



**House
Legislative
Analysis
Section**

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EASTPOINTE DISTRICT COURT

**House Bill 4092 (Substitute H-1)
First Analysis (12-5-02)**

**Sponsor: Rep. Michael Switalski
Committee: Civil Law and the 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 expressed a desire to convert its municipal court into a district court back in 1994, and passed a resolution to this effect on April 12, 1994. A building to house the new district court was built in that same year. In the 1993-1994 legislative session, legislation was introduced to provide for the abolishment of the Eastpointe municipal court and its replacement with the 38th District Court. The bill passed both chambers and was ordered enrolled, but was subsequently vetoed by the governor. In his veto message, the governor 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.”

The anticipated legislation that reorganized the court system and created the family division of circuit court was completed in 1996. Since the passage of the court reorganization legislation, and other more recent legislation that has further affected the operation of courts in the state, it has become apparent to the residents of Eastpointe that the municipal court can no longer effectively serve area residents. On November 19, 2002, the Eastpointe City Council adopted yet another resolution requesting the state legislature to enact appropriate legislation to abolish the municipal court and establish the 38th District Court.

THE CONTENT OF THE BILL:

Public Act 154 of 1968 amended the Revised Judicature Act (RJA) to create the district court and divided the state into judicial districts. (Initially, there were 99 districts, but over the years some districts have been abolished, while other districts were divided into two courts in the same district and labeled “a” and “b.”) At the time the district court was created, however, cities with municipal or police courts were designated as third class districts, but were given the option of keeping their municipal or police courts instead of having the district court functioning in their place. (Cities also were prohibited from establishing a municipal or police court after July 1, 1968.) Eastpointe (formerly East Detroit) was one of the cities that decided to keep its municipal court.

The bill would abolish, effective January 1, 2004, the municipal court in Eastpointe and instead allow the district court to begin functioning in the 38th district, a third class district with one judge. (A third class district is one that consists of one or more political

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subdivisions of a county. A first class district consists of one or more counties and a second class district consists of a group of political subdivisions in a county.) The terms of the incumbent Eastpointe municipal judge would expire at midnight on December 31, 2003, and the judgeship in the 38th district court would be filled in a 2003 special election – in conjunction with the November 2003 Eastpointe municipal election - in the manner provided for by law. For purposes of the November 2003 special election only, the term of the candidate for district judge in the 38th district who received the highest number of votes would be five years.

All causes of action transferred to the 38th district court would be as valid (“and subsisting”) as they were in the municipal court from which they were transferred, and all orders and judgments entered before the municipal court were abolished on January 1, 2004 would be appealable in the same way and to the same courts as before that date.

The bill would not take effect unless (a) the city of Eastpointe, by resolution adopted by its governing body, approved the establishment of the district court in the 38th district and (b) the Eastpointe city clerk filed a copy of the resolution with the secretary of state after the enacted bill took effect and before 4 p.m., April 12, 2003. When the secretary of state received a copy of the Eastpointe resolution, he or she would immediately notify the state court administrator with respect to the establishment of the district court in the 38th district and the district judgeship authorized for that district.

By enacting the bill, the legislature would not be mandating that the district court function in the 38th district and would not be mandating the judgeship in the 38th district. If the city of Eastpointe, acting through its governing body, approved the establishment of the district court in the 38th district and any district judgeship proposed by law for that district, that approval would constitute (a) an exercise of Eastpointe’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 state law (Public Act 101 of 1979) implementing the 1978 Headlee amendment to the state constitution, and (b) a voluntary acceptance by the city of all expenses and capital improvements which may result from the establishment of the district court in the 38th district and any judgeship. However, the exercise of the 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 or incorporated village for the necessary costs of the

state requirements established by the Headlee amendment to the state constitution (Article XI, Section 29), which prohibits the state from requiring local units of government to provide new activities or services (or an increase in the level of existing activities or services) unless the state pays to local unit of government for any necessary increased costs. (The Headlee amendment took effect on 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:

According to information from the State Court Administrative Office, the bill would result in additional costs to the state associated with the creation of the district court for salary and retirement totaling about \$155,351. The bill would also result in an increase in costs to the local unit of government for additional operational costs such as staffing for processing additional civil cases. However, those local costs may be at least partially offset by the state assumption of judicial salary costs and increased revenues. (12-4-02)

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 for years, noting in a recent 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 as existing cases would be preserved and the city's current municipal court judges would be able to serve out their current terms before the municipal court was abolished.

For:

Over the past decade, the population of the City of Eastpointe and surrounding areas has doubled. This means that the existing district courts could not absorb the caseloads currently handled by the Eastpointe municipal court, as was believed by the governor in 1993 when a previous legislative attempt to create a 38th district court was vetoed. Also, though it seemed at the time of the veto to be prudent to wait for the completion of the anticipated court

reorganization, the changes brought forth in the succeeding years have not resolved the problems faced by the people of Eastpointe. The dockets remain overcrowded; two part-time municipal judges are not able to keep up with the number of cases. According to the State Court Administrative Office, the judicial workload is sufficient to support 1.13 full-time judges. Further, the dollar limit for civil cases is below what can be heard in small claims court, and, since the municipal court is not a court of record, any proceeding transferred to another court must be repeated, as there are no records of testimony, etc. Time has shown that there is a drastic need for the abolishment of the Eastpointe municipal court and the creation of the 38th district court.

POSITIONS:

The City of Eastpointe supports the bill. (12-5-02)

Analyst: S. Stutzky

■ 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.