

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

SFA



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 76 (as enrolled)
Senate Bills 764, 765, and 766 (as enrolled)
Senate Bill 786 (as enrolled)
Senate Bill 825 (as enrolled)
House Bill 4788 (as enrolled)
House Bill 5357 (as enrolled)

Sponsor: Senator Bill Bullard, Jr. (Senate Bills 76 & 765)
Senator John D. Cherry, Jr. (Senate Bill 764)
Senator Art Miller, Jr. (Senate Bill 766)
Senator Glenn D. Steil (Senate Bill 786)
Senator William Van Regenmorter (Senate Bill 825)
Representative Bruce Patterson (House Bill 4788)
Representative Jim Howell (House Bill 5357)

Senate Committee: Judiciary

House Committee: Civil Law and the Judiciary

Date Completed: 1-29-02

CONTENT

All of the bills amend the Revised Judicature Act (RJA) to authorize a total of 11 new judgeships (10 in circuit court and one in district court), eliminate eight current judgeships (three in circuit court, two in probate court, and three in district court), and delete the authority of the Wayne and Oakland County boards of commissioners to add probate court judgeships. Table 1 shows the courts in which a judgeship is added or eliminated, and their location.

Table 1

| County or City | Circuit | District | Probate |
|---|---------|----------|---------|
| Flint | | -1 | |
| Genesee Co. | +2 | | -1 |
| Hamtramck | | -1 | |
| Highland Park | | -1 | |
| Isabella Co. | +1 | | |
| Kent Co. | +2 | | |
| Macomb Co. | +2 | | |
| Oakland Co. | +2 | | |
| Ottawa Co. | +1 | | |
| Wayne Co. | -3 | | -1 |
| Western Wayne Co.* | | +1 | |
| *(The 35th District, which consists of Northville, Plymouth, and the Townships of Northville, Plymouth, and Canton) | | | |

The authorization for additional circuit court judgeships is subject to RJA requirements for county approval before an additional judgeship is filled by election. (Section 550 of the RJA provides that an additional circuit judgeship permitted by the RJA may not be authorized to be filled by election unless each county in the circuit approves the creation of that judgeship by a resolution adopted by the county board of commissioners. The county clerk must file a copy of the resolution with the State Court Administrator by 4:00 p.m. of the 16th Tuesday preceding the August primary for the election to fill the additional judgeship.)

All of the bills will take effect on March 22, 2002 (although the authorizations for additional judgeships and the reductions in judgeships will take effect on future dates, as described below).

Senate Bills 76, 764, 765, 786, and 825 and House Bill 5357 all were tie-barred to each other.

Senate Bill 76

The Sixth Judicial Circuit consists of Oakland County and currently has 17 judges. Under the bill, subject to Section 550 of the RJA, the Sixth Circuit may have two additional judges, effective January 1, 2003.

If two new judgeships are added to the Sixth

Circuit by election in 2002, as authorized by the bill, the candidate receiving the highest number of votes in the November 2002 general election will be elected to an eight-year term, and the candidate receiving the second-highest number of votes will be elected to a six-year term.

Senate Bill 764

Genesee County

The Seventh Judicial Circuit consists of Genesee County and currently has seven judges. Under the bill, subject to Section 550, the Seventh Circuit may have one additional judge effective January 1, 2003, and one more judge effective January 1, 2005.

Genesee County currently has three judges of probate. Under the bill, beginning at noon on January 1, 2005, Genesee County will have only two probate judges.

Wayne and Oakland County Probate Courts

Oakland County currently has four probate judges, but is authorized under the RJA to have as many as five. Wayne County has nine probate judges, but is authorized to have at least eight but not more than 12.

The RJA authorizes the Oakland and Wayne County boards of commissioners, by a majority vote, to provide for additional probate judges, up to five and 12 judges, respectively, when the boards consider it necessary. Additional judges authorized by the boards of commissioners are required to be elected at the next general election occurring not less than 175 days after authorization. The RJA provides for the terms of office of probate judges authorized by the Oakland and Wayne County boards of commissioners to be staggered. The bill deletes the provisions allowing those county boards to authorize additional probate judgeships.

