FILED MAR 06 2006

SENATE FILE 2342
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3105)

Passed Senate, Date 3-8-06 Passed House, Date 3-28-06
Vote: Ayes 50 Nays 0 Vote: Ayes 86 Nays 12
Approved April 20, 2006

A BILL FOR

1 An Act relating to the appointment of district associate judges
2 and magistrates.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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SF 2342

TLSB 5366SV 81
jm/je/5

S.F. 2342 H.F. _____

Section 1. Section 602.6301, Code 2005, is amended to read as follows:

602.6301 NUMBER AND APPORTIONMENT OF DISTRICT ASSOCIATE JUDGES.

There shall be one district associate judge in counties having a population of more than thirty-five thousand and less than eighty thousand; two in counties having a population of eighty thousand or more and less than one hundred twenty-five thousand; three in counties having a population of one hundred twenty-five thousand or more and less than ~~two~~ one hundred seventy thousand; four in counties having a population of ~~two~~ one hundred seventy thousand or more and less than two hundred ~~thirty-five~~ fifteen thousand; five in counties having a population of two hundred ~~thirty-five~~ fifteen thousand or more and less than two hundred ~~seventy~~ sixty thousand; six in counties having a population of two hundred ~~seventy~~ sixty thousand or more and less than three hundred five thousand; and seven in counties having a population of three hundred five thousand or more and less than three hundred fifty thousand; eight in counties having a population of three hundred fifty thousand or more and less than three hundred ninety-five thousand; nine in counties having a population of three hundred ninety-five thousand or more and less than four hundred forty thousand; ten in counties having a population of four hundred forty thousand or more and less than four hundred eighty-five thousand; and one additional judge for every population increment of thirty-five thousand which is over four hundred eighty-five thousand in such counties. However, a county shall not lose a district associate judgeship solely because of a reduction in the county's population. If the formula provided in this section results in the allocation of an additional district associate judgeship to a county, implementation of the allocation shall be subject to prior approval of the supreme court and availability of funds to the judicial branch. A district associate judge appointed

1 pursuant to section 602.6302 or 602.6307 shall not be counted
2 for purposes of this section and the reduction of a district
3 associate judge pursuant to section 602.6303 also shall not be
4 counted for purposes of this section.
5 Sec. 2. NEW SECTION. 602.6303 APPOINTMENT OF MAGISTRATES
6 IN LIEU OF DISTRICT ASSOCIATE JUDGE.
7 1. The chief judge of the judicial district may designate
8 by order of substitution that three magistrates be appointed
9 pursuant to this section in lieu of the appointment of a
10 district associate judge under section 602.6304, subject to
11 the following limitations:
12 a. The substitution shall not result in the judicial
13 district receiving more magistrates than are authorized under
14 the magistrate formula in section 602.6401.
15 b. The substitution shall be approved by the supreme
16 court.
17 c. A majority of district judges in that judicial election
18 district, or in the case of an appointment involving more than
19 one judicial election district in the same judicial district,
20 a majority of the district judges in each judicial election
21 district, must vote in favor of the substitution and find that
22 the substitution will provide more timely and efficient
23 performance of judicial business within that judicial election
24 district.
25 2. An order of substitution shall not take effect unless a
26 copy of the order is received by the chairperson of the county
27 magistrate appointing commission or commissions no later than
28 May 31 of the year in which the substitution is to take
29 effect. The order shall designate the county of appointment
30 for each magistrate. A copy of the order shall also be sent
31 to the state court administrator.
32 3. For a county in which a substitution order is in
33 effect, the number of district associate judges actually
34 appointed pursuant to section 602.6304 shall be reduced by one
35 for each substitution order in effect.

1 4. Except as provided in subsections 1 through 3, a
2 substitution shall not increase or decrease the number of
3 district associate judges authorized by this article.
4 5. If a majority of the district judges in a judicial
5 election district determine that a substitution is no longer
6 desirable, then all three magistrate positions shall be
7 terminated. However, a reversion pursuant to this subsection
8 shall not take effect until the terms of the three magistrates
9 expire. Upon the termination of the magistrate positions
10 created under this section, an appointment shall be made to
11 reestablish the term of office for a district associate judge
12 as provided in sections 602.6304 and 602.6305.
13 Sec. 3. NEW SECTION. 602.6307 APPOINTMENT OF DISTRICT
14 ASSOCIATE JUDGE IN LIEU OF FULL-TIME ASSOCIATE JUVENILE JUDGE.
15 1. The chief judge of a judicial district may designate by
16 order of substitution that a district associate judge be
17 appointed pursuant to this section in lieu of a full-time
18 associate juvenile judge appointed under section 602.7103B,
19 subject to the following limitations:
20 a. An existing full-time juvenile court judgeship has
21 become vacant or is anticipated to become vacant within one
22 hundred twenty days of an order of substitution.
23 b. The supreme court approves the substitution upon a
24 determination that the substitution will provide a more timely
25 and efficient performance of judicial business within that
26 judicial election district without diminishing the efficiency
27 and performance of the juvenile court.
28 2. If a district associate judge is substituted for a
29 full-time associate juvenile judge pursuant to this section,
30 the judicial district shall make every effort to grant the
31 juvenile court docket priority over other dockets including
32 granting the highest scheduling priority to juvenile court
33 proceedings involving child custody, termination of parental
34 rights, and child in need of assistance cases.
35 3. If the chief judge determines the substitution order is

