

IC 33-27-2

Chapter 2. Commissioners, Employees, and Staff

IC 33-27-2-1

Nonattorney commissioners; appointment; term; residency; vacancy

Sec. 1. (a) The governor shall appoint three (3) nonattorney citizens of Indiana, one (1) each from the First District, the Second District, and the Third District of the court of appeals, as commissioners of the judicial nominating commission.

(b) One (1) month before the expiration of a term of office of a nonattorney commissioner, the governor shall either reappoint the commissioner as provided in section 5 of this chapter or appoint a new nonattorney commissioner. All appointments made by the governor to the judicial nominating commission shall be certified to the secretary of state and to the clerk of the supreme court not later than ten (10) days after the appointment.

(c) Except as provided in subsection (e), the governor shall appoint each nonattorney commissioner for a term of three (3) years.

(d) An appointed nonattorney commissioner must reside in the court of appeals district for which the nonattorney commissioner was appointed. A nonattorney commissioner is considered to have resigned the position if the residency of the nonattorney commissioner changes from the court of appeals district for which the nonattorney commissioner was appointed.

(e) When a vacancy occurs in the office of a nonattorney commissioner, the chairman of the commission shall promptly notify the governor in writing. Vacancies in the office of nonattorney commissioners shall be filled by appointment by the governor not later than sixty (60) days after the governor receives notice of the vacancy. The term of the nonattorney commissioner appointed to fill the vacancy is for the unexpired term of the member whose vacancy the new nonattorney commissioner has filled.

As added by P.L.98-2004, SEC.6.

IC 33-27-2-2

Attorney commissioners; electors and elections; residency; term; vacancy

Sec. 2. (a) For purposes of electing attorney members to the judicial nominating commission, the state shall be divided into three (3) districts, corresponding to the First District, the Second District, and the Third District of the court of appeals.

(b) The qualified electors consist of the individuals who are registered with the clerk of the supreme court as attorneys in good standing under the requirements of the supreme court.

(c) The electors of each district shall elect one (1) resident of their district who is admitted to the practice of law in Indiana to the judicial nominating commission. The term of office of each elected member is three (3) years, beginning on the first day of January following the election. During the month before the expiration of an

elected member's term of office, an election shall be held to fill the succeeding three (3) year term of office. Attorney commissioners on the commission must reside for the term of their office in the district from which they were elected. An attorney commissioner is considered to have resigned the position if the residency of the attorney commissioner changes from the court of appeals district for which the attorney commissioner was elected.

(d) Except when a term of office has less than ninety (90) days remaining, vacancies in the office of an attorney commissioner to the judicial nominating commission shall be filled for the unexpired term of the member creating the vacancy by a special election. An attorney commissioner who is elected to fill an unexpired term shall commence the attorney commissioner's duties immediately upon the certification of the new attorney commissioner's election to the secretary of state.

As added by P.L.98-2004, SEC.6.

IC 33-27-2-3

Election procedure

Sec. 3. The attorney commissioners of the judicial nominating commission shall be elected by the following process:

(1) The clerk of the supreme court shall, at least ninety (90) days before the date of an election, send a notice by mail to the address for each qualified elector shown on the records of the clerk informing the electors that nominations for the election must be made to the clerk of the supreme court at least sixty (60) days before the election.

(2) A nomination in writing accompanied by a signed petition of thirty (30) electors from the nominee's district, and the written consent of the nominee shall be filed, by mail or otherwise, by any electors or group of electors admitted to the practice of law in Indiana who reside in the same district as the nominee, in the office of the clerk of the supreme court at least sixty (60) days before the election.

(3) The clerk of the supreme court shall prepare and print separate ballots for each court of appeals district. These ballots must contain the names and residence addresses of all nominees residing within the district for which the ballots are prepared, and whose written nominations, petitions, and written statements of consent have been received sixty (60) days before the election.

(4) The ballot must read as follows:

Indiana Judicial Nominating Commission

BALLOT FOR DISTRICT ()

To be cast by individuals residing in District () and registered with the Clerk of the Supreme Court as an attorney in good standing under the requirements of the Supreme Court. Vote for one (1) member listed below for Indiana Judicial Nominating Commissioner for the term commencing _____.

District ()

(Name) (Address)

(Name) (Address)

(Name) (Address)

To be counted, this ballot must be completed, the accompanying certificate completed and signed, and both together mailed or delivered to the Clerk of the Supreme Court of Indiana, Indianapolis, Indiana, not later than _____.

DESTROY BALLOT IF NOT USED

(5) In each district, the nominee receiving the most votes from the district shall be elected.

(6) The clerk shall also supply with each ballot distributed a certificate, to be completed and signed and returned by the elector voting the ballot, certifying that the voter is registered with the clerk of the supreme court as an attorney in good standing under the requirements of the supreme court, and that the voter voted the ballot returned. A ballot not accompanied by the signed certificate of the voter shall not be counted.

(7) To maintain the secrecy of each vote, a separate envelope shall be provided by the clerk for the ballot, in which only the voted ballot may be placed. This envelope shall not be opened until the counting of the ballots.

