



House Office Building, 9 South  
Lansing, Michigan 48909  
Phone: 517/373-6466

## ADDITIONAL DISTRICT JUDGES: 52ND, 35TH, AND 47TH DISTRICTS

### Senate Bill 257 (Substitute H-5) First Analysis (5-17-00)

**Sponsor: Sen. Bill Bullard, Jr.**  
**House Committee: Family and Civil Law**  
**Senate Committee: Judiciary**

#### ***THE APPARENT PROBLEM:***

As a community grows, the courts of that community may have difficulty keeping up with the increased case filings that often accompany a growth in population. Generally, the larger the community the more judges will be needed to meet the increased demands that the community places upon its courts. If a community grows rapidly without the addition of new judgeships, backlogs can develop. While clogged dockets may occasionally be relieved by temporary assignments, it is sometimes necessary to create new judgeships in order to meet the needs of rapidly expanding communities.

As part of its duties, the State Court Administrative Office (SCAO) performs a review of current judicial resources. (See BACKGROUND INFORMATION.) The SCAO's review of the state's district courts for the 2000 election year cycle identified four courts for extended analysis. Of these four courts, the SCAO has recommended the immediate addition of one judgeship in one court, the elimination of one judgeship in one court upon the first vacancy in that court, and no change in judgeships in the two remaining courts. These recommendations are based upon a statistical review of the comparative workloads of the courts, followed by an extensive secondary analysis. Legislation has been introduced in response to the SCAO's recommendations, as well as requests by or on behalf of two specific district courts.

#### ***THE CONTENT OF THE BILL:***

The bill would amend the Revised Judicature Act of 1961 to allow an additional judge in the first division of the 52nd judicial district and, under certain circumstances, in the 35th and 47th judicial districts. The bill also would update outdated language in these sections and delete certain current language regarding other judicial districts.

Additional judgeships. The bill would allow the first division of the 52nd judicial district to add a judge, as well as allow the 35th and 47th judicial districts each to have one additional judge under certain circumstances. (For a description of the judicial districts and divisions, see BACKGROUND INFORMATION.)

(1) The bill would allow the first division of the 52nd judicial district to have one additional judge effective January 1, 2003 (instead of the January 1, 1991 date in current law), subject to Section 8175 (which requires the approval by resolution of the district control unit). The bill also would clean up current language to reflect the fact that the third division of the 52nd judicial district has three, not two judges. Finally, the bill would include the "city of [the] village of Clarkston" in the second division of the 52nd district (technically, the "Village of Clarkston" is a city).

(2) Currently, the 35th judicial district is not allowed to have an additional judge. The 47th district is allowed an additional judge, subject to Section 8175, under an expired effective date of January 1, 1991. (The act currently also says that if a new judge is added to the 47th district to be filled by election in 1990, the additional judge's term of office for that election only would be four years.)

The bill would allow each of these districts to add one additional judge subject to the following conditions:

- Section 8175, which prohibits the authorization of additional judgeships to be filled by election without the approval by each district control unit of the creation of the judgeship by resolution and unless the clerk of each district control unit files a copy of the resolution with the State Court Administrator by 4 p.m. of the 16th Tuesday preceding the August primary;

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- if and when a district court judgeship were eliminated within the state of Michigan, review and recommendation by the State Court Administrator to the legislature, and subsequent legislation.

Stricken language. The bill also would delete current language that allowed the addition of judges by a certain date, now past, or the re-formation or consolidation of certain districts by certain dates, also now past:

(1) the splitting of the 34th judicial district (which consists of the Wayne County townships of Sumpter, Van Buren, and Huron and the cities of Romulus and Belleville) into two districts effective January 1, 1997;

(2) the consolidation of three existing judicial districts (the 43rd, the 44th-A, and the 44th-B districts) with the 52nd judicial district, making each a division of the 52nd district effective January 2, 1991; and

(3) one additional judge in each of the following judicial districts or district election divisions effective on the following dates (and subject to certain sections of the Revised Judicature Act):

- the 32nd-B judicial district (which consists of the cities of Grosse Pointe Woods, Grosse Pointe Park, Grosse Pointe, and Grosse Pointe Farms, and the village of Grosse Pointe Shores), on January 1, 1985, or January 1, 1997;

