot as to whether the justice
 18 or judge shall be retained in office.
 19 (b) The Indiana State Bar Association may disseminate the
 20 recommendations provided to the commission under subsection (a)
 21 by all means and methods, as determined by the Indiana State Bar
 22 Association, that are the most likely to reach the greatest number
 23 of members of the public who are eligible to vote in a general
 24 election at which the question of the retention of a justice or judge
 25 is on the ballot.
 26 Sec. 7. (a) Not later than thirty (30) days before the date of a
 27 general election at which the question of the retention of a justice
 28 or judge is on the ballot, the commission shall make a
 29 recommendation for each justice or judge who is on the general
 30 election ballot as to whether the justice or judge shall be retained
 31 in office.
 32 (b) The commission may meet in executive session under
 33 IC 5-14-1.5-6.1(b) to consider its recommendations under
 34 subsection (a).
 35 (c) In making its recommendations, the commission shall
 36 consider:
 37 (1) comments from the general public received in response to
 38 the notice under section 3 of this chapter;
 39 (2) information submitted under section 5 of this chapter by
 40 a justice or judge who is seeking retention; and
 41 (3) the recommendations made by the Indiana State Bar
 42 Association under section 6 of this chapter.

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1 (d) The commission shall disseminate its recommendations
2 under subsection (a) by all means and methods, as determined by
3 the commission, that are the most likely to reach the greatest
4 number of members of the public who are eligible to vote in the
5 general election at which the question of the retention of a justice
6 or judge is on the ballot.

7 **Sec. 8. The commission may adopt rules under IC 33-27-3-6 to**
8 **implement and administer this chapter.**

9 SECTION 2. IC 33-33-45-27 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 27. (a) There is
11 established a judicial nominating commission for the superior court of
12 Lake County, the functions, responsibilities, and procedures of which
13 are set forth in sections 28 through 37 **and section 42.5** of this chapter.

14 (b) The board of county commissioners of Lake County shall
15 provide all facilities, equipment, supplies, and services as may be
16 necessary for the administration of the duties imposed upon the
17 commission. The members of the commission shall serve without
18 compensation. However, the board of county commissioners of Lake
19 County shall reimburse members of the commission for actual
20 expenses incurred in performing their duties.

21 SECTION 3. IC 33-33-45-42.5 IS ADDED TO THE INDIANA
22 CODE AS A NEW SECTION TO READ AS FOLLOWS
23 [EFFECTIVE JULY 1, 2007]: **Sec. 42.5. (a) This section applies to**
24 **the retention of judges of the divisions of the superior court of**
25 **Lake County for whom the question of the retention in office or the**
26 **rejection of the judge is submitted to the electorate of Lake County**
27 **under section 42 of this chapter.**

28 (b) As used in this section, "commission" refers to the judicial
29 nominating commission for the superior court of Lake County
30 established by section 27 of this chapter.

31 (c) Unless a judge has notified the clerk of the Lake circuit court
32 under section 42(f) of this chapter that the judge does not desire to
33 serve a further term, the commission shall, not later than
34 September 15 of the year in which the question of the retention of
35 the judge is to be placed on the general election ballot, give the
36 notice described in subsection (d).

37 (d) The notice required by subsection (c) shall include at least
38 the following information:

- 39 (1) The name of each judge who is on the general election
40 ballot.
41 (2) The office held by each judge.
42 (3) The date of the general election at which the judge's name

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will appear on the general election ballot.

(4) A statement that the commission is seeking comments from the general public on the question of whether the judge shall be retained in office.

(5) The methods by which the general public may submit comments, including:

- (A) the date, time, and place of any public meetings scheduled;
- (B) a postal address for written comments; and
- (C) an electronic mail address for electronic comments.

(6) A deadline for the submission of comments.

(7) Any other information the commission determines to include in the notice.

(e) The commission shall give the notice required under subsection (d) by all means and methods, as determined by the commission, that are the most likely to reach the greatest number of members of the public who are eligible to vote at the general election at which the question of the retention of the judge is on the ballot.

