



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

**BILL ANALYSIS**

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

Senate Bill 193 (as passed by the Senate)  
Sponsor: Senator Tom George  
Committee: Judiciary

Date Completed: 3-10-05

**RATIONALE**

Public Act 161 of 1997 amended the Revised Judicature Act to eliminate the Ninth District Court and reorganize the Eighth District Court. From the time the District Court was created in 1969 until January 1, 1999, Kalamazoo County had been divided into two judicial districts: The Eighth District consisted of Kalamazoo County, except for the Cities of Kalamazoo and Portage, while the Ninth District consisted of those cities and was divided into two election divisions.

Under Public Act 161, since January 1, 1999, the Eighth District has consisted of all of Kalamazoo County, but has been divided into three election divisions. The first division consists of the City of Kalamazoo and has four judges; the second division consists of the City of Portage and has one judge; and the third division consists of Kalamazoo County, except for the Cities of Kalamazoo and Portage, and has two judges. All parties involved—the cities, the county, the county's townships, and the courts—supported the consolidation of Kalamazoo County's district courts, combining their venue as well as their administrative, business, and technology functions. After six years of experience with the reorganized district court in Kalamazoo County, however, several concerns have been raised about maintaining the Eighth Judicial District's three election divisions and it has been suggested that the election divisions be eliminated.

**CONTENT**

The bill would amend the Revised Judicature Act to eliminate the three election divisions

in the Eighth Judicial District. The bill would take effect on January 2, 2007.

MCL 600.8117

**BACKGROUND**

Senate Bill 1463 of 2003-04 proposed the elimination of the election divisions in the Eighth Judicial District. That bill was passed by both the Senate and the House of Representatives, and was presented to the Governor on December 15, 2004. The bill was the subject of a "pocket veto", however, because it was not signed by the Governor within 14 days and the Legislature had adjourned for the year. (Under Article IV, Section 33 of the State Constitution, if the Governor does not approve a bill within 14 days of the time it is presented to her, and the Legislature has finally adjourned the session at which the bill was passed, the bill does not become law.)

**ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

**Supporting Argument**

The Eighth District election divisions in Kalamazoo County evidently have caused some confusion over which voters are entitled to participate in which judicial elections and the extent of the judges' jurisdiction. Recently, there were two contested elections for judges in the district and, according to the Chief District Judge, the voters in Kalamazoo County had a difficult time understanding jurisdictional

and voter eligibility issues. Eliminating the election divisions would help to clear up that confusion. Reportedly, all of the district judges in Kalamazoo County are in favor of doing so.

### **Supporting Argument**

In written testimony submitted to the Senate Judiciary Committee, the Chief Judge of the Eighth District Court cited the possible development of a concurrent jurisdiction plan for the district, probate, and circuit courts in Kalamazoo County. Under this type of plan, district, probate, and circuit judges typically hear cases from all three of those courts. In Kalamazoo County, both probate and circuit court judges are elected on a countywide ballot. Before a concurrent jurisdiction plan was implemented, district court judges should be elected on a countywide basis. Having separate election divisions within the county for one of the three courts would be inconsistent with the concept of shared jurisdiction among the countywide courts and could lead to the same type of confusion in circuit and probate court matters that has been experienced in the district court in Kalamazoo County.

### **Supporting Argument**

As judicial resources are reallocated periodically, maintaining election divisions within the Eighth District Court could pit communities in the judicial district against one another. For instance, if a district court judgeship were proposed to be added to or eliminated from the district, the municipalities within Kalamazoo County would be in competition as to which election division gained or lost a judgeship. This situation would not arise if the Eighth District held countywide elections for all of its judges.

### **Supporting Argument**

Judges of the Eighth District Court have jurisdiction throughout Kalamazoo County and, due to scheduling, facilities, and efficiency, each judge handles matters from areas both within and outside of his or her election district. Consequently, it is not uncommon for a Kalamazoo County citizen to appear before a judge for or against whom he or she did not have the opportunity to vote. Some litigants might view this as unfair if their adversary in the case did vote in the judge's election. It would be appropriate for the electorate of

the entire county to be allowed to vote in the elections of all the district judges.

**Response:** A litigant's ability to vote in the judge's election should not be a concern. It is not uncommon, in any district, for parties from locations outside the court's venue to appear before a judge for whom they did not have an opportunity to vote. For instance, a resident of Lansing could appear before a district judge in Kalamazoo County for a traffic violation that occurred while the individual was driving through Portage on the way to Chicago. Judges are required to be fair and impartial regardless of whether litigants are their electoral constituents.

### **Opposing Argument**

By subjecting judicial candidates to a countywide vote, the bill could, in effect, disenfranchise some voters. For instance, the voters in Kalamazoo County's major cities—Kalamazoo and Portage—could be left without any representation on the district court bench. With the current election divisions, there is a guaranty that a set number of judges will be elected from those population and commerce centers.

**Response:** On the contrary, the bill would expand the franchise of Kalamazoo County voters. Under the current system, voters in the countywide district are disenfranchised by the election divisions because they are not able to vote in each judicial election in the Eighth District. Under the bill, all electors in the county could participate in each judicial race in the district. Moreover, the current distribution of judgeships among the district's election divisions may be viewed as disenfranchising voters who live outside the City of Kalamazoo. According to the 2000 U.S. Census, the city was home to 77,145 people, or less than one-third of the county's population of 238,603, yet it is a separate election division with four of the Eighth District's seven judgeships.

### **Opposing Argument**

The Supreme Court and the SCAO have not recommended elimination of election divisions in the biennial Judicial Resources Report. The current statutory framework should not be revised without their input.

**Response:** The SCAO's Judicial Resources Report deals with the number of judgeships in the State and their distribution among the various courts. It typically does not address issues of court administration.

Indeed, an SCAO official testified before the Senate Judiciary Committee that the Supreme Court and SCAO have no objection to eliminating election divisions in the Eighth District.

### **Opposing Argument**

Reportedly, one of the reasons that the Governor did not approve Senate Bill 1463 last year was that the issue of election divisions should be addressed on a statewide basis. Senate Bill 193, once again, addresses only Kalamazoo County's Eighth Judicial District.

**Response:** Retaining or eliminating district court election divisions is an issue of local preference, and each situation should be considered separately. The 70<sup>th</sup> Judicial District (Saginaw County) is the only other single-county, countywide district in Michigan that includes election divisions, but that district should not have to give them up just because the divisions in Kalamazoo County were eliminated. By the same token, voters in the Eighth Judicial District should not be deprived of countywide judicial elections just because similar election divisions exist in another county.

### **Opposing Argument**

Perhaps the Eighth District simply has an administrative scheduling problem. The court should assign cases to judges who were elected from the areas of Kalamazoo County from which the cases arise.

**Response:** Such a case assignment policy would be inefficient and essentially would reverse the reorganization authorized by Public Act 161 of 1997. The consolidation of Kalamazoo County's judicial districts into one district with countywide jurisdiction was approved by the Legislature and then-Governor Engler, at the urging of all interested judges and municipalities, in order to promote administrative and technological efficiencies.

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

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.