1 no longer desirable, then the order shall be terminated.
2 However, a reversion pursuant to this subsection, irrespective
3 of cause, shall not take effect until the substitute district
4 associate judge fails to be retained in office at a judicial
5 election or otherwise leaves office, whether voluntarily or
6 involuntarily, and the office becomes vacant.
7 Sec. 4. Section 602.6401, subsection 1, Code Supplement
8 2005, is amended to read as follows:
9 1. Two hundred six magistrates shall be apportioned among
10 the counties as provided in this section. Magistrates
11 appointed pursuant to section 602.6303 or 602.6402 shall not
12 be counted for purposes of this section.
13 Sec. 5. Section 602.6403, subsection 1, Code 2005, is
14 amended to read as follows:
15 1. By June 1 of each year in which magistrates' terms
16 expire, the county magistrate appointing commission shall
17 appoint, except as otherwise provided in section 602.6302, the
18 number of magistrates apportioned to the county by the state
19 court administrator under section 602.6401, the number of
20 magistrates required pursuant to substitution orders in effect
21 under section 602.6303, and may appoint an additional
22 magistrate when allowed by section 602.6402. The commission
23 shall not appoint more magistrates than are authorized for the
24 county by this article.
25 EXPLANATION
26 This bill relates to the appointment of district associate
27 judges and magistrates.
28 The bill increases the number of district associate judges
29 eligible to be appointed in a county based upon the population
30 of that county as provided in Code section 602.6301.
31 The bill provides that the chief judge of the judicial
32 election district may designate by order of substitution that
33 three magistrates be appointed in lieu of the appointment of a
34 vacant district associate judgeship. The appointment of the
35 three magistrates pursuant to the bill is subject to the

1 following limitations: the substitution shall not result in
2 the judicial district receiving more magistrates than are
3 authorized under the magistrate formula; the substitution is
4 approved by the supreme court; and a majority of district
5 judges in the judicial election district, or if the
6 appointments involve more than one judicial election district,
7 a majority of district judges in each election district, vote
8 to approve the substitution of three magistrates for one
9 district associate judgeship.
10 The bill requires a copy of the order of substitution be
11 received by the chairperson of the county magistrate
12 appointing commission or commissions no later than May 31 of
13 the year the order is to take effect. The bill also requires
14 the substitution order to designate the county of appointment
15 for each magistrate.
16 The bill provides that if a majority of district judges in
17 a judicial election district determines that a substitution
18 order is no longer desirable, then the substitution order
19 shall terminate. After the substitution order terminates
20 under the bill, and the terms of the magistrate positions
21 expire, an appointment shall be made to reestablish the term
22 of office for a district associate judge.
23 The bill also provides that the chief judge of a judicial
24 district may designate by order of substitution that a
25 district associate judge be appointed in lieu of a full-time
26 associate juvenile judge. The appointment of the district
27 associate judge pursuant to the bill is subject to the
28 following limitations: an existing full-time juvenile court
29 judgeship has become vacant or will become vacant within 120
30 days of an order of substitution; and the supreme court
31 approves the substitution upon a determination the
32 substitution will provide for a more timely and efficient
33 performance of judicial business without diminishing the
34 efficiency of the juvenile court.
35 If a district associate judge is appointed in lieu of a

full-time associate juvenile judge, the bill requires the judicial district to make every effort to grant the juvenile court docket priority over other dockets.

The bill provides that if the chief judge determines the substitution order is no longer desirable, then the order shall be terminated and a full-time associate juvenile judge shall be appointed to the position upon the vacancy of the district associate judge position.

