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BILL ANALYSIS

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Senate Bills 883, 907, and 925 (as enrolled)
 Senate Bill 946 (as enrolled)
 Senate Bill 955 (as enrolled)
 Sponsor: Senator Bill Hardiman (S.B. 883)
 Senator Alan L. Cropsy (S.B. 907)
 Senator Alan Sanborn (S.B. 925)
 Senator Michael D. Bishop (S.B. 946)
 Senator Tony Stamas (S.B. 955)
 Committee: Judiciary

PUBLIC ACTS 99, 100, & 101 of 2006**PUBLIC ACT 103 of 2006****PUBLIC ACT 102 of 2006**

Date Completed: 4-26-06

RATIONALE

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 recommended the addition of a circuit court judgeship on January 1, 2007, in each of six different judicial circuits. (Please see **BACKGROUND** for further information regarding the SCAO's report on judicial resources.)

CONTENT

The bills amended the Revised Judicature Act to allow the addition of six new circuit court judgeships effective January 1, 2007, as shown in Table 1.

The bills took effect on April 6, 2006.

Table 1

Senate Bill	Circuit	County or Counties	Current No. of Judges
883	17th	Kent	9
907	7th	Genesee	9
	49th	Mecosta & Osceola	1
925	16th	Macomb	12
946	6th	Oakland	19
955	55th	Clare & Gladwin	1

Senate Bill 907 specifies that, if a new office of judge is added to the 49th Judicial Circuit by election in 2006, the term of office of that judgeship, for that election only, is eight years.

The addition of circuit court judgeships is subject to RJA requirements for county approval before an additional judgeship is filled by election.

(Under Section 550 of the RJA, an additional circuit judgeship permitted by the RJA may not be authorized to be filled by election unless the county board of commissioners of each county in the circuit adopts a resolution approving the creation of that judgeship. The county clerk must file a copy of the resolution with the State Court Administrator by 4:00 p.m. of the 16th Tuesday preceding the August primary for the election to fill the additional judgeship. For the August 2006 primary, that deadline occurred on April 18, 2006.)

MCL 600.518 (S.B. 883)
 600.508 & 600.549a (S.B. 907)
 600.517 (S.B. 925)
 600.507 (S.B. 946)
 600.549g (S.B. 955)

Table 2

County or City	Circuit	District	Probate
Clare & Gladwin	+1		
Dickinson, Iron, & Menominee	-1		
Flint		-1	
Genesee	+1		
Kent	+1		
Macomb	+1		
Mecosta & Osceola	+1		
Oakland	+2 ^{a)}		-1 ^{b)}
Saginaw		-1	
Wayne			-1

^{a)} One in 2007 and one in 2009.
^{b)} Effective January 1, 2009.

BACKGROUND

The recommendation in the SCAO’s judicial resources report are based on a three-year, weighted statistical analysis of trial courts’ caseloads, followed by an extensive analysis of additional factors affecting the workload of selected trial courts, such as the types of cases processed, demographic trends, and the availability of other resources. In the 2005 report, courts that statistically displayed either a need for at least one additional judge or an excess of at least one judge, using the weighted caseload measure, were selected for further review.

According to the 2005 SCAO report, judicial recommendations are made only after this extended analysis, which uses available quantitative and qualitative information such as “the makeup of the caseload, caseload trends, prosecutor and law enforcement practices, staffing levels, facilities, technological resources, the need for assignments to or from other jurisdictions, demographics and demographic trends, and local legal culture”. Courts scheduled to switch in 2007 from a part-time probate judge to a full-time probate judge with district court jurisdiction (pursuant to Public Act 492 of 2004) were excluded from the extended analysis.

Since the operation of the family division of circuit court (family court) involves many probate judges’ serving in circuit court, the SCAO examined the circuit and probate courts’ needs together, and the judicial resources recommendations reflect those combined needs.

Table 2 shows the recommendations outlined in the SCAO’s 2005 judicial resources report.

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

By authorizing the addition of circuit judgeships in the Sixth, Seventh, 16th, 17th, 49th, and 55th Judicial Circuits, the bills address current judicial resources needs as recommended by the SCAO’s 2005 *Judicial Resources Recommendations* (JRR) report.