(f) A meeting held under this section by the commission to receive comments concerning the retention of a judge is a public meeting subject to IC 5-14-1.5.

(g) Comments received under this section by the commission concerning the retention of a judge are public records under IC 5-14-3 to the same extent as other communications received by the commission.

(h) The commission may request:

- (1) written information from; or
- (2) attendance at a public meeting of the commission by;

a judge whose retention in office is on a general election ballot.

(i) Without a request from the commission, a judge whose retention in office is on a general election ballot may:

- (1) submit written information to; or
- (2) request a public meeting with;

the commission.

(j) Not later than October 10 of the year in which the question of the retention of a judge is on a general election ballot, the Lake County Bar Association shall:

- (1) survey all attorneys admitted to practice law in Indiana who:
 - (A) are on the current annual list of attorneys certified to the clerk of the supreme court; and

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1 **(B) reside in Lake County;**
 2 **on the question of whether a judge who is on the general**
 3 **election ballot shall be retained in office; and**
 4 **(2) after receiving the survey results, prepare and submit to**
 5 **the commission a recommendation for each judge who is on**
 6 **the general election ballot as to whether the judge shall be**
 7 **retained in office.**

8 **(k) The Lake County Bar Association may disseminate the**
 9 **recommendations provided to the commission under subsection (j)**
 10 **by all means and methods, as determined by the Lake County Bar**
 11 **Association, that are the most likely to reach the greatest number**
 12 **of members of the public who are eligible to vote in the general**
 13 **election at which the question of the retention of a judge is on the**
 14 **ballot.**

15 **(l) Not later than fourteen (14) days before the date of a general**
 16 **election at which the question of the retention of a judge is on the**
 17 **ballot, the commission shall make a recommendation for each**
 18 **judge who is on the general election ballot as to whether the judge**
 19 **shall be retained in office.**

20 **(m) The commission may not meet in executive session under**
 21 **IC 5-14-1.5-6.1 to consider its recommendations under subsection**
 22 **(l).**

23 **(n) In making its recommendations, the commission shall**
 24 **consider:**

- 25 **(1) comments from the general public received in response to**
- 26 **the notice under subsection (c);**
- 27 **(2) information submitted under subsection (h) by a judge**
- 28 **whose retention in office is on a general election ballot; and**
- 29 **(3) the recommendations made by the Lake County Bar**
- 30 **Association under subsection (j).**

31 **(o) The commission shall disseminate its recommendations by**
 32 **all means and methods, as determined by the commission, that are**
 33 **the most likely to reach the greatest number of members of the**
 34 **public who are eligible to vote in the general election at which the**
 35 **question of the retention of a judge is on the ballot.**

36 **(p) The commission may adopt rules under IC 33-33-45-34(f) to**
 37 **implement and administer this section.**

38 **SECTION 4. IC 33-33-71-29 IS AMENDED TO READ AS**
 39 **FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 29. (a) There is**
 40 **established a judicial nominating commission for the St. Joseph**
 41 **superior court, the functions, responsibilities, and procedures of which**
 42 **are set forth in sections 30 through 40 and section 43.5 of this chapter.**

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1 (b) The board of county commissioners of St. Joseph County shall
 2 provide all facilities, equipments, supplies, and services necessary for
 3 the administration of the duties imposed upon the commission. The
 4 members of this commission shall serve without compensation.
 5 However, the board of county commissioners of St. Joseph County
 6 shall reimburse members of this commission for their actual expenses
 7 incurred in performing their duties.

8 SECTION 5. IC 33-33-71-43.5 IS ADDED TO THE INDIANA
 9 CODE AS A NEW SECTION TO READ AS FOLLOWS
 10 [EFFECTIVE JULY 1, 2007]: **Sec. 43.5. (a) This section applies to
 11 the retention of judges of the St. Joseph superior court for whom
 12 the question of the retention in office or the rejection of the judge
 13 is submitted to the electorate of St. Joseph County under section 43
 14 of this chapter.**

15 (b) As used in this section, "commission" refers to the judicial
 16 nominating commission for the St. Joseph superior court
 17 established by section 29 of this chapter.

