



**House
Legislative
Analysis
Section**

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NEW JUDGESHIPS, ETC.

House Bill 5328 as enrolled
Public Act 138 of 1994
Second Analysis (3-6-95)

Sponsor: Rep. David Galloway
House Committee: Judiciary
Senate Committee: Judiciary

THE APPARENT PROBLEM:

Many trial courts are having difficulty managing with existing resources, as case filings increase and backlogs develop. While clogged dockets can be eased by administrative changes and the use of judges temporarily assigned from other jurisdictions, it sometimes becomes necessary to create new judgeships in order to meet needs. The constitution requires that new judgeships be filled by election, which means that there is a biennial deadline for the necessary statutory changes and local resolutions to be enacted in time for candidates to file for election. (The Revised Judicature Act establishes deadlines for statutory creation and local approval of new judgeships, while the Michigan Election Law places a deadline on filing for the primary election.)

With the approach of the biennial deadline for action, the State Court Administrative Office (SCAO) analyzed judicial resources, caseloads (in the sense of caseload trends, and in the sense of comparison between courts), considered community interest in the establishment of additional judgeships, and projected future needs. The result was the 1994 Judicial Resources Report, issued November 22, 1993, which recommended establishment of various new judgeships. Legislation based on those recommendations was subsequently developed and substantially revised.

THE CONTENT OF THE BILL:

The bill would amend the Revised Judicature Act to:

** Authorize one additional judge for the sixth circuit (Oakland County), effective January 1, 1995.

** Authorize the reformation of the two-county one-judge 33rd judicial circuit (which consists of Charlevoix and Emmet counties) into two circuits,

each with one judge. If Charlevoix and Emmet Counties approved the split, Charlevoix County would form the 33rd circuit, while Emmet County would become the 57th circuit, effective January 1, 1995.

** Create special filing provisions for the two proposed new circuit judgeships (the additional judge for the sixth circuit and the new judgeship for the newly-authorized 57th circuit). Notwithstanding any other provision of law, a candidate for one of these new judgeships could qualify for the 1994 primary election by filing a nonrefundable filing fee of \$500 with the secretary of state by 4 p.m. on May 27, 1994.

** Delete existing language authorizing additional judges for the 35th (Northville-Plymouth) and 64th-a (Ionia County) district courts. The Northville-Plymouth judgeship was authorized commencing January 1, 1991, and the Ionia judgeship was authorized commencing January 1, 1995. The bill would specify that any nominating petition for the new 64th-a judgeship would be repealed, and that the ballot in that district for the 1994 primary or general elections would not contain that judgeship or any candidate for that judgeship.

** Authorize the reformation of the 34th district (Romulus and Belleville plus Huron, Sumpter, and Van Buren townships) into the 34th and 34th-a districts. Upon local approval as provided by law, the district's currently-authorized three judgeships would be split between the two new districts, effective January 1, 1997. The 34th district would consist of Romulus and Huron Township and would have two judges. The 34th-a district would consist of Belleville and Sumpter and Van Buren Townships and would have one judge. Provisions would be made for the allocation of currently-sitting judges between the newly-constituted districts.

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** Specify filing deadlines for newly-created judicial districts. Currently, the deadline for filing a local resolution with the state court administrator is 4 p.m. of the sixteenth Tuesday preceding the August primary "immediately following the effective date of the amendatory act permitting the creation" of the district. The bill would instead link this deadline to the August primary "for the election immediately preceding the effective date" of the new district. In addition, a resolution that was filed before the effective date of the applicable amendatory act would be a valid approval only if the filing occurred within the same two-year legislative session. A resolution filed after the amendatory act took effect would be valid only if it occurred not later than 4 p.m. of the sixteenth Tuesday preceding the August primary for the election immediately preceding the effective date for the new district.

** Delay implementation of Public Act 343 of 1990, proposed to make all probate judgeships full-time judgeships and prohibit all probate judges (not just those in the larger counties with full-time positions) from practicing law other than as a judge. That change, scheduled to take effect January 1, 1995, would instead be postponed to January 1, 1997. (Note: The bill as enrolled would have affected not only the part-time probate judges in smaller counties who were the subject of Public 343; the bill also appended the 1997 effective date to provisions that prohibit full-time probate judges in certain larger counties from practicing law other than as a judge and that extend the full base salary to these judges. This error was subsequently corrected by Public Act 389 of 1994.)

