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Senate Bill 193 (as enrolled)
Sponsor: Senator Tom George
Senate Committee: Judiciary
House Committee: Judiciary

PUBLIC ACT 237 of 2005

Date Completed: 1-13-06

RATIONALE

When the State's district court was created by statute in 1969, Kalamazoo County was 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. Public Act 161 of 1997 amended the Revised Judicature Act to eliminate the Ninth District Court and reorganize the Eighth District Court, effective January 1, 1999.

The Eighth District now consists of all of Kalamazoo County, but is 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 of the entities involved--the cities, the county, the county's townships, and the court--supported the consolidation of Kalamazoo County's district courts, combining their venues as well as their administrative, business, and technology functions. After more than six years of experience with the reorganized district court in Kalamazoo County, however, several concerns were raised about maintaining the Eighth Judicial District's three election divisions, and it was suggested that the divisions be eliminated.

CONTENT

The bill amends the Revised Judicature Act to eliminate the three election divisions in the Eighth Judicial District. The bill will take effect on January 2, 2007.

The bill specifies that, upon its effective date, all incumbent district judges elected or appointed to the first, second, and third election divisions of the Eighth Judicial District and serving at 11:59 p.m. on January 1, 2007, will serve as judges of the reconstituted eighth district until the expiration of the terms for which they were elected or appointed.

The bill also specifies that, to stagger the terms of the seven judges in the eighth district, the candidate receiving the most votes in the 2010 general election will serve an eight-year term if both of the following apply:

- The candidate is seeking election to an existing judgeship for which the incumbent is seeking election.
- The candidate is not seeking election to fill the unexpired portion of a term.

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. In 2004, 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 will 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 is implemented, district court judges also 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 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 have pitted 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 have been in competition as to which

election division would gain or lose a judgeship. This situation will not arise with countywide elections for all of the judges of the Eighth District.

Supporting Argument

Since January 1, 1999, judges of the Eighth District Court have had jurisdiction throughout Kalamazoo County and, due to scheduling, facilities, and efficiency, each judge has handled matters from areas both within and outside of his or her election district. Consequently, it has not been uncommon for a Kalamazoo County citizen to appear before a judge for or against whom he or she had not had 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 is 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 may, in effect, disenfranchise some voters. For instance, the voters in Kalamazoo County's major cities—Kalamazoo and Portage—may 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 expands the franchise of Kalamazoo County voters. Under the current system, voters in the countywide district are disenfranchised by the election divisions because they cannot vote in each judicial election in the Eighth District. Under the bill, all electors in the county will be able to 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 Michigan Supreme Court and the State Court Administrative Office (SCAO) have not recommended elimination of election divisions in the biennial Judicial Resources Report. The 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

Perhaps the issue of election divisions should be addressed on a statewide basis. Senate Bill 193 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 70th 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 are 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.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

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

Fiscal Analyst: Stephanie Yu

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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.