18 (c) Unless a judge has notified the clerk of the St. Joseph circuit
 19 court under section 43(b) of this chapter that the judge does not
 20 desire to serve a further term, the commission shall, not later than
 21 September 15 of the year in which the question of the retention of
 22 a judge is to be placed on the general election ballot, give the notice
 23 described in subsection (d).

24 (d) The notice required by subsection (c) shall include at least
 25 the following information:

- 26 (1) The name of each judge who is on the general election
 27 ballot.
- 28 (2) The office held by each judge.
- 29 (3) The date of the general election at which the judge's name
 30 will appear on the general election ballot.
- 31 (4) A statement that the commission is seeking comments
 32 from the general public on the question of whether the judge
 33 shall be retained in office.
- 34 (5) The methods by which the general public may submit
 35 comments, including:
 - 36 (A) the date, time, and place of any public meetings
 37 scheduled;
 - 38 (B) a postal address for written comments; and
 - 39 (C) an electronic mail address for electronic comments.
- 40 (6) A deadline for the submission of comments.
- 41 (7) Any other information the commission determines to
 42 include in the notice.

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1 (e) The commission shall give the notice required under
 2 subsection (d) by all means and methods, as determined by the
 3 commission, that are the most likely to reach the greatest number
 4 of members of the public who are eligible to vote in the general
 5 election at which the question of the retention of a judge is on the
 6 ballot.

7 (f) A meeting held under this section by the commission to
 8 receive comments concerning the retention of a judge is a public
 9 meeting subject to IC 5-14-1.5.

10 (g) Comments received under this section by the commission
 11 concerning the retention of a judge are public records under
 12 IC 5-14-3 to the same extent as other communications received by
 13 the commission.

14 (h) The commission may request:

15 (1) written information from; or

16 (2) attendance at a public meeting of the commission by;
 17 a judge whose retention in office is on a general election ballot.

18 (i) Without a request from the commission, a judge whose
 19 retention in office is on a general election ballot may:

20 (1) submit written information to; or

21 (2) request a public meeting with;
 22 the commission.

23 (j) Not later than October 10 of the year in which the question
 24 of the retention of a judge is on a general election ballot, the St.
 25 Joseph County Bar Association shall:

26 (1) survey all attorneys admitted to practice law in Indiana
 27 who:

28 (A) are on the current annual list of attorneys certified to
 29 the clerk of the supreme court; and

30 (B) reside in St. Joseph County;

31 on the question of whether a judge who is on the general
 32 election ballot shall be retained in office; and

33 (2) after receiving the survey results, prepare and submit to
 34 the commission a recommendation for each judge who is on
 35 the general election ballot as to whether the judge shall be
 36 retained in office.

37 (k) The St. Joseph County Bar Association may disseminate the
 38 recommendations provided to the commission under subsection (j)
 39 by all means and methods, as determined by the St. Joseph County
 40 Bar Association, that are the most likely to reach the greatest
 41 number of members of the public who are eligible to vote in the
 42 general election at which the question of the retention of a judge is

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on the ballot.

(l) Not later than fourteen (14) days before the date of the general election at which the question of the retention of a judge is on the ballot, the commission shall make a recommendation for each judge who is on the general election ballot as to whether the judge shall be retained in office.

(m) The commission may not meet in executive session under IC 5-14-1.5-6.1 to consider its recommendations under subsection (l).

(n) In making its recommendations, the commission shall consider:

- (1) comments from the general public received in response to the notice under subsection (c);
- (2) information submitted under subsection (h) by a judge whose retention in office is on a general election ballot; and
- (3) the recommendations made by the St. Joseph County Bar Association under subsection (j).

(o) The commission shall disseminate its recommendations by all means and methods, as determined by the commission, that are the most likely to reach the greatest number of members of the public who are eligible to vote in the general election at which the question of the retention of a judge is on the ballot.

(p) The commission may adopt rules under IC 33-33-71-36(d) to implement and administer this section.

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