- the 33rd judicial district (which consists of the cities of Trenton, Gibraltar, Woodhaven, Rockwood, and Flat Rock and the Wayne County townships of Brownstown and Grosse Ile), on January 1, 1995;

- the 47th judicial district (which consists of the cities of Farmington and Farmington Hills), on January 1, 1991 (see above);

- the 48th judicial district (which consists of the cities of Birmingham, Bloomfield Hills, Sylvan Lake, Keego Harbor, and Orchard Lake Village and the Oakland County townships of Bloomfield and West Bloomfield), on January 1, 1993; and

- the third division of the 52nd judicial district (which consists of the cities of Rochester, Auburn Hills, Rochester Hills, and Lake Angelus and the Oakland County townships of Oxford, Addison, Orion, and Oakland), on January 2, 1989 (see above).

Tie-bar. The bill, if enacted, would not take effect unless Senate Bill 769 and House Bill 4207 were

enacted. Senate Bill 769 would amend the Revised Judicature Act to reorganize the 27th judicial district. House Bill 4207, like Senate Bill 257, also would allow the first division of the 52nd judicial district to add one judge, subject to Section 8175, effective January 1, 2003, as well as amending current language to reflect the fact that the third division has three judges and striking current language regarding the composition of the proposed fifth, sixth, and seventh divisions of the 52nd district effective January 1 or 2, 1991. House Bill 4207 is tie-barred to Senate Bills 257 and 769.

### ***HOUSE COMMITTEE ACTION:***

The House Committee on Family and Civil Law substituted the Senate-passed (Substitute S-4) version of the bill to amend an additional section of the Revised Judicature Act (MCL 600.8121) to delete language that allows the 32nd-B and the 33rd districts to add additional judges by dates already past (see “content” above) and the splitting of the 34th judicial district. The House substitute also would add language that would allow the 35th and 47th judicial district each to have one additional judge subject not only to Section 8175 (which requires the approval by resolution of the district control unit) but also “to review and recommendation by the State Court Administrator to the legislature and subsequent legislation, if and when a district court judgeship [were] eliminated within the state of Michigan.”

The House committee also eliminated language in the S-4 version of the bill that would have allowed the reorganization of the first and second divisions of the 52nd judicial district by combining them into one division if the Oakland County Board of Commissioners approved the reorganization. Instead, the House substitute (H-5) would allow the first division of the 52nd judicial court, subject to Section 8175, to have one additional judge effective January 1, 2003. (Like S-4, H-5 also would specify that the third division of the 52nd district had three, not two, judges.) Finally, the House substitute tie-bars the bill to House Bill 4207 and Senate Bill 769.

### ***BACKGROUND INFORMATION:***

The State Court Administrative Office. In making its assessment and recommendations, the State Court Administrative Office selected the particular courts for review based upon preliminary statistical analyses of three workload indicators (weighted caseload analysis, average caseload per judge, and regression analysis of caseload). The weighted caseload analysis indicates how many judges would be needed if the standards and

case weights developed by the Trial Court Assessment Commission were applied. Average caseload per judge indicates the number of judges needed if each judge were to handle an average, non-weighted caseload. Regression analysis of caseload indicates how many judges would be needed based on a court's caseload if the court were treated similarly to other courts based on the existing relationship between judgeships and caseload statewide.

If the SCAO determines that there is a consistent difference of at least one judgeship between the current number of judges and the estimated need on two of these three measures, an extended analysis is conducted. The extended analysis uses available quantitative and qualitative information, such as: the makeup of the caseload, caseload trends, prosecutor and law enforcement practices, staffing levels, facilities, technological resources, need for assignments to or from other jurisdictions, demographics, local legal culture and local judicial philosophy.

Since the state constitution requires that new judgeships be filled by election, any additions to the number of judgeships must be made in time for candidates to file for election to a newly created seat. Under the Revised Judicature Act deadlines are established for the statutory creation and local approval of new judgeships. The Michigan Election Law places a deadline on filing for the primary election. Furthermore, the creation of new district judgeships requires the approval by the governing bodies of the appropriate district control units. In order for a new judgeship to be filled, a resolution must be adopted by the appropriate local unit of government and filed with the state court administrator. Thus, a new judgeship cannot be created and filled without the approval of the appropriate local unit of government.

