REQUIRE "SLOT ELECTIONS" FOR TRIAL COURT JUDGES

House Bill 4246
Sponsor: Rep. Jim Howell
Committee: Judiciary

Complete to 2-25-03

A SUMMARY OF HOUSE BILL 4246 AS INTRODUCED 2-18-03

House Bill 4246 would amend the Michigan Election Law to require the secretary of state to assign judgeship numbers to each circuit, probate, and district court judgeship in a circuit, county, district, or division of the circuit, probate, or district court that is a separate election jurisdiction. Incumbent judges seeking to be reelected and other candidates seeking judgeships would run for a particular judgeship, as designated by a distinct judgeship number within the election jurisdiction.

Promptly after the bill's effective date, and with the cooperation of the State Court Administrative Office (SCAO), the secretary of state would have to compile the following information: the number of judgeships in each circuit, county, district, or division that is a separate election jurisdiction; the next year in which the regular term of each judgeship will expire; and the length of continuous service and the name of the serving judge in each judgeship at the time the information is compiled. Regardless of whether a serving judge remains in office at the time judgeship numbers are assigned, the secretary of state would use the above information to assign judgeship numbers in each separate election jurisdiction as follows. Each judgeship (within an election jurisdiction) would be assigned a number, beginning with the judgeship whose regular term is the first to expire after December 31, 2003. If the regular term of more than one judgeship will expire at the same time, each of the simultaneously expiring judgeships would be assigned a number based on the length of continuous service of each serving judge, beginning with the longest. If two or more serving judges have served continuously for the same length of time, the judgeships would be assigned numbers in the alphabetical order of the judges' surnames. After a judgeship number is assigned, the number would not change, regardless of a change in the individual serving in that judgeship.

A judgeship number could be used only for the purposes of nominating and electing an individual to the office of circuit, probate, or district court judge under the act. Except for an affidavit affirming that an individual is constitutionally qualified to serve as a judge (which non-incumbents are required to file with their nominating petitions) and an affidavit of candidacy (required of incumbents seeking reelection), a judgeship number could not appear on any printed matter on which the act requires the appearance of either a judicial candidate's or an elected judge's name. An affidavit affirming that a person is constitutionally qualified to serve as a judge or an affidavit of candidacy would have to state the judgeship number for which the candidate is running.

The bill proposes virtually identical changes to election procedures for candidates for circuit court, probate court, and district court judgeships. To avoid unnecessary repetition in

describing these changes, the summary below provides a description of the proposed changes to procedures for candidates for circuit court judgeships only.

Currently nominees for the office of circuit court judge are selected in a county primary election, unless there are two or fewer candidates for each open judgeship in a given circuit. In that case the candidates are certified by the secretary of state, and no primary is held for that circuit. If there is a primary, the candidates receiving the largest number of votes "to a number equal to twice the number of places to be filled" become the nominees for the general election. (For example, if there are five candidates for two judgeships, the four highest vote-getters in the primary move on to the general election.) The bill would instead require a primary election for the office of circuit court judge only if there are at least three candidates for a particular judgeship number within that circuit. If a primary is held, the two highest vote-getters for the judgeship number would be declared the nominees for the office at the general election. The winner of the general election would be elected to a particular judgeship designated by a particular judgeship number.

The bill would retain a provision allowing an incumbent judge, including a judge appointed by the governor to fill a vacancy, to become a candidate in the primary election by filing an affidavit of candidacy affirming that he or she is an incumbent. However, the affidavit would have to state the judgeship number of the judgeship for which he or she is (an incumbent and) a candidate.

Currently the law considers the possibility that the death or disqualification of one or more candidates or nominees for the office of circuit court judge may result in there being fewer candidates or nominees than there are open judgeships in a given circuit and sets forth procedures for handling the situation depending on when, relative to the election, the death or disqualification occurs. The bill would substantially retain these procedures, but would state that they apply if the death or disqualification of candidates or nominees results in there being no candidates or nominees for circuit court judge with a particular judgeship number in a circuit.

Under current law, a person who files nominating petitions for election to more than one circuit judgeship has up to three days after the close of filing to withdraw from all but one filing. The bill would give an individual who files the proper documentation for the office for multiple judgeship numbers up to three days to withdraw from all but one filing, and would explicitly state that any individual who failed to do so would be disqualified from any of the judgeships. Further, the bill would state that a vote cast for an individual who has been disqualified for this reason would be void and is not to be counted.

Currently the secretary of state must issue an office designation of incumbent position for any judgeship for which the incumbent judge is eligible to seek reelection. The ballot in both the primary and general election for two or more judgeships must distinguish between all of the following: the names of candidates for the judgeship or judgeships for which an incumbent is seeking election; the names of candidates for an existing judgeship or judgeships for which an incumbent is not seeking reelection; and the names of candidates for a newly created judgeship or judgeships. And nominating petitions are valid only if they clearly indicate whether the office

being sought is a new judgeship or an unspecified existing judgeship for which the incumbent is or is not seeking reelection. The bill would eliminate these provisions.

Again, the bill would make virtually identical changes to election procedures for probate court and district court judgeships as it would make to election procedures for circuit court judgeships, as described above.

Finally, the bill would repeal several provisions dealing with municipal courts of record and several obsolete provisions.

MCL 168.2 et al.