McKibben Co-chair
Kreiman Co-chair
Larson
Hancock

SSB#3105
Judiciary

Succeeded By HF 2342

SF

SENATE/HOUSE FILE _____
BY (PROPOSED JUDICIAL BRANCH BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the appointment of district associate judges
2 and magistrates.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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TLSB 5366DP 81
jm/je/5

S.F. _____ H.F. _____

Section 1. Section 602.6301, Code 2005, is amended to read as follows:

602.6301 NUMBER AND APPORTIONMENT OF DISTRICT ASSOCIATE JUDGES.

There shall be one district associate judge in counties having a population of more than thirty-five thousand and less than eighty thousand; two in counties having a population of eighty thousand or more and less than one hundred twenty-five thousand; three in counties having a population of one hundred twenty-five thousand or more and less than ~~two~~ one hundred seventy thousand; four in counties having a population of ~~two~~ one hundred seventy thousand or more and less than two hundred ~~thirty-five~~ fifteen thousand; five in counties having a population of two hundred ~~thirty-five~~ fifteen thousand or more and less than two hundred ~~seventy~~ sixty thousand; six in counties having a population of two hundred ~~seventy~~ sixty thousand or more and less than three hundred five thousand; and seven in counties having a population of three hundred five thousand or more and less than three hundred fifty thousand; eight in counties having a population of three hundred fifty thousand or more and less than three hundred ninety-five thousand; nine in counties having a population of three hundred ninety-five thousand or more and less than four hundred forty thousand; ten in counties having a population of four hundred forty thousand or more and less than four hundred eighty-five thousand; and one additional judge for every population increment of thirty-five thousand which is over four hundred eighty-five thousand in such counties. However, a county shall not lose a district associate judgeship solely because of a reduction in the county's population. If the formula provided in this section results in the allocation of an additional district associate judgeship to a county, implementation of the allocation shall be subject to prior approval of the supreme court and availability of funds to the judicial branch. A district associate judge appointed

1 pursuant to section 602.6302 shall not be counted for purposes
2 of this section <u>and the reduction of a district associate</u>
3 <u>judge pursuant to section 602.6303 also shall not be counted</u>
4 <u>for purposes of this section</u>.
5 Sec. 2. <u>NEW SECTION</u>. 602.6303 APPOINTMENT OF MAGISTRATES
6 IN LIEU OF DISTRICT ASSOCIATE JUDGE.
7 1. The chief judge of the judicial district may designate
8 by order of substitution that three magistrates be appointed
9 pursuant to this section in lieu of the appointment of a
10 district associate judge under section 602.6304, subject to
11 the following limitations:
12 a. The substitution shall not result in the judicial
13 district receiving more magistrates than are authorized under
14 the magistrate formula in section 602.6401.
15 b. The substitution shall be approved by the supreme
16 court.
17 c. A majority of district judges in that judicial election
18 district, or in the case of an appointment involving more than
19 one judicial election district in the same judicial district,
20 a majority of the district judges in each judicial election
21 district, must vote in favor of the substitution and find that
22 the substitution will provide more timely and efficient
23 performance of judicial business within that judicial election
24 district.
25 2. An order of substitution shall not take effect unless a
26 copy of the order is received by the chairperson of the county
27 magistrate appointing commission or commissions no later than
28 May 31 of the year in which the substitution is to take
29 effect. The order shall designate the county of appointment
30 for each magistrate. A copy of the order shall also be sent
31 to the state court administrator.
32 3. For a county in which a substitution order is in
33 effect, the number of district associate judges actually
34 appointed pursuant to section 602.6304 shall be reduced by one
35 for each substitution order in effect.

1 4. Except as provided in subsections 1 through 3, a
2 substitution shall not increase or decrease the number of
3 district associate judges authorized by this article.
4 5. If a majority of the district judges in a judicial
5 election district determine that a substitution is no longer
6 desirable, then all three magistrate positions shall be
7 terminated. However, a reversion pursuant to this subsection
8 shall not take effect until the terms of the three magistrates
9 expire. Upon the termination of the magistrate positions
10 created under this section, an appointment shall be made to
11 reestablish the term of office for a district associate judge
12 as provided in sections 602.6304 and 602.6305.
13 Sec. 3. Section 602.6401, subsection 1, Code Supplement
14 2005, is amended to read as follows:
15 1. Two hundred six magistrates shall be apportioned among
16 the counties as provided in this section. Magistrates
17 appointed pursuant to section 602.6303 or 602.6402 shall not
18 be counted for purposes of this section.
19 Sec. 4. Section 602.6403, subsection 1, Code 2005, is
20 amended to read as follows:
21 1. By June 1 of each year in which magistrates' terms
22 expire, the county magistrate appointing commission shall
23 appoint, except as otherwise provided in section 602.6302, the
24 number of magistrates apportioned to the county by the state
25 court administrator under section 602.6401, the number of
26 magistrates required pursuant to substitution orders in effect
27 under section 602.6303, and may appoint an additional
28 magistrate when allowed by section 602.6402. The commission
29 shall not appoint more magistrates than are authorized for the
30 county by this article.
31 EXPLANATION
32 This bill relates to the appointment of district associate
33 judges and magistrates.
34 The bill increases the number of district associate judges
35 eligible to be appointed in a county based upon the population

