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Senate Bill 56 (as introduced 1-28-15)  
Sponsor: Senator Rick Jones  
Committee: Judiciary

Date Completed: 3-17-15

### **CONTENT**

**The bill would amend the Revised Judicature Act to change the salary calculations for judges of the Court of Appeals, circuit court, probate court, and district court. Currently, those salaries are based on a percentage of the salary paid to a Justice of the Supreme Court. Under the bill, the salaries would equal a percentage of the salary of a Supreme Court Justice as of December 31, 2015, plus an amount based on percentage pay increases, excluding lump-sum payments, paid to civil service nonexclusively represented employees (NEREs) classified as executives and administrators on or after January 1, 2016.**

The bill would take effect on January 1, 2016.

#### Court of Appeals Judges

Under the Act, each judge of the Court of Appeals must receive an annual salary equal to the greater of the following:

- 92% of the annual salary of a Justice of the Supreme Court.
- \$114,007.

(The current annual salary of a Supreme Court Justice is \$164,614.)

Under the bill, each judge of the Court of Appeals instead would have to receive an annual salary calculated as follows:

- 92% of the annual salary of a Justice of the Supreme Court as of December 31, 2015.
- In addition, an amount equal to that amount multiplied by the compounded aggregate percentage pay increases, excluding lump-sum payments, paid to civil service NEREs classified as executives and administrators on or after January 1, 2016.

#### Circuit Court Judges

Under the Act, each circuit judge must receive an annual salary payable by the State that is the difference between 85% of the salary of a Justice of the Supreme Court and \$45,724. Each circuit court judge also may receive from any county in which he or she regularly holds court an additional salary as determined by the county board of commissioners. In any county where an additional salary is granted, it must be paid at the same rate to all circuit judges regularly holding court in that county.

The State must reimburse \$45,724 to a county or counties paying an additional salary to a circuit judge, if the total additional salary, including any cost-of-living allowance, payable by that county or counties is not less than or more than that amount. If the county or counties pay a circuit judge less than or more than \$45,724, the county or counties are not entitled to reimbursement from the State.

Under the bill, each circuit judge would have to receive an annual salary calculated as follows:

- An annual salary payable by the State equal to is the difference between 85% of the salary of a Supreme Court Justice as of December 31, 2015, and \$45,724.
- In addition to the State salary, an additional salary payable by the county or the counties of the judicial circuit, as currently provided.
- In addition to the State salary and additional county salary, an amount equal to the those amounts multiplied by the compounded aggregate percentage pay increases, excluding lump-sum payments, paid to civil service NEREs classified as executives and administrators on or after January 1, 2016.

#### Probate Court Judges

Under the Act, each probate court judge must receive an annual salary determined as follows:

- A minimum annual salary of the difference between 85% of the salary of a Justice of the Supreme Court and \$45,724.
- An additional salary of \$45,724 paid by the county or by the counties comprising a probate court district.

If a probate judge receives a total additional salary of \$45,724 from the county or counties, and does not receive less than or more than that amount, including any cost-of-living allowance, the