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BILL ANALYSIS

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Senate Bill 435 (as enacted)  
Sponsor: Senator Tony Stamas  
Senate Committee: Judiciary  
House Committee: Judiciary

**PUBLIC ACT 137 of 2008**

Date Completed: 8-29-08

**RATIONALE**

The 87<sup>th</sup> judicial district consists of Crawford, Kalkaska, and Otsego Counties in northern Michigan, and has one district judge. The probate judges in Crawford and Kalkaska Counties also have the jurisdiction, powers, duties, and title of a district judge within their respective counties, under Section 810a of the Revised Judicature Act, which was added by Public Act 92 of 2002. Since that Act took effect on March 31, 2003, the probate judges in Crawford and Kalkaska Counties have handled district court cases in their counties and the elected judge of the 87<sup>th</sup> judicial district has handled cases only in Otsego County, where that judge resides. In addition, the district court staff has been allocated and funded based on county lines, with each county funding the court operations that occur within that county. Since the counties essentially operate three separate and distinct district court operations, Crawford, Kalkaska, and Otsego Counties and the judges in those counties requested that the 87<sup>th</sup> judicial district be divided into three separate districts.

**CONTENT**

**The bill amends the Revised Judicature Act (RJA) to divide the 87<sup>th</sup> judicial district into three new judicial districts, with the approval of Otsego County.**

Specifically, if Otsego County, by resolution adopted by the governing body of the district funding unit, approves the reformation of the 87<sup>th</sup> judicial district and its redesignation as the 87<sup>th</sup>-A district and files a copy of the resolution with the State Court Administrator, all of the following apply:

- The 87<sup>th</sup> district will consist of Otsego County, have one judge, and be redesignated as the 87<sup>th</sup>-A district.
- The 87<sup>th</sup>-B district will consist of Kalkaska County and, pursuant to Section 810a of the RJA, the probate judge of Kalkaska County will serve as judge of the 87<sup>th</sup>-B district.
- The 87<sup>th</sup>-C district will consist of Crawford County and, pursuant to Section 810a, the probate judge of Crawford County will serve as judge of the 87<sup>th</sup>-C district.

(The RJA prohibits the creation of a new judicial district proposed by law unless each district control unit in the proposed district, by resolution of the district control unit's governing body, approves the creation of the new district and the clerk of each district control unit adopting the resolution files a copy with the State Court Administrator by the deadline specified in the Act.)

Under the bill, the judge of the 87<sup>th</sup> district at 11:59 p.m. on January 1, 2009, who resides in Otsego County will serve as judge of the 87<sup>th</sup>-A district for the balance of the term to which he or she was elected or appointed judge of the 87<sup>th</sup> district.

(Although the bill states that the provisions described above will apply on January 2, 2009, the bill will not take effect until the 91<sup>st</sup> day after the Legislature adjourns the 2008-2009 session.)

The bill specifies that if Otsego County, acting through its governing body, approves the reformation of the 87<sup>th</sup> district to consist of the County of Otsego with one district judgeship, that approval constitutes an exercise of the district funding unit's option

to provide a new activity or service or to increase the level of activity or service offered in the district funding unit beyond that required by existing law, as the elements of that option are defined by Public Act 101 of 1979, and a voluntary acceptance by the district funding unit of all expenses and capital improvements that may result from reformation of the district. The exercise of the option, however, does not affect the State's obligation to pay the same portion of each judge's salary that is paid by the State to other district judges as provided by law, or to appropriate and disburse funds to the district funding unit for the necessary costs of State requirements established by a State law that becomes effective on or after December 23, 1978.

(Public Act 101 of 1979 implements Article 9, Section 29 of the State Constitution, which is part of the so-called "Headlee Amendment". That constitutional provision states: "A new activity or service or an increase in the level of any activity or service beyond that required by existing law shall not be required by the legislature or any state agency of units of Local Government, unless a state appropriation is made and disbursed to pay the unit of Local Government for any necessary increased costs." Under Public Act 101, "state requirement" means a State law that requires a new activity or service or an increased level of activity or service beyond that required of a local unit by an existing law, but the term does not include either of the following:

- A requirement of a State law that does not require a local unit of government to perform an activity or service but allows a local unit to do so as an option.
- A requirement of State law that changes the level of requirements, standards or guidelines of an activity or service that is not required of a local unit by existing law or State law, but that is provided at the option of the local unit.)

MCL 600.8152

## **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**

In recent years, the 87<sup>th</sup> judicial district in effect has operated as three separate and distinct courts. Although the district, which includes Crawford, Kalkaska, and Otsego Counties, has just one district court judge, the RJA has authorized the probate court judges in Crawford and Kalkaska Counties, since March 31, 2003, to serve as district court judges within their respective counties. Since the elected district court judge lives in Otsego County, county officials and court administrators in the three counties have opted to have the probate judges in Crawford and Kalkaska Counties handle all district court cases in those counties and have the 87<sup>th</sup> district court judge handle cases only in Otsego County. Also, the 87<sup>th</sup> district court staff evidently is funded and allocated along county lines. Since the 87<sup>th</sup> district court and the probate courts in Crawford and Kalkaska Counties effectively are administered as three distinct district courts, the RJA should designate them as such. The six elected judges in Crawford, Kalkaska, and Otsego Counties (the 87<sup>th</sup> district judge, the two circuit court judges in the 46<sup>th</sup> Circuit Court, which consists of the same three counties, and the probate judge in each county), as well as the boards of commissioners in each of the three counties, requested legislation to reorganize the 87<sup>th</sup> district court into three individual courts. By authorizing the redesignation of the 87<sup>th</sup> district as the 87<sup>th</sup>-A district and the creation of the 87<sup>th</sup>-B and 87<sup>th</sup>-C districts courts, the bill accommodates the request of local and court officials in Crawford, Kalkaska, and Otsego Counties and brings statutory court designations into conformity with the current practice of the courts in those counties.

Legislative Analyst: Patrick Affholter

## **FISCAL IMPACT**

The bill will have no fiscal impact on State or local government. In this case, the creation of additional districts will not require any additional facilities or staff.

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.