In addition, under the bill, Wayne County may have only eight probate judges beginning on the earlier of the following dates:

- Upon the expiration of the term of an incumbent probate judge who is eligible to seek reelection but who does not file by affidavit to seek reelection to that office or who withdraws within three days after filing

by affidavit to seek reelection.

- Upon the expiration of the term of an incumbent probate judge who is not eligible to seek reelection to that office.

City of Flint

The 68th Judicial District consists of the City of Flint and currently has six judges. Under the bill, the 68th District may have five judges beginning on the earlier of the following dates:

- The date on which a vacancy occurs in the office of district judge in the 68th District.
- The beginning date of the term for which an incumbent district judge in the 68th District no longer seeks reelection to that office.

Senate Bill 765

The Third Judicial Circuit, which consists of Wayne County, has 64 judges. (The Third Circuit formerly had 35 judges, but gained 29 when the former Detroit Recorder's Court was merged with the Third Circuit effective October 1, 1997.) Under the bill, beginning at noon on January 1, 2003, and until noon on January 1, 2005, the Third Circuit will have 63 judges. Beginning at noon on January 1, 2005, the Third Circuit will have 61 judges.

Senate Bill 766

Macomb County

The 16th Judicial Circuit consists of Macomb County and currently has nine judges. Under the bill, subject to Section 550 of the RJA, the 16th Circuit may have two additional judges, effective January 1, 2003.

If two new judgeships are added to the 16th Circuit by election in 2002, as authorized by the bill, the candidate receiving the highest number of votes in the November 2002 general election will be elected to an eight-year term, and the candidate receiving the second-highest number of votes will be elected to a six-year term.

Isabella County

The 21st Judicial Circuit consists of Isabella County and currently has one judge. Under the bill, subject to Section 550, the 21st Circuit may have one additional judge, effective January 1, 2005. If a new judgeship

is added to the 21st Circuit by election in 2004, as authorized by the bill, the candidate receiving the highest number of votes in the November 2004 general election will be elected to an eight-year term.

Senate Bill 786

The 30th Judicial District consists of the City of Highland Park, is a district of the third class, and currently has two judges. Under the bill, the 30th District will have one judge beginning on the earlier of the following:

- The date on which a vacancy occurs in the office of district judge in the 30th District.
- Noon on January 1, 2003.

The 31st Judicial District consists of the City of Hamtramck, is a district of the third class, and currently is authorized to have two judges. (Due to a vacancy, the court presently has only one judge.) Under the bill, the 31st District will have a single judge.

Senate Bill 825

Kent County

The 17th Judicial Circuit consists of Kent County and currently has seven judges. Under the bill, subject to Section 550, the 17th Circuit may have two additional judges, effective January 1, 2003.

If two new judgeships are added to the 17th Circuit by election in 2002, as authorized by the bill, the candidate receiving the highest number of votes in the November 2002 general election will be elected to an eight-year term, and the candidate receiving the second-highest number of votes will be elected to a six-year term.

Ottawa County

The 20th Judicial Circuit consists of Ottawa County and currently has three judges. Under the bill, subject to Section 550, the 20th Circuit may have one additional judge, effective January 1, 2005.

If a new judgeship is added to the 20th Circuit by election in 2004, as authorized by the bill, the candidate receiving the highest number of votes in the November 2004 general election will be elected to an eight-year term.

House Bill 4788

The 35th Judicial District consists of the Cities of Northville and Plymouth and the Townships of Northville, Plymouth, and Canton, is a district of the third class, and currently has two judges. Under the bill, subject to Section 8175 of the RJA, the 35th District may have one additional judge, effective January 1, 2003. (Section 8175 of the RJA provides that an additional district judgeship permitted by the RJA may not be authorized to be filled by election unless each district control unit in the district approves the creation of that judgeship by a resolution adopted by the governing body of the unit. The clerk of each district control unit must file a copy of the resolution with the State Court Administrator by 4:00 p.m. of the 16th Tuesday preceding the August primary for the election to fill the additional judgeship.)

If a new judgeship is added to the 35th District by election in 2002, as authorized by the bill, the term of office of that judge, for that term only, will be eight years.

The bill also includes provisions identical to those in Senate Bill 786 to eliminate one district court judgeship each in Highland Park and Hamtramck.

