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EASTPOINTE DISTRICT COURT

House Bill 5711 as enrolled (Vetoed)
Second Analysis (1-10-95)

Sponsor: Rep. Nick Ciaramitaro
House Committee: Judiciary
Senate Committee: Judiciary

THE APPARENT PROBLEM:

When Public Act 154 of 1968 established the district court system, which was designed to replace justices of the peace, municipal courts, and police courts, it allowed various cities to opt out of the district court system and retain their municipal courts. Where districts of the third class would be formed, there would be no district court if the governing bodies of cities representing more than 50 percent of the population of the district elected to retain their municipal or police courts. (A district of the third class is a district consisting of one or more political subdivisions of a county and in which each political subdivision is responsible for maintaining, financing, and operating the district court within its boundaries.) The procedural requirements to opt out of the district court system and maintain a municipal court in lieu of a third-class district court were subsequently modified by Public Act 344 of 1969, which purportedly abolished remaining municipal courts, but allowed municipal courts to be retained in third class districts under procedures that varied slightly depending on the number of cities in the district.

Over the years, various municipalities that originally opted out of the district court system have abolished their municipal courts and established district courts, with the result that municipal courts remain only in Eastpointe, Grosse Pointe, Grosse Pointe Farms, Grosse Pointe Park, and Grosse Pointe Woods.

The City of Eastpointe now has expressed a desire to convert its municipal court into a district court, and passed a resolution to this effect on April 12, 1994. Legislation has been introduced to provide for the abolishment of the Eastpointe municipal court and its replacement with the 38th District Court.

THE CONTENT OF THE BILL:

The bill would amend the Revised Judicature Act to abolish the municipal court in the City of Eastpointe and to replace it with the 38th District Court, effective January 1, 1996. The terms of incumbent municipal judges in Eastpointe would expire at midnight on December 31, 1995.

The new district judgeship would be filled by special elections; the special primary election would be held on September 12, 1995, and the special general election would be held November 7, 1995. The winner of the special general election would be elected to a term of five years. (Ordinarily, a district judge is elected to a term of six years.)

Under the terms of existing statute, all files, records, funds, and pending cases of the abolished municipal court would be transferred to the district court. The bill would further specify that all causes of action so transferred would be as valid and subsisting as they were in the municipal court from which they were transferred. All of the municipal court's orders and judgments entered before January 1, 1996 could be appealed in the same way they were before that date.

Full-time employees of the municipal court would be transferred to the district court with seniority rights, annual leave, sick leave, longevity pay, and retirement benefits intact. Local obligations for retirement benefits to the court employees for their accrued service would not be transferred from their present system. Any retirement system available to district court personnel would have to provide retirement benefits to the transferred municipal court employees at least as good as those provided under their prior status as municipal court employees.

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The change from a municipal court to a district court could happen only if the City of Eastpointe adopted a resolution approving the establishment of the district court and filed that resolution with the secretary of state between January 1, 1993 and 4 p.m. April 12, 1995. The bill would explicitly state that by enacting the bill, the legislature would not be mandating that the district court function in the 38th district. Eastpointe's approval of the establishment of the district court would constitute an exercise of that city's option to provide a new activity or service or to increase the level of activity or service offered in the city beyond that required by existing law. Eastpointe's approval also would constitute the city's voluntary acceptance of all expenses and capital improvements that may result from the establishment of the 38th District Court. However, the exercise of the city's option would not affect the state's obligation to pay a portion of any district judge's salary as provided by law, or to appropriate and disburse funds to the city for the necessary costs of state requirements established by a state law taking effect on or after December 23, 1978.

MCL 600.8122

BACKGROUND INFORMATION:

Much of the following information on the differences between district courts and municipal courts was provided by the State Court Administrative Office.

A district court's civil jurisdiction is \$10,000, rather than the \$1,500 civil jurisdiction of municipal courts. Typically, where there is a municipal court, civil cases of \$1,500 to \$10,000 are filed with the local circuit court. Thus, conversion to a district court means that these cases would instead be heard by the district court. While it is not possible to predict the exact number of filings that the proposed conversion would generate for the new court, the caseload mix in other district courts suggests that the increase would be a relatively small percentage of the court's total docket. In Michigan, approximately five percent of the district court caseload consists of general civil cases; the percentage by court ranges from a low of one percent to a high of 12 percent.

The district court is a court of record. In a court of record, courtroom proceedings must be preserved by a court reporter or electronic recording.

Because a municipal court is not a court of record, a new trial must be held in the court to which the case is appealed (that is, the circuit court). The district court's status as a court of record also has other implications, since various Michigan constitutional provisions apply only to judges of courts of record. Under Article VI, Section 18, all judges of courts of record must be attorneys licensed to practice in this state. Article VI, Section 21 makes a judge of a court of record ineligible for elected office other than a judicial office during the term of his or her judgeship, and for one year after. Article VI, Section 23 provides for the filling of district court vacancies by the governor.

District judges are full-time judges. District judges are required by the constitution and statute to be attorneys at law, and are statutorily prohibited from practicing law other than as a judge. No such restriction applies to municipal judges, many of whom have part-time legal practices in addition to their judicial responsibilities. Because the part-time practice of municipal judges raises issues of conflicts of interest, these judges are not assigned to serve in other courts whose caseloads require the temporary assistance of a visiting judge.

Most of the compensation of a district judge is paid by the state. In contrast, municipal judges' compensation is entirely the responsibility of the municipalities they serve.

FISCAL IMPLICATIONS:

The 1994 Judicial Resources Report, released by the State Court Administrative Office on November 22, 1993, puts annual state costs of a district court judgeship at \$99,384, of which \$55,409 is state pay for the judge, \$38,789 is the state's standardization payment to the funding unit (which offsets part of the cost of the judge's local pay), and \$5,186 is FICA taxes. In addition, there is a \$6,000 one-time state cost for the purchase of court recording equipment for a new judgeship.

The Senate Fiscal Agency pointed out that the fiscal impact on the state would not be realized until fiscal year 1995-96 if the City of Eastpointe chose to pass a resolution establishing the 38th district court and creating the judgeship for it. (12-6-94)

ARGUMENTS:***For:***

The bill would enable one of the state's few remaining municipal courts, the Eastpointe municipal court, to be replaced with a district court. The City of Eastpointe has sought this change, noting in a resolution that it is in the best interests of its citizens to abolish the municipal court and establish a district court. With this incremental expansion of the district court system, the bill would improve uniformity in the court system and promote consistency and professionalism in the administration of justice. Any disruption for individuals would be minimized: existing cases would be preserved, municipal court employees would be transferred with their benefits intact, and the city's current municipal court judges would be able to serve out their current terms before the municipal court was abolished.

Against:

In his veto message, the governor said that municipal courts can be converted to district courts "cooperatively with surrounding communities." He observed that caseload figures suggested that district judges in neighboring communities could handle the needs of Eastpointe, which would be more economical for taxpayers than creating a new district court for Eastpointe. The governor also pointed out that "there are currently commissions of the Michigan State Bar and the Michigan Supreme Court that are studying court reorganization, jurisdiction, funding and other issues related to court functions." It would be premature to enact significant changes in court jurisdiction, judicial budgets, or judicial personnel before the expected recommendations are developed.