The 35th judicial district. The 35th judicial district consists of the cities of Northville and Plymouth and the Wayne County townships of Northville, Plymouth, and Canton. It is a district of the third class, and has two judges.

The 47th judicial district. The 47th judicial district consists of the cities of Farmington and Farmington Hills. It is a district of the third class, and has two judges.

The 52nd judicial district. The 52nd judicial district, in Oakland County, is divided into four election divisions and is a district of the second class. The first division has three judges and consists of the cities of Novi, South Lyon, Wixom, and Walled Lake, and the

townships of Milford, Highland, Rose, White Lake, Commerce, Lyon, and Novi. The second division has one judge and consists of the townships of Springfield, Independence, Holly, Groveland, and Brandon. The third division has two judges and consists of the cities of Rochester, Auburn Hills, Rochester Hills, and Lake Angelus and the townships of Oxford, Addison, Orion, and Oakland. The fourth division has three judges and consists of the cities of Troy and Clawson. (Note: The Revised Judicature Act says that the 52nd judicial district consists of the county of Oakland "except the cities of Madison Heights, Ferndale, Hazel Park, Royal Oak, Berkley, Huntington Woods, Oak Park, Pleasant Ridge, Southfield, Lathrup Village, Keego Harbor, Orchard Lake Village, Birmingham, Bloomfield Hills, and Pontiac, and the townships of Royal Oak, Southfield, West Bloomfield, Bloomfield, and Waterford.")

### ***FISCAL IMPLICATIONS:***

According to the Senate Fiscal Agency, the annual cost to the state of adding an additional district court judge would be \$133,005 (\$118,285 for salary, \$6,440 for Social Security and Medicare, and \$8,280 for defined contribution retirement). The state also would incur approximately \$6,000 in one-time costs for electronic recording equipment, while local costs would depend on support staff allocated to the new judge and whether additional office or courtroom facilities, or both, would be required. (3-13-00)

### ***ARGUMENTS:***

#### ***For:***

After an extended analysis, the State Court Administrative Office (SCAO) recommended that a judgeship be added to the 52nd District Court effective January 1, 2001, and further recommended, based on the distribution of judicial workload and the local demographics, that the additional judgeship was most needed in the court's first division (Oakland-Novi). The SCAO's environmental analysis suggested that from the year 2000 to the year 2020, population will increase almost 48 percent within the first division, almost 35 percent in the second division (Oakland-Clarkston), 29 percent in the third division, and almost 7 percent in the fourth division. The fastest growing area of Oakland County for residential development is in the area encompassed by the first and second divisions, while significant growth is taking place in the area encompassed by the third and fourth divisions, including entertainment and sports facilities and large shopping malls. The bill would meet this need by

allowing the first division of the 52nd district to add an additional judge provided that the addition were approved by the district control unit as required by Section 8175 of the act.

***For:***

According to the SCAO, it was requested to examine the need of the 35th and 47th district courts for an additional judge each. The SCAO did an extended analysis of these two courts, and concluded that these two courts could make efficient use of an additional judge, though the need in these two courts is not as acute as it is in the other courts the SCAO reviewed. According to a May 9, 2000, *Detroit News* article, the governor has ordered that to add a new judge anywhere, the legislature must take away a judgeship somewhere else. The bill would adhere to this by specifying that a new judgeship would be conditioned, among other things, upon whether and when a district judgeship was eliminated in the state.

***Response:***

The bill would include redundant and superfluous language allowing these districts to add an additional judge not only in accordance with the act's so-called Headlee release in Section 8175, but, in addition "subject to review and recommendation by the state court administrator to the legislature and subsequent legislation, if and when a district court judgeship [were] eliminated within the state of Michigan." The language referring to the SCAO's review and recommendation is not needed because the SCAO already does review and recommend to the legislature additional district judgeships when it finds that a need for such additional judgeships exists. While the SCAO review of these two judicial districts indicates that there probably will be a need for additional judgeships in these districts in the future, that time has apparently not yet arrived, and so the SCAO has not recommended additional judges for these districts yet. The language "subject . . . to subsequent legislation" obviously is unnecessary, as future legislatures could of course enact legislation to allow additional judgeships, as the present legislation well illustrates.

***POSITIONS:***

There are no positions on the bill.

Analyst: S. Ekstrom

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.