1 of that county as provided in Code section 602.6301.
2 The bill provides that the chief judge of the judicial
3 election district may designate by order of substitution that
4 three magistrates be appointed in lieu of the appointment of a
5 vacant district associate judgeship. The appointment of the
6 three magistrates pursuant to the bill is subject to the
7 following limitations: the substitution shall not result in
8 the judicial district receiving more magistrates than are
9 authorized under the magistrate formula; the substitution is
10 approved by the supreme court; and a majority of district
11 judges in the judicial election district, or if the
12 appointments involve more than one judicial election district,
13 a majority of district judges in each election district, vote
14 to approve the substitution of three magistrates for one
15 district associate judgeship.
16 The bill requires a copy of the order of substitution be
17 received by the chairperson of the county magistrate
18 appointing commission or commissions no later than May 31 of
19 the year the order is to take effect. The bill also requires
20 the substitution order to designate the county of appointment
21 for each magistrate.
22 The bill provides that if a majority of district judges in
23 a judicial election district determines that a substitution
24 order is no longer desirable, then the substitution order
25 shall terminate. After the substitution order terminates
26 under the bill, and the terms of the magistrate positions
27 expire, an appointment shall be made to reestablish the term
28 of office for a district associate judge.
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MEMORANDUM

TO: MEMBERS OF THE GENERAL ASSEMBLY

FROM: IOWA JUDICIAL BRANCH

DATE: January 26, 2006

RE: TLSB 5366DP

The population formula for district associate judges was last updated in 1994 when the limit on was raised from four judges for counties having a population of 200,000 or more, to seven judges for counties having a population of 305,000 or more. The limit needs to be raised again and adjusted to address the population growth in the state's most populous counties. In addition, the current formula ties the number of judges to which a county is entitled to a variety of population increments, which on its face appears to be inequitable. This inequity would be removed if there were fewer or no variations in the population increments. The proposal in section 1 of the bill uses population increments of 45,000 per judge except for the initial population range. This revision would not result in any counties losing a judge, but it would make some counties eligible for an additional district associate judges. However, the statute currently includes a provision that ties allocation of additional judges subject to approval of the supreme court and availability of funds.

The balance of the bill provides for a process to convert a new or vacant district associate judgeship to three magistrates. Currently, the Code contains a similar provision that allows for the conversion of three magistrate positions for a district associate judgeship. The purpose of the proposal is to provide judicial districts with more flexibility in addressing their specific case load needs as the district's case load changes over time. The current magistrate/DAJ conversion process in section 602.6302 provides a measure of flexibility, but can only be undone when there is a vacancy in the district associate judgeship specifically created by the conversion. This vacancy may not occur for decades.

SENATE FILE 2342

AN ACT

RELATING TO THE APPOINTMENT OF DISTRICT ASSOCIATE JUDGES AND MAGISTRATES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 602.6301, Code 2005, is amended to read as follows:

602.6301 NUMBER AND APPORTIONMENT OF DISTRICT ASSOCIATE JUDGES.

There shall be one district associate judge in counties having a population of more than thirty-five thousand and less than eighty thousand; two in counties having a population of eighty thousand or more and less than one hundred twenty-five thousand; three in counties having a population of one hundred twenty-five thousand or more and less than ~~two~~ one hundred seventy thousand; four in counties having a population of ~~two~~ one hundred seventy thousand or more and less than two hundred ~~thirty-five~~ fifteen thousand; five in counties having a population of two hundred ~~thirty-five~~ fifteen thousand or more and less than two hundred ~~seventy~~ sixty thousand; six in counties having a population of two hundred ~~seventy~~ sixty thousand or more and less than three hundred five thousand; and seven in counties having a population of three hundred five thousand or more and less than three hundred fifty thousand; eight in counties having a population of three hundred fifty thousand or more and less than three hundred ninety-five thousand; nine in counties having a population of three hundred ninety-five thousand or more and less than four

hundred forty thousand; ten in counties having a population of four hundred forty thousand or more and less than four hundred eighty-five thousand; and one additional judge for every population increment of thirty-five thousand which is over four hundred eighty-five thousand in such counties. However, a county shall not lose a district associate judgeship solely because of a reduction in the county's population. If the formula provided in this section results in the allocation of an additional district associate judgeship to a county, implementation of the allocation shall be subject to prior approval of the supreme court and availability of funds to the judicial branch. A district associate judge appointed pursuant to section 602.6302 or 602.6307 shall not be counted for purposes of this section and the reduction of a district associate judge pursuant to section 602.6303 also shall not be counted for purposes of this section.

