

# Legislative Analysis

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## ADD CIRCUIT COURT JUDGESHIPS

**Senate Bill 883 as passed by the Senate**  
**Sponsor: Sen. Bill Hardiman**

**Senate Bill 907 with House committee amendment**  
**Sponsor: Sen. Alan Cropsey**

**Senate Bill 946 as passed by the Senate**  
**Sponsor: Sen. Michael Bishop**

**Senate Bill 925 as passed by the Senate**  
**Sponsor: Sen. Alan Sanborn**

**Senate Bill 955 as passed by the Senate**  
**Sponsor: Sen. Tony Stamas**

**House Committee: Judiciary**  
**Senate Committee: Judiciary**

### First Analysis (2-27-06)

**BRIEF SUMMARY:** The bill would add six circuit court judges based in part on the biennial report of the State Court Administrative Office.

**FISCAL IMPACT:** By authorizing an increase in the number of judges statewide, the bill could increase costs for the state and local units of government. For additional information, see Fiscal Information later in the analysis.

### **THE APPARENT PROBLEM:**

As communities grow or decline due to shifts in population, a community's need for district and circuit judgeships also may change. Growing communities may need more judges to handle the increased needs of the community, while communities that lose population may need fewer judges. The analysis of "judicial resources" (that is, whether or not communities need more or fewer judges) is the responsibility of the State Court Administrative Office (SCAO), the judicial branch office that, among other things, collects and analyzes information on judicial workloads. The SCAO uses the information it collects to allocate judicial resources through the temporary reassignment of judges and caseloads as necessary, and periodically recommends to the Michigan Supreme Court and the Legislature changes in the number of judgeships. As the SCAO has pointed out, estimating judicial workload and a community's corresponding need for judges is a complex process that involves both quantitative and qualitative factors.

In the SCAO analyzes judicial resources by means of a two-step process: a preliminary statistical analysis and a secondary extended analysis. The SCAO first does a statistical review of the comparative workload of the courts, using a "weighted caseload analysis," which provides a means for the SCAO to distinguish between the varying degrees of time and effort involved in handling different types of cases. According to the SCAO, about one-half of the states use a weighted caseload methodology. The current report looked at

caseload data reported by the state's trial courts over the past three years (2002, 2003, and 2004) in order to avoid having the estimate of the judicial resource needs be unduly influenced by temporary fluctuations in the numbers or types of cases heard by a trial court.

If the SCAO determines that there is a consistent difference of at least one judgeship (either high or low) between the current number of judges in a court and the estimated need for judges, based on the three-year weighted caseload measure, it then does an "extended analysis" of the courts so identified. It is on this "extended analysis" that the SCAO bases its recommendations about whether to add or eliminate judgeships. However, according to the recent SCAO report, courts that are scheduled to switch from a part-time probate judge to a full-time probate with district court jurisdiction in 2007 were excluded from the extended analysis.

On October 19, 2005, the State Court Administrative Office issued its Judicial Resource Recommendations Report for the 2006 election cycle. The SCAO recommended the addition of six circuit judgeships, and the elimination of four judgeships (one circuit, one probate, and two district judgeships). Legislation has been introduced to address the SCAO's recommendations.

#### ***THE CONTENT OF THE BILLS:***

The bills would amend the Revised Judicature Act to adopt some of the recommendations of the SCAO biennial report. Specifically, the bills provide for the addition of judges in the following judicial circuits:

- Senate Bill 833: the 17<sup>th</sup> Judicial Circuit (Kent County) could add one circuit judge as of January 1, 2007.
- Senate Bill 907: the 7<sup>th</sup> Judicial Circuit (Genesee County) could add one additional judge as of January 1, 2007, and the 49<sup>th</sup> Judicial Circuit (Mecosta and Osceola Counties) could add one judge as of January 1, 2007. (In addition, if a new office of judge is added to the 49<sup>th</sup> Judicial Circuit by election in 2006, the term of office of that judgeship for that election only would be 8 years.)
- Senate Bill 925: the 16<sup>th</sup> Judicial Circuit (Macomb County) could add one circuit judge as of January 1, 2007.
- Senate Bill 946: the 6<sup>th</sup> Judicial Circuit (Oakland County) could have one additional circuit judge as of January 1, 2007.
- Senate Bill 955: the 55<sup>th</sup> Judicial Circuit (Clare and Gladwin Counties) could add one judge as of January 1, 2007.

MCL 600.507 et al.

### ***HOUSE COMMITTEE ACTION:***

The House Committee on Judiciary adopted one amendment to Senate Bill 907 to address the length of the term of office of a new judge to be elected in 2006 in the 49<sup>th</sup> Judicial Circuit. This would allow the proper staggering of terms. Otherwise the bills remain in the same form as reported by the Senate. Some information in this analysis is derived from the Senate Fiscal Agency's analysis of the Senate Bills dated 1-31-06. That analysis contains extensive arguments on those SCAO recommendations that are not adopted in the legislation in its current form.