(8) The clerk of the supreme court shall mail a ballot and the accompanying material to all electors at least two (2) weeks before the date of the election.

(9) The ballot and the accompanying certificate must be received by the clerk of the supreme court by 4 p.m. on the last day of the election period.

(10) Upon receiving the completed ballots and the accompanying certificate the clerk of the supreme court shall insure that the certificates have been completed in compliance with this article. All ballots that are accompanied by a valid certificate shall be placed in a package designated to contain ballots. All accompanying certificates shall be placed in a separate package.

(11) The clerk of the supreme court, with the assistance of the secretary of state and the attorney general, shall open and canvass all ballots after 4 p.m. on the last day of the election period in the office of the clerk of the supreme court. A ballot received after 4 p.m. may not be counted unless the chief justice orders an extension of time because of unusual circumstances. Upon canvassing the ballots, the clerk of the supreme court shall place all ballots back in their packages. These, along with the certificates, shall be retained in the clerk's office for six (6) months, and the clerk may not permit anyone to inspect them except upon an order of the supreme court.

(12) Not later than ten (10) days after the election, the clerk shall certify the results to the secretary of state.

(13) In an election held for selection of attorney commissioners of the judicial nominating commission, if two (2) or more nominees are tied, the canvassers shall resolve the tie by lot in

a manner that they shall determine, and the winner of the lot is considered elected.

As added by P.L.98-2004, SEC.6.

IC 33-27-2-4

Notification

Sec. 4. After the attorney commissioners have been elected, and after the names of the nonattorney commissioners appointed by the governor have been certified to the secretary of state as provided in this chapter, the clerk shall notify, by regular mail, the members of the commission of their election or appointment.

As added by P.L.98-2004, SEC.6.

IC 33-27-2-5

Duration in office

Sec. 5. A member of the judicial nominating commission may serve until the member's successor is appointed or elected. An attorney commissioner or a nonattorney commissioner is not eligible for successive reelection or reappointment. However, an attorney commissioner or a nonattorney commissioner who has been appointed or elected to fill a vacancy on the commission for less than one (1) year is eligible upon the expiration of that term, if otherwise qualified, for a succeeding term.

As added by P.L.98-2004, SEC.6.

IC 33-27-2-6

Compensation

Sec. 6. A member of the judicial nominating commission shall serve without compensation for the member's services, except for per diem and travel expenses and other necessary and reasonable expenses.

As added by P.L.98-2004, SEC.6.

IC 33-27-2-7

Personnel; appropriations

Sec. 7. (a) The judicial nominating commission may employ investigators and other experts that the commission determines are necessary to carry out its functions and purposes. The commission may employ special counsel in a proceeding if the commission determines the employment is advisable.

(b) The division of state court administration shall serve the judicial nominating commission in performing the commission's statutory and constitutional functions.

(c) The general assembly may appropriate the sums it considers necessary for expenses that may be incurred in the administration of this article.

As added by P.L.98-2004, SEC.6.

IC 33-27-2-8

Staff duties

Sec. 8. (a) The staff of the judicial nominating commission shall make the findings of fact concerning individuals eligible to fill a vacancy in a judicial office as the commission directs.

(b) The staff shall compile biographical sketches of each nominee running for election to the judicial nominating commission. The information compiled shall be submitted to the clerk of the supreme court for mailing, along with the ballots, to qualified electors. The biographical sketches prepared under this subsection must include the following information for each nominee:

- (1) Name and address.
- (2) Legal background, including:
 - (A) type of practice;
 - (B) law firm; and
 - (C) law school year of graduation, honors, other pertinent information.
- (3) General educational background.
- (4) A short statement by the nominee stating the nominee's efforts and achievements in bringing about improvement and betterment of the administration of justice.
- (5) Public offices or positions, including:
 - (A) all public salaried positions; and
 - (B) all services contributed to a public or charitable organization.
- (6) Business and civic affairs.
- (7) Any other pertinent information that the commission considers important.

(c) The staff shall carry out any other duties assigned to it by the general assembly and by the judicial nominating commission when acting in that capacity and in its capacity as the commission on judicial qualifications.

As added by P.L.98-2004, SEC.6.

IC 33-27-2-9

Commissioners, employees, and staff; immunity from civil liability

Sec. 9. The commissioners, employees, and staff of the judicial nominating commission are immune from civil liability for any act or proceeding taken, or communication or statement made, relevant to the evaluation of a candidate under IC 33-27-3-2.

As added by P.L.98-2004, SEC.6.

IC 33-27-2-10

Agencies, organizations, other associations, or persons; immunity from civil liability

Sec. 10. An agency, an organization, a person, or an association described in IC 33-27-3-2(c) is immune from civil liability for providing information or assistance in an investigation under IC 33-27-3-2 or for testifying before the judicial nominating commission if:

- (1) the information or testimony is relevant to the evaluation of a candidate under IC 33-27-3-2(a); and

- (2) the information or testimony is:
 - (A) an expression of opinion; or
 - (B) a statement of fact made without:
 - (i) knowledge that the statement is false; or
 - (ii) reckless disregard for the truth.

As added by P.L.98-2004, SEC.6.