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## NEW JUDGESHIP FOR THE FIFTY- SECOND DISTRICT

### House Bill 4207 (Substitute H-2) First Analysis (3-14-00)

**Sponsor: Rep. Nancy Cassis**  
**Committee: Family and Civil Law**

#### ***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 that 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. 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.

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

The bill would amend the Revised Judicature Act to authorize the creation of an additional district judgeship for the 52nd district effective January 1, 2003, provided that each district control unit adopts a resolution approving the additional judgeship. The 52nd district consists of the county of Oakland except for the cities of Madison Heights, Ferndale, Hazel Park, Royal Oak, Berkeley, Huntington Woods, Oak Park, Pleasant Ridge, Southfield, Lathrup Village, Farmington, Farmington Hills, Northville, Sylvan Lake, Keego Harbor, Orchard Lake Village, Birmingham, Bloomfield Hills, and Pontiac and the townships of

Royal Oak, Southfield, West Bloomfield and Waterford. Under the bill, subject to Section 8175 of the Revised Judicature Act, the first division could have one additional judge effective January 1, 2003. (Section 8175 provides that additional district judgeships permitted by the Revised Judicature Act may not be authorized to be filled by election unless each district control unit approves the creation of the judgeship by resolution adopted by its governing body and the clerk of each district control unit files a copy of the resolution with the State Court Administrator by 4:00 p.m. of the 16th Tuesday preceding the August primary.) The division 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. It currently has 3 judges.

Finally, the bill would strike several provisions that would have allowed for the creation of additional divisions of the 52nd district and judgeships subject to the provisions of law allowing for the consolidation of districts. The language is now extraneous, as the time for the creation of these divisions has passed. Similarly, the bill would delete references to adding judgeships in the 47th and 48th judicial districts where the relevant dates have passed.

The bill is tie-barred to Senate Bill 257, which (as introduced) would allow for the creation of an additional judgeship in the second division of the 52nd district (in a similar fashion as outlined in the House bill). Reportedly, Senate Bill 257 has been reported from committee in a form that would allow for the merger of the first and second divisions of the 52nd district as of January 1, 2002. The bill is also tie-barred to Senate Bill 769, which (as introduced) would allow an additional judgeship in the thirty-fifth judicial district. That district currently has two judges and consists of the cities of Northville and Plymouth and the Townships of Northville, Plymouth, and Canton in

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Wayne County. Reportedly, Senate Bill 769 has been reported from the Senate Judiciary committee and the version that was reported from committee provides for the *elimination* of a district judgeship in Riverview upon the existence of a vacancy or as of January 1, 2003, whichever occurs first; at that time the separate election divisions for Riverview and Wyandotte would disappear and both would become part of a two-city 27th district.

MCL 600.8123

### **BACKGROUND INFORMATION:**

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 a 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 could not be created and filled without the approval of the appropriate local unit of government. As a result the language of the bill is permissive, rather than compelling.

### **FISCAL IMPLICATIONS:**

Fiscal information is not available.

### **ARGUMENTS:**

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

The bill is needed to allow for the creation of a new judgeship in the 52nd district. The SCAO has determined that this district is in imminent need of an additional judge and has recommended that legislation be introduced to allow for the creation of such a judgeship. Given the rapid pace at which that district has grown in recent years it is an appropriate use of resources to create a new judgeship. Additionally, the Senate bills to which this bill is tie-barred will allow for the elimination of a district court judgeship in the 27th district, prior to the creation of the new judgeship under the bill, thus keeping the overall number of district judges in the state the same.

#### ***Response:***

The district in question is not the only area of the state undergoing rapid growth. Many other areas could likely use additional judges as well. One case in particular involves the City of Eastpointe, which maintains one of the state's few remaining municipal courts. Legislation that would have allowed that court to be replaced with a district court was enrolled but vetoed by the governor in 1994. [House Bill 5711 of the 1993-94 session.]

### **POSITIONS:**

There are no positions on the bill.

Analyst: W. Flory

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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.