A similar bill, House Bill 5374, passed the House 1-18-06.

### ***BACKGROUND INFORMATION:***

Article VI, Section 11 of the Michigan Constitution allows the number of trial court judges to be changed by law and requires the changes to be made on the recommendation of the Supreme Court "to reflect changes in judicial activity." Also, the Revised Judicature Act (RJA) authorizes the Supreme Court to make recommendations to the Legislature regarding changes in the number of judges and the creation, alteration, and discontinuance of districts based on changes in judicial activity (MCL 600.8171). In order for the Court to make those recommendations, the State Court Administrative Office (SCAO) conducts a biennial review of the judicial needs of trial courts and issues a Judicial Resources Recommendations report. The SCAO's 2005 report recommends the addition of a circuit court judgeship on January 1, 2007, in each of six different judicial circuits. It also recommended reducing the number of judges by four, but that recommendation is not in the legislation as currently drafted.

Local approval of additional judgeships. 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. 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 cannot be created and filled without the approval of the appropriate local unit of government.

### ***FISCAL INFORMATION:***

By authorizing an increase in the number of judges statewide, the bill could increase costs for the state and local units of government. Changes contemplated by the bill would increase the number of circuit judgeships by six. All changes would take effect January 1, 2007. If all the proposed new judgeships took effect January 1, 2007, increased state costs for FY 2006-07 would be about \$720,000. Full-year costs for the six judgeships would be about \$948,000. Estimated state costs of judgeships are as follows:

<b>Annual State Costs per Circuit or Probate Judgeship</b>		
	<b>FY 2006-07</b>	<b>Full-Year</b>
Total Salary (including standardization payment)	\$104,939	\$139,919
FICA	\$7,560	\$8,067
Estimated Travel	\$150	\$200
Retirement	<u>\$7,346</u>	<u>\$9,794</u>
<b>Estimated Cost per Judgeship</b>	<b>\$119,995</b>	<b>\$157,980</b>
<b>Total Cost for Six Additional Judgeships</b>	<b>\$719,969</b>	<b>\$947,880</b>

Local expenses attendant on each judgeship are dependent on costs of staffing, support services, office space, and supplies.

***ARGUMENTS:***

***For:***

The bill would accomplish much of the reallocation of judicial resources recommended by the State Court Administrative Office. The legislation is based on the October 2005 report of the SCAO, which was based, in turn, on extensive analysis of factors such as population, caseload, and so forth. The analysis also looked at the economy of scale demonstrated in larger courts. According to the SCAO report, it typically takes more judicial resources in smaller courts than in larger ones. Reportedly, this is because larger courts have a larger pool of judges available to assist each other on processing cases and have a larger availability of specialized staff assistance.

***Against:***

In addition to the six new circuit court judgeships that the bills would allow, the SCAO's 2005 recommendations included eliminating a Wayne County probate court judgeship, district court judgeships in Flint and Saginaw, and a circuit court judgeship in the western Upper Peninsula effective January 1, 2007, as well as adding a circuit court judgeship and eliminating a probate court judgeship in Oakland County in 2009. Those revisions are not included in the bills.

***Response:***

Representatives of Wayne and Saginaw County offered vigorous testimony in the House on House Bill 5374 as to why they each should not lose a judgeship. SCAO recommends that one district court judgeship be eliminated for the 70<sup>th</sup> District Court in Saginaw County based on declining caseloads and a stagnant population. However, the report also acknowledges that the county has had an increase in serious crimes and the court has therefore had an increase in felony cases and also an increase in civil filings – both types of cases which can be labor intensive. SCAO argues it considered these as factors and so recommended that only one judge be eliminated instead of two (the SCAO analysis reported a judicial excess of 2.11 judges). However, the judges of the 70<sup>th</sup> District Court maintain that to eliminate a trial judge would greatly overburden the remaining judges. They argue that the complexities involved in trying serious felonies and in the types of civil cases seen these days warrants, at the least, maintaining the current level of district judges.

A similar situation is happening in Wayne County. It is true that the population of the City of Detroit has decreased in recent years, and that some types of case filings in probate court have also decreased, but Wayne is experiencing an increase in the numbers of defendants needing court-appointed attorneys. In addition, people reportedly often fail to show up at hearings. The result is that a probate case can take longer to complete in Wayne County than in other courts in the state. County officials also expect an increase in guardianship appointments and probate-related filings as the population of the county continues to age. To eliminate a probate judgeship at this time would seriously delay justice and protection to many of the state's most vulnerable residents – the young and the elderly. Convincing arguments have also been made objecting to other proposed reductions.

***POSITIONS:***

There are no positions at present.

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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.