Sec. 2. NEW SECTION. 602.6303 APPOINTMENT OF MAGISTRATES IN LIEU OF DISTRICT ASSOCIATE JUDGE.

1. The chief judge of the judicial district may designate by order of substitution that three magistrates be appointed pursuant to this section in lieu of the appointment of a district associate judge under section 602.6304, subject to the following limitations:

a. The substitution shall not result in the judicial district receiving more magistrates than are authorized under the magistrate formula in section 602.6401.

b. The substitution shall be approved by the supreme court.

c. A majority of district judges in that judicial election district, or in the case of an appointment involving more than one judicial election district in the same judicial district, a majority of the district judges in each judicial election district, must vote in favor of the substitution and find that the substitution will provide more timely and efficient

performance of judicial business within that judicial election district.

2. An order of substitution shall not take effect unless a copy of the order is received by the chairperson of the county magistrate appointing commission or commissions no later than May 31 of the year in which the substitution is to take effect. The order shall designate the county of appointment for each magistrate. A copy of the order shall also be sent to the state court administrator.

3. For a county in which a substitution order is in effect, the number of district associate judges actually appointed pursuant to section 602.6304 shall be reduced by one for each substitution order in effect.

4. Except as provided in subsections 1 through 3, a substitution shall not increase or decrease the number of district associate judges authorized by this article.

5. If a majority of the district judges in a judicial election district determine that a substitution is no longer desirable, then all three magistrate positions shall be terminated. However, a reversion pursuant to this subsection shall not take effect until the terms of the three magistrates expire. Upon the termination of the magistrate positions created under this section, an appointment shall be made to reestablish the term of office for a district associate judge as provided in sections 602.6304 and 602.6305.

Sec. 3. NEW SECTION. 602.6307 APPOINTMENT OF DISTRICT ASSOCIATE JUDGE IN LIEU OF FULL-TIME ASSOCIATE JUVENILE JUDGE.

1. The chief judge of a judicial district may designate by order of substitution that a district associate judge be appointed pursuant to this section in lieu of a full-time associate juvenile judge appointed under section 602.7103B, subject to the following limitations:

a. An existing full-time juvenile court judgeship has become vacant or is anticipated to become vacant within one hundred twenty days of an order of substitution.

b. The supreme court approves the substitution upon a determination that the substitution will provide a more timely and efficient performance of judicial business within that judicial election district without diminishing the efficiency and performance of the juvenile court.

2. If a district associate judge is substituted for a full-time associate juvenile judge pursuant to this section, the judicial district shall make every effort to grant the juvenile court docket priority over other dockets including granting the highest scheduling priority to juvenile court proceedings involving child custody, termination of parental rights, and child in need of assistance cases.

3. If the chief judge determines the substitution order is no longer desirable, then the order shall be terminated. However, a reversion pursuant to this subsection, irrespective of cause, shall not take effect until the substitute district associate judge fails to be retained in office at a judicial election or otherwise leaves office, whether voluntarily or involuntarily, and the office becomes vacant.

Sec. 4. Section 602.6401, subsection 1, Code Supplement 2005, is amended to read as follows:

1. Two hundred six magistrates shall be apportioned among the counties as provided in this section. Magistrates appointed pursuant to section 602.6303 or 602.6402 shall not be counted for purposes of this section.

Sec. 5. Section 602.6403, subsection 1, Code 2005, is amended to read as follows:

1. By June 1 of each year in which magistrates' terms expire, the county magistrate appointing commission shall appoint, except as otherwise provided in section 602.6302, the number of magistrates apportioned to the county by the state court administrator under section 602.6401, the number of magistrates required pursuant to substitution orders in effect under section 602.6303, and may appoint an additional

magistrate when allowed by section 602.6402. The commission shall not appoint more magistrates than are authorized for the county by this article.

JEFFREY M. LAMBERTI
President of the Senate

CHRISTOPHER C. RANTS
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2342, Eighty-first General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved _____, 2006

THOMAS J. VILSACK
Governor