

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 95

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO THE DISTRICT MAGISTRATES COMMISSIONS; AMENDING SECTION 1-2203,
2 IDAHO CODE, TO REVISE PROVISIONS REGARDING MEMBERSHIP OF A DISTRICT
3 MAGISTRATES COMMISSION; AMENDING CHAPTER 22, TITLE 1, IDAHO CODE,
4 BY THE ADDITION OF A NEW SECTION 1-2203A, IDAHO CODE, TO PROVIDE FOR
5 THE TERMS OF MEMBERS OF A DISTRICT MAGISTRATES COMMISSION; AND AMEND-
6 ING CHAPTER 22, TITLE 1, IDAHO CODE, BY THE ADDITION OF A NEW SECTION
7 1-2203B, IDAHO CODE, TO PROVIDE FOR VACANCIES, TEMPORARY VACANCIES, AND
8 TEMPORARY MEMBERS OF A DISTRICT MAGISTRATES COMMISSION.
9

10 Be It Enacted by the Legislature of the State of Idaho:

11 SECTION 1. That Section 1-2203, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 1-2203. DISTRICT MAGISTRATES COMMISSION -- CREATION -- MEMBERS --
14 APPOINTMENT -- QUALIFICATIONS. (1) There is hereby established in each ju-
15 dicial district of the state of Idaho a district magistrates commission to
16 be known as the "district magistrates commission of the judicial dis-
17 trict," the members of which shall consist of:

18 (a) The chairman of the board of county commissioners of each county in
19 the district or member of such board designated by the chairman;

20 (b) The mayors of three (3) municipalities, to be appointed by the gov-
21 ernor, one (1) of whom shall be from a city of ~~over~~ more than ten thousand
22 (10,000) population, in the district to be appointed by the governor,
23 based on the most recent federal decennial census, which position shall
24 be designated as mayor A, and the other two (2) positions designated as
25 mayor B and mayor C, respectively;

26 (c) Two (2) qualified electors residing within the district, to be ap-
27 pointed by the governor, one (1) position designated as elector A and
28 the other as elector B;

29 (d) The administrative district judge of the district or district
30 judge of the district designated by him, the administrative district
31 judge;

32 (e) Two (2) attorneys nominated by the district bar associations in
33 each district and appointed by the Idaho state bar, one (1) position
34 designated as attorney A and the other as attorney B;

35 (f) A magistrate judge in the district, to be appointed by the adminis-
36 trative district judge; and

37 (g) A county clerk in the district, to be appointed by the adminis-
38 trative district judge. Temporary attorney members may be nominated in
39 such number as the bar association in each district deems appropriate
40 at any time by the respective district bar association and appointed by
41 the Idaho state bar to fill any temporary attorney member vacancy on the
42 district magistrates commissions.

1 (2) Each of the members shall be over the age of majority and shall be
2 and remain a citizen of the United States, a bona fide resident of the state
3 and district, and of good moral character.

4 (23) Forthwith after making any appointments to such commissions, the
5 respective appointing authorities shall duly certify in writing to the ad-
6 ministrative director of the courts and to the secretary of state the follow-
7 ing facts with respect to each appointee:

8 (a) Full name;

9 (b) Age;

10 (c) Residence address;

11 (d) If employed, the nature of the appointee's occupation and business
12 address;

13 (e) The name of the district magistrates commission to which appointed;

14 (f) The date of expiration of term for which appointed;

15 (g) ~~Except for the initial appointees under this act, t~~The name of the
16 person the appointee succeeds on the commission and, for a mayor, elec-
17 tor, or attorney member, the member's appropriate designation; and

18 (h) If a member other than a mayor, magistrate judge, or district judge,
19 the appointee's political party.

20 (34) No member, other than the persons appointed while serving as
21 mayor, county commissioner, clerk, magistrate judge, or district judge
22 shall hold any city, county, or state elective office or be employed by the
23 state or any city or county while a member of the commission.