House Bill 5357

The 16th Judicial Circuit consists of Macomb County and currently has nine judges. The bill includes provisions identical to those in Senate Bill 766 that authorize two new judgeships in the 16th Circuit, effective January 1, 2003.

MCL 600.507 (S.B. 76)
600.508 et al. (S.B. 764)
600.504 (S.B. 765)
600.517 & 522 (S.B. 766)
600.8121 (S.B. 786)
600.518 et al. (S.B. 825)
600.8121 (H.B. 4788)
600.517 (H.B. 5357)

BACKGROUND

Article VI, Section 11 of the Constitution of the State of Michigan provides: "The number of judges may be changed and circuits may be created, altered and discontinued by law and the number of judges shall be changed and circuits shall be created, altered and discontinued on recommendation of the supreme court to reflect changes in judicial

activity." Pursuant to that constitutional provision, the State Court Administrative Office (SCAO) biennially reviews the judicial resource needs of trial courts and, based on that review, the Supreme Court issues recommendations to the Legislature regarding changes in the number of judgeships.

In its recommendation report issued in August 2001, the Supreme Court and SCAO recommended the addition of eight judgeships in five courts and the elimination of three judgeships in two courts at the end of 2002. The report also recommended that, in three other courts, a review of judgeship needs be conducted at the time a vacancy first occurred by resignation, retirement, or death.

Specifically, the recommendations were to add two circuit court judgeships each in the Sixth Circuit (Oakland County), the 16th Circuit (Macomb County), and the 17th Circuit (Kent County); add one circuit court judgeship each in the Seventh Circuit (Genesee County) and the 21st Circuit (Isabella County); eliminate two circuit judgeships upon vacancies in the Third Circuit (Wayne County); and eliminate one district court judgeship upon vacancy in the 30th District (City of Highland Park). The three courts that the SCAO recommended be reviewed for the elimination of a judgeship, when the first judicial vacancy occurs, were the 31st District (City of Hamtramck), the 68th District (City of Flint), and the 70th District (City of Saginaw).

Of the courts selected for review, the SCAO report recommended no change in the number of judgeships for the 18th District (City of Westland), the 35th District (Cities of Northville and Plymouth and the Townships of Northville, Plymouth, and Canton), District 45-A (City of Berkley), District 45-B (Cities of Huntington Woods, Oak Park, and Pleasant Ridge and the Township of Royal Oak), the 47th District (Cities of Farmington and Farmington Hills), the 50th District (City of Pontiac), the 63rd District (Kent County, except for the Cities of Grand Rapids, Walker, Grandville, Wyoming, and Kentwood), and the 20th Circuit (Ottawa County).

Several of the courts reviewed in the SCAO's August 2001 report were identified for a further review of judgeship needs in two years. Those include the 18th, 35th, and 63rd District Courts, and the Third, Sixth, Seventh, 16th, 17th, and 20th Circuit Courts.

Legislative Analyst: P. Affholter

FISCAL IMPACT

Based on the 2002 salary of a circuit or probate judge, the State will incur the following annual costs for each new circuit judgeship, or realize the same amount of savings for each circuit or probate judgeship eliminated:

| | |
|---------------------------------|--------------|
| Salary | \$139,919 |
| Social Security/Medicare | 7,293 |
| Defined Contribution Retirement | <u>9,794</u> |
| Total | \$157,006 |

Local costs or savings will depend on the cost of fringe benefits for judges provided by the county, support staff costs, and whether additional office courtroom facilities are necessary.

Based on the 2002 salary of a district judge, the State will incur the following annual costs for each new district judgeship, or realize the same amount of savings for each district judgeship eliminated.

| | |
|---------------------------------|--------------|
| Salary | \$138,272 |
| Social Security/Medicare | 7,269 |
| Defined Contribution Retirement | <u>9,679</u> |
| Total | \$155,220 |

The State also will be responsible for a one-time cost of approximately \$6,000 for recording equipment for each new district court judge.

Local cost savings will depend on the level of fringe benefits for judgeships provided by the local unit of government, support staff costs, and office/courtroom facility costs.

Fiscal Analyst: B. Bowerman

S0102/s76es

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.