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BILL ANALYSIS



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Senate Bill 823 (as enrolled)
Sponsor: Senator Alan L. Cropsy
Senate Committee: Judiciary
House Committee: Judiciary

PUBLIC ACT 492 of 2004

Date Completed: 7-1-05

CONTENT

The bill amended the Revised Judicature Act (RJA) to revise or eliminate certain probate court districts; grant the probate judges in nine counties the authority and title of a district judge within their respective counties, in addition to the authority of a probate judge; and require the State to reimburse an affected county for the total additional cost of submitting the question of creating a probate district to the voters, rather than half of the additional cost as previously required.

The bill took effect on March 30, 2005, except as indicated below.

Probate Districts

Under the RJA, a probate court district is created in specified districts when a majority of the electors voting on the question in each affected county approves the district. Previously, the first district could consist of any of the following:

- Baraga, Houghton, and Keweenaw Counties.
- Houghton and Baraga Counties.
- Houghton and Keweenaw Counties.

The bill eliminated these options, and provides that the first district consists of Houghton and Keweenaw Counties.

The bill eliminated the second district (Ontonagon and Gogebic Counties), the third district (Iron and Dickinson Counties), the eighth district (Cheboygan and Presque Isle Counties), the ninth district (Alpena and

Montmorency Counties), the 12th district (Benzie and Manistee Counties), the 13th district (Wexford and Missaukee Counties), and the 15th district (Alcona and Oscoda Counties).

Under the Act, when each county board of commissioners in a proposed district agrees by resolution to form a district, the question of creation of the district must be submitted to the electors of the affected counties at the next primary, general, or special election that occurs more than 49 days after the resolution is adopted. A special election for submission of the question may be called by resolution adopted by each county board of commissioners in the proposed district. If approved by a majority of the electors voting on the question in each of the affected counties, those counties constitute the probate court district described in the Act. Previously, the State had to reimburse the affected counties for one-half of the additional cost of submitting the question to the electors if it was submitted at a primary, general, or special election held after July 9, 2003, but before November 3, 2004. Under the bill, the State must reimburse the affected counties for the entire additional cost of submitting the question to the electors at a primary, general, or special election held after January 2, 2007.

The bill's provisions related to the composition of probate districts and State reimbursement for the cost of submitting the question to voters will take effect January 2, 2007.

Probate Judges Authorized to Act as District Judges

The RJA formerly provided that the probate judges in Arenac, Kalkaska, Crawford, and Lake Counties had the power, authority, and title of a district judge within their respective counties, in addition to the power, authority, and title of a probate judge. Under the bill, these judges as well as the probate judges of Iron and Ontonagon Counties have the jurisdiction, powers, duties, and title of a district judge, in addition to the jurisdiction, powers, duties of a probate judge. (Under the RJA, these judges receive a full-time salary and may not practice law, other than as a judge.)

Additionally, beginning January 2, 2007, the bill grants the probate judges in Alcona, Baraga, Benzie, Missaukee, Montmorency, Oscoda, and Presque Isle Counties the jurisdiction, powers, duties, and title of a district judge within their respective counties, in addition to the jurisdiction, powers, duties, and title of a probate judge. (The probate judges affected by this provision currently are part-time judges. These part-time judges will receive a full-time salary when they are given district court authority and may not practice law, other than as a judge, after that time.)

MCL 600.807 et al.

Legislative Analyst: Julie Koval

FISCAL IMPACT

For full-time probate court judges the State pays, directly or indirectly, the entire \$139,919 salary, defined contribution employer costs, Social Security, and Medicare. For part-time probate judges the State pays, directly or indirectly, \$25,750 of the maximum salary of \$65,724, defined contribution employer costs, Social Security, and Medicare. The annual cost increase to the State for converting nine part-time probate judgeships to full-time status will be approximately \$1,080,000.

The cost of reimbursing 100% of election costs regarding the creation of probate court districts for the remaining part-time probate judgeship will depend on whether the question is included in a primary, general, or special election. The maximum cost, assuming a special election, will be

approximately \$75,000, instead of \$37,500 under the previous 50% reimbursement rate. However, savings to the State will result if a probate court district is created.

Fiscal Analyst: Bethany Wicksall

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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.