24 ~~(4) The two (2) attorney members shall serve for a term of two (2) years~~
25 ~~and may succeed themselves for two (2) additional terms. The qualified elec-~~
26 ~~tor members shall serve terms of six (6) years each and may succeed them-~~
27 ~~selves. The mayors shall serve terms of six (6) years and may succeed them-~~
28 ~~selves, provided that their terms will end when they cease to hold the office~~
29 ~~that entitles them to membership on the commission. The magistrate judge~~
30 ~~shall serve a two (2) year term that may be renewed up to a total of six (6)~~
31 ~~years. The county clerk shall serve a two (2) year term that may be renewed up~~
32 ~~to a total of six (6) years. Appointments to fill vacancies shall be made by~~
33 ~~the initial appointing authority for the unexpired term.~~

34 ~~(5) A vacancy on the commission shall be caused by a voting member dy-~~
35 ~~ing, resigning, moving his or her residence outside the district, moving his~~
36 ~~or her residence to another county and, in the case of a mayor, magistrate~~
37 ~~judge, district judge, clerk, or county commissioner member, losing his or~~
38 ~~her status as such official for any reason; provided, however, that except~~
39 ~~in the case of death or resignation of a member, the member shall continue~~
40 ~~to serve until a successor is duly appointed and qualified. A vacancy on~~
41 ~~the commission shall be caused by an attorney member dying, resigning, mov-~~
42 ~~ing his or her residence to without the district or being suspended or dis-~~
43 ~~barred from the practice of law. A temporary vacancy on the commission shall~~
44 ~~be caused by an attorney member currently practicing law in the same firm as~~
45 ~~an applicant seeking a magistrate judge's position in the commission's judi-~~
46 ~~cial district, or by an attorney member or a magistrate judge member having~~
47 ~~been engaged in the practice of law as a partner of such applicant within the~~
48 ~~last five (5) years. The position of the clerk member shall be temporarily~~
49 ~~vacated on the commission if an applicant is seeking a magistrate judge's po-~~
50 ~~sition in the clerk member's county. The position of the clerk member shall~~

~~1 be temporarily vacated during any removal process of a magistrate judge. It
2 shall be the duty of any member who has become disqualified for any reason
3 promptly to report that fact in writing to the chairman and secretary of the
4 commission. It shall be the duty of the chairman or secretary promptly to re-
5 port in writing to the appropriate appointing authority the existence of any
6 vacancy on the commission.~~

7 SECTION 2. That Chapter 22, Title 1, Idaho Code, be, and the same is
8 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
9 ignated as Section 1-2203A, Idaho Code, and to read as follows:

10 1-2203A. DISTRICT MAGISTRATES COMMISSION -- TERMS. (1) Except as
11 otherwise provided in this subsection, the mayors shall serve terms on the
12 commission of five (5) years and may succeed themselves, provided that their
13 terms will end when they cease to hold the office that entitles them to mem-
14 bership on the commission. The terms of all mayors serving on a magistrates
15 commission as of September 30, 2021, shall terminate on September 30, 2021,
16 provided, however, the appointing authority may reappoint a mayor to an
17 applicable designated position on the commission. On and after October 1,
18 2021, with respect to:

19 (a) Mayor A, the initial term shall be one (1) year, ending September
20 30, 2022, and thereafter the term of mayor A shall end on September 30 in
21 years that end in two (2) or seven (7);

22 (b) Mayor B, the initial term shall be three (3) years, ending September
23 30, 2024, and thereafter the term of mayor B shall end on September 30 in
24 years that end in four (4) or nine (9); and

25 (c) Mayor C, the initial term shall be five (5) years, ending September
26 30, 2026, and thereafter the term of mayor C shall end on September 30 in
27 years that end in one (1) or six (6).

28 (2) Except as otherwise provided in this subsection, the qualified
29 electors shall serve terms on the commission of five (5) years and may suc-
30 ceed themselves, provided that their terms will end when they cease to reside
31 in the district. The terms of all qualified electors serving on a magis-
32 trates commission as of September 30, 2021, shall terminate on September 30,
33 2021, provided, however, the appointing authority may reappoint a qualified
34 elector to an applicable designated position on the commission. On and after
35 October 1, 2021, with respect to:

36 (a) Elector A, the initial term shall be two (2) years, ending September
37 30, 2023, and thereafter the term of elector A shall end on September 30
38 in years that end in three (3) or eight (8); and

39 (b) Elector B, the initial term shall be four (4) years, ending Septem-
40 ber 30, 2025, and thereafter the term of elector B shall end on September
41 30 in years that end in zero (0) or five (5).