MCL 600.507 et al.

BACKGROUND INFORMATION:

The 1994 Judicial Resources Report made the following recommendations for additional judgeships:

** Circuit court. Four new judgeships: two for the 6th circuit (Oakland County), and one each for the 33rd circuit (Charlevoix/Emmet) and 17th circuit (Kent County).

** District court. Six new judgeships: one each for districts 14-b (Ypsilanti Township), 35 (Plymouth), 41-b (Macomb County/Clinton Township), 47 (Farmington), 52-1 (Oakland County/Walled Lake), and 52-2 (Oakland County/Clarkston).

The report also said that changes in court of appeals court activity would require the creation of 12 new court of appeals judgeships in 1997.

FISCAL IMPLICATIONS:

The bulk of the following fiscal information was provided by the State Court Administrative Office (3-3-94).

Trial court judgeship cost. The current method of trial court funding in Michigan requires counties and local municipalities to pay most of the costs of trial court operations. The state pays for the major share of judges' salaries.

State costs. The state portion of the cost of new judgeships includes state pay ranging from \$49,409 for probate judges, \$55,409 for district judges, to \$61,565 for circuit and recorder's court judges (1994 pay rates). In addition, the state provides standardization payments to funding units to offset part of the cost of judges' local pay, ranging from \$37,279 for circuit and recorder's court judges, to \$38,789 for district and probate court judges. The state is responsible for the employer's share of FICA taxes (Social Security and Medicare) for district and circuit court judgeships, which ranges from \$5,186 to \$5,251. Average state travel costs per judge are approximately \$600. Finally, there is a one-time cost of about \$6,000 for each new district court judgeship for the purchase of court recording equipment. Accordingly, the total annual state costs (excluding state appropriations for the judges' retirement system) for trial court judgeships are \$104,095 for each circuit court judgeship; \$105,384 for the first year of each district court judgeship, and \$99,384 for subsequent years; and \$88,198 for each probate court judgeship.

Local costs. Local costs for the addition of a trial court judgeship are higher than state costs, both in terms of "one-time" costs and in ongoing, annual costs. It is difficult to provide a set cost per judge, however. Because personnel costs are a significant portion of trial court operational costs, variation in salary rates statewide results in substantial differences in annual support costs from location to location. In addition, in some jurisdictions physical facilities must be modified or newly-constructed to provide courtrooms and offices to accommodate new judgeships. In the 1990 review of judicial resources, the State Court Administrative Office collected estimates made by trial courts of the

annual operating cost associated with the addition of a judgeship. The average annual operating cost per new judge was \$170,000.

With regard to part-time probate judges, the Senate Fiscal Agency reported that for fiscal year 1997-98, approximately \$529,100 would be needed to fund the new full-time probate judges, and in fiscal year 1999-2000 about \$330,500 would be needed to fund them, with both estimates being based on 1994 salary figures. (5-3-94)

ARGUMENTS:

For:

The bill would provide for two new circuit judgeships, thus helping to ease clogged dockets and improving the administration of justice. Unwanted judgeships would not be forced on any local units of government, for the bill would preserve requirements for local approval before a judgeship could be created. However, although the bill would authorize new judgeships, it also would adopt a fiscally prudent approach by withholding authorization for judgeships that may not be necessary and by postponing the implementation of legislation mandating that all probate judgeships be full-time.

Against:

The bill fails to follow the recommendations outlined in the 1994 Judicial Resources Report, and thus fails to meet the ever-increasing need for additional judicial resources. The use of assigned judges is adequate only for short-term problems with individual courts; it does not suffice to meet long-term needs created by increasing caseloads. In addition, portions of the bill, notably the loss of authorization for certain district judgeships and the postponement of statewide full-time probate judgeships, represent a step backward in meeting state needs for professional judicial resources.