



**House
Legislative
Analysis
Section**

Olds Plaza Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

COURT OF APPEALS

House Bill 4842 as enrolled
First Analysis (10-19-94)

Sponsor: Rep. Michael E. Nye
House Committee: Judiciary
Senate Committee: not referred

THE APPARENT PROBLEM:

Michigan's 24-judge court of appeals is elected from three districts, with eight judges coming from each district. The districts are drawn along county lines roughly comprising extreme southeastern Michigan for the first district (Wayne, Washtenaw, Monroe, Livingston, Lenawee and Jackson Counties), south-central Michigan and the thumb for the second district (Oakland, Macomb, Ingham, Midland, Bay, Genesee, and others), and the remainder of the state for the third district (Kent, Isabella, and the rest, including the Lake Michigan shoreline counties, the northern Lower Peninsula, and the Upper Peninsula). Article VI, Section 8 of the Michigan constitution requires that court of appeals districts be "drawn on county lines and as nearly as possible of equal population." The 1990 census has revealed population shifts that have produced a serious imbalance in these districts. The first district, with a population of 2,885,101 people, is 213,331 short of the ideal average of 3,098,432. The second district, with a population of 3,176,767 is 78,335 over the average, and the third district, with a population of 3,233,429, is 134,997 over the average. Election experts have said that the lines must be redrawn to restore equality of population and meet constitutional dictates.

The court of appeals has another problem in its burgeoning caseload. The number of appeals filed each year has gone from 1,235 in 1965, to 13,352 in 1992. During that same period, the number of appeals court judges was increased from nine to 24, with the latest increase being enacted by Public Act 279 of 1986. The number of filings per judge, however, also rose, going from 137 in 1965 to 556 in 1992, among the highest in the nation. Many, including the court itself, the state court administrative office, and the State Bar of Michigan, say that if the court is to continue to be able to function properly, it must have additional judges. In its 1992 judicial resources report, the State Court Administrative Office (SCAO) recommended nine

new judgeships for the court of appeals in 1993 and an additional six for 1995. (The SCAO's 1994 report subsequently urged the creation of at least 12 new appeals judgeships no later than 1997.) The September 1993 report of the state bar's Task Force on the Appellate Courts also recommended that the number of judges on the court of appeals be increased to address the court's long term caseload increases.

Redistricting and enlargement of the court of appeals has been proposed.

THE CONTENT OF THE BILL:

The bill would amend the Revised Judicature Act to reorganize the court of appeals from its current three districts into four districts, as follows:

- District 1 would consist of the counties of Wayne, Monroe, and Lenawee.
- District 2 would consist of the counties of Genesee, Shiawassee, Oakland, and Macomb.
- District 3 would consist of the counties of Berrien, Cass, St. Joseph, Branch, Hillsdale, Washtenaw, Livingston, Jackson, Calhoun, Kalamazoo, Van Buren, Allegan, Barry, Kent, Ottawa, and Muskegon.
- District 4 would consist of the remainder of the state.

The court would be enlarged from 24 to 28 judges, with special provisions for elections to effect the transition from a 24-judge, three-district court to a 28-judge, four-district court. District 1 would lose a judgeship effective January 1, 1995 (the judgeship in question is filled by an incumbent who would be constitutionally ineligible to run for re-election in 1994). District 3 would receive four new judgeships

to be filled in the 1994 election; District 4 would receive one new judgeship to be filled in the 1994 election.

Any appeals court judge elected or appointed on or after the bill took effect could maintain offices only in Lansing, Grand Rapids, Detroit, or Southfield.

The bill could not take effect unless House Bill 4873 (which deals with court fees and funding) also were enacted. (Enrolled House Bill 4873 was enacted as Public Act 189 of 1993.)

MCL 600.301 et al.

FISCAL IMPLICATIONS:

In its 1992 judicial resources report, the State Court Administrative Office (SCAO) put the cost of each new court of appeals judgeship at \$380,000 annually, plus a one-time cost of \$82,200 per judgeship. (1-27-92) In its report for 1994, the SCAO put the cost of adding four new judgeships at \$2.2 million annually, with an additional cost of \$428,000 for office equipment and furnishings for new offices required. In an associated press release, the SCAO estimated the cost of a court of appeals judgeship to be about \$657,000 in the first year, dropping down to about \$550,000 per year thereafter. (11-24-93)

ARGUMENTS:

For:

There are two constitutional factors to be considered in redistricting the court of appeals -- population and county lines. The second of these makes perfection in the first impossible. The requirement that counties not be split means that relatively large units of population must be exchanged. Considering this, and considering the court's desperate need for additional judges, the bill would effect a workable solution: four seven-judge districts, each with a population within 23,000 of the ideal figure of 2,323,824 (which is the statewide population divided by four).

Against:

The four-district plan has been criticized for diluting the voting power of minority populations in Wayne County, for overrepresenting the southwest portion of the state, and for creating an unacceptably large population deviation between voting districts (35,652 between the largest and the smallest districts). The plan, say some, risks being held in violation of the

federal Voting Rights Act. Moreover, the change in the number of judgeships also has been criticized: some fault the plan for adding expensive new judgeships when there may be as-yet-untried procedural reforms to ease the court's burden, while others maintain that there is a crushing need for substantially more judges than the relatively few that the bill would add.