42 (3) Except as otherwise provided in this subsection, attorneys shall
43 serve for a term of two (2) years and may succeed themselves for two (2) ad-
44 ditional terms. The terms of all attorneys on a magistrates commission on
45 September 30, 2021, shall terminate on September 30, 2021, provided, how-
46 ever, the appointing authority may reappoint an attorney to an applicable
47 designated position on the commission, subject to the term limit in this sub-
48 section. On and after October 1, 2021, with respect to:

1 (a) Attorney A, the initial term shall be one (1) year, ending September
2 30, 2022, and thereafter the term of attorney A shall end on September 30
3 in even-numbered years; and

4 (b) Attorney B, the initial term shall be two (2) years, ending Septem-
5 ber 30, 2023, and thereafter the term of attorney B shall end on Septem-
6 ber 30 in odd-numbered years.

7 (4) Except as otherwise provided in this subsection, the magistrate
8 judge shall serve for a term of two (2) years and may succeed himself for two
9 (2) additional terms. The terms of all magistrate judges serving on a mag-
10 istrates commission as of September 30, 2021, shall terminate on September
11 30, 2021, provided, however, the appointing authority may reappoint a magis-
12 trate judge to the magistrates commission, subject to the term limit in this
13 subsection. On and after October 1, 2021, the term of the magistrate judge
14 shall end on September 30 in odd-numbered years.

15 (5) Except as otherwise provided in this subsection, the county clerk
16 shall serve for a term of two (2) years and may succeed himself for two (2)
17 additional terms. The terms of all county clerks serving on a magistrates
18 commission as of September 30, 2021, shall terminate on September 30, 2021,
19 provided, however, the appointing authority may reappoint a county clerk to
20 the magistrates commission, subject to the term limit in this subsection. On
21 and after October 1, 2021, with respect to the county clerk, the initial term
22 shall be one (1) year, ending September 30, 2022, and thereafter the term of
23 the county clerk shall end on September 30 in even-numbered years.

24 SECTION 3. That Chapter 22, Title 1, Idaho Code, be, and the same is
25 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
26 ignated as Section 1-2203B, Idaho Code, and to read as follows:

27 1-2203B. DISTRICT MAGISTRATES COMMISSION -- VACANCIES -- TEMPORARY
28 VACANCIES -- TEMPORARY MEMBERS. (1) A vacancy on the commission shall be
29 caused by a voting member dying, resigning, moving his residence outside
30 the district, moving his residence to another county, and, in the case of a
31 mayor, magistrate judge, district judge, county clerk, or county commis-
32 sioner member, losing his status as such official for any reason; provided,
33 however, that except in the case of death or resignation of a member, the mem-
34 ber who is not otherwise disqualified by law from continuing to serve shall
35 continue to serve until a successor is duly appointed and qualified.

36 (2) In the case of an attorney member, a vacancy on the commission shall
37 also be caused by being suspended or disbarred from the practice of law.

38 (3) Appointments to fill all vacancies, including temporary vacancies,
39 shall be made by the initial appointing authority for the unexpired term or
40 for the period of any temporary vacancy.

41 (4) A temporary vacancy on the commission shall be caused by an attor-
42 ney member currently practicing law in the same firm as an applicant seeking
43 a magistrate judge's position in the commission's judicial district or by an
44 attorney member or a magistrate judge member having been engaged in the prac-
45 tice of law as a partner of such applicant within the last five (5) years.

46 (5) A temporary vacancy on the commission for the county clerk member
47 shall occur if the magistrate judge position being filled or the removal
48 process of a magistrate judge is in the county clerk's county.

1 (6) Temporary attorney members may be nominated in such number as the
2 bar association in each district deems appropriate at any time by the respec-
3 tive district bar association and appointed by the Idaho state bar to fill
4 any temporary attorney member vacancy on the district magistrates commis-
5 sion.

6 (7) It shall be the duty of any member who has become disqualified for
7 any reason promptly to report that fact in writing to the chairman and sec-
8 retary of the commission. It shall be the duty of the chairman or secretary
9 promptly to report in writing to the appropriate appointing authority the
10 existence of any vacancy on the commission.