Oakland County is the second-largest county in Michigan. It has seen significant population growth since 1990 and that growth is expected to continue. Also, according to the SCAO report, the Sixth Circuit experiences a large number of complex civil filings, many of which proceed to trial, and many criminal cases that might be adjudicated with a plea in other counties often go to trial in Oakland County. In addition, according to the SCAO, the court has experienced problems managing civil jury trials, sometimes lasting several weeks, while handling common cases. Due to these and other factors, the SCAO found a net judicial need of 3.17 judgeships in the Sixth Circuit and Oakland County Probate Courts, and recommended an additional judge for the Sixth Circuit Court.

Genesee County has had a small population growth since 1990, but the Seventh Circuit Court has seen increases in the number of drug and juvenile delinquency cases. The 2005 JRR report found a net judicial need of 1.73 judgeships in the Seventh Circuit and Genesee County Probate Courts, and recommended an additional judge for the Seventh Circuit Court.

Since 1990, Macomb County has had significant population growth, which is expected to continue. Case filings in the 16th Circuit increased by 7.6% between 2000 and 2004, while filings were down by 5.3% statewide, according to the SCAO. The 2003 judicial resources report had recommended an additional circuit judge for the 16th Circuit, but that recommendation was not enacted. The 2005 report found a net judicial need of 2.75 judgeships in the 16th Circuit and Macomb County Probate Courts, and recommended an additional judge for the 16th Circuit Court.

Kent County also has had significant population growth since 1990, and the growth is expected to continue. Case filings in the 17th Circuit have been relatively stable at around 19,000 per year for the past five years, compared with the statewide decrease of 5.3%, according to the SCAO. Although the 2003 judicial resources report had recommended an additional circuit judge for the 17th Circuit, that recommendation was not enacted. The 2005 report found a net judicial need of 2.54 judgeships in the 17th Circuit and Kent County Probate Courts, and recommended an additional judge for the 17th Circuit Court.

Mecosta and Osceola Counties, which make up the 49th Judicial Circuit, the 77th Judicial District, and the 18th Probate Court District, are served by one judge in each of those courts. Because of the counties' caseload and population growth, as well as the assignment of other judges to assist courts in Mecosta and Osceola Counties, the SCAO determined that another judgeship should be created there. The 2003 judicial resources report had recommended an increase of one judgeship in the 77th District, but that recommendation was not enacted. At the time, the need was considered greater in the circuit and probate courts than in the district court, but the 2003 recommendation evidently deferred to the wishes of the local trial court judges. Since that time, the caseload, population, and assignment of visiting judges to these courts have continued to increase and the need for an additional judgeship is greater in the 49th Circuit than in the 77th District. The 2005 JRR report found a net judicial need of 1.11 judgeships in the 49th Circuit and 18th Probate District Courts, and recommended the addition of one judge to the 49th Circuit Court. In addition, to provide for staggered

terms of the 49th Circuit judges, the new judge's initial term of office should be eight years rather than the usual six.

Clare and Gladwin Counties, which make up the 55th Judicial Circuit, the 80th Judicial District, and the 17th Probate Court District, are served by one judge in each of those courts. Because of the counties' caseload and population growth, the SCAO determined that another judgeship should be created there. The two counties, particularly Gladwin County, have had significant population increases since 1990. While overall case filings in the 55th Circuit decreased slightly from 2000 to 2004, criminal capital case filings increased by 162.5% (compared with a 3% decrease statewide), according to the SCAO. Although the 2003 judicial resources report had recommended an additional judgeship for the 55th Circuit, that recommendation was not enacted. The 2005 report found a net judicial need of 1.38 judgeships in the 55th Circuit and 17th Probate Court District, and recommended the addition of one judge to the 55th Circuit Court.

As recommended by the SCAO, each of the additional judgeships will be effective January 1, 2007, if approved by the county or counties.

Opposing Argument

In addition to the six new circuit court judgeships that the bills allow, the SCAO's 2005 recommendations include 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.

The 2005 JRR report found significant population reductions in Wayne County since 1990, with further declines expected. The report also determined that probate court filings decreased by 18.7% between 2000 and 2004. The 2005 report found a net judicial excess of 2.88 judges in the combined Third Circuit and Wayne County Probate Courts, and recommended the elimination of one probate judgeship by attrition.

The 68th Judicial District consists of the City of Flint and has five judges. Flint's population has decreased significantly since 1990, while case filings remained relatively stable between 2000 and 2004. The SCAO's 2005 judicial resources report found a net judicial excess of 1.37 judgeships in the 68th District, and recommended the elimination of one judgeship by attrition.

The 70th Judicial District consists of Saginaw County and is divided into two election divisions. Saginaw County's population has dropped slightly since 1990. Case filings decreased by 9.3% between 2000 and 2004. The 2005 judicial resources report found a net judicial excess of 2.11 judgeships in the 70th District, and recommended the elimination of one judgeship by attrition.

The 41st Judicial Circuit consists of Dickinson, Iron, and Menominee Counties and has two judges. Each of those counties also has a probate judge who handles at least some of the circuit's family court caseload. While the population in the three counties has increased slightly since 1990, the 41st Circuit experienced an overall decrease of 5.9% in cases filed between 2000 and 2004. The 2005 SCAO report found a net judicial excess of 1.66 judges in the 41st Circuit and Dickinson, Iron, and Menominee probate courts and recommended the elimination of one circuit judgeship by attrition.

As well as the addition of a circuit court judge to the Sixth Circuit Court in Oakland County effective January 1, 2007, the SCAO report recommended the elimination by attrition of one probate judgeship in Oakland County effective January 1, 2009, and a corresponding increase of one circuit judgeship in the Sixth Circuit on that date.

Response: Eliminating a probate judgeship in Wayne County would have a severe impact on the county's residents. With only eight probate judges to serve a population of over 2 million citizens, the county is underserved. According to testimony before the Senate Judiciary Committee by a Wayne County probate judge, there is one probate judge in the county for roughly every 258,000 citizens while the rest of the State has one probate judge for about every 94,000 citizens. Two of Wayne County's probate judges are assigned to family court, so the county actually has only six judges serving on the

probate bench. The judge whose position would be eliminated by attrition under the SCAO recommendation is assigned to the family court, and the Circuit Court apparently would request another probate judge to fill that vacancy, which would leave only five judges to handle the probate docket. The Wayne County probate judgeship should be retained.

While the population is declining and case filings are stable or decreasing in the 68th and 70th Judicial Districts, those areas are struggling economically and are experiencing increasing crime. Both Flint and Saginaw have seen reductions in law enforcement personnel and activity, which could partially explain the drop-off in case filings while crime rates continue to be problematic. Not long ago, Flint emerged from a financial crisis and the City of Saginaw was given statutory authority to ask voters for a millage increase to fund police and other emergency services. As those communities are more able to support increased levels of law enforcement to respond to their crime problems, their district courts should see increased activity. Eliminating judicial resources from those courts would burden the remaining judges with overly heavy caseloads. Reportedly, with the loss of a judgeship in Flint, the 68th District would exceed every other district court in Michigan on a felony-per-judge basis. The judgeships in the 68th and 70th Districts should be retained.

The 41st Judicial Circuit covers a large geographic area in the western Upper Peninsula. Judicial resources are spread thin, and the time it takes for people to travel in the circuit should be considered when its judicial resources needs are weighed. In addition, as the 2005 SCAO report pointed out, at least two of the counties in the circuit appear to be growing in business activity, infrastructure, and industry, and the population and industrial base of nearby Wisconsin communities are growing. These factors suggest that court activity could increase in the 41st Circuit in the near future and that the court should not lose one of its two judgeships.

Since the JRR report grouped probate and circuit courts together in its assessment of judicial resource needs, the recommendation of eliminating an Oakland County probate judgeship and adding a Sixth Circuit

judgeship on January 1, 2009, essentially was viewed as a balancing of judicial resources in Oakland County. County officials, however, apparently indicated their desire not to swap a probate judgeship for an additional circuit judge, and the SCAO reportedly was willing to defer to those wishes.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The counties allowed to add judgeships were required to pass resolutions approving the addition of judgeships by April 18, 2006. Genesee and Oakland Counties did not pass these resolutions, so two of the six judgeships will not take effect.

Based on current judicial salaries, the bills will cost the State the following annual amounts for each new circuit judgeship that is approved:

Costs to the State	Circuit Court
Salary	\$139,919
Social Security	6,100
Medicare	2,032
Defined Contribution Retirement	9,794
Total	\$157,845

The addition of four new judgeships would cost the State \$631,124 per year when fully implemented. The impact on the budget for fiscal year 2006-07 would be \$479,380. The Governor will be updating her budget recommendation to include funding for these new judgeships.

Local expenses include the cost of benefits for judges, support staff wages and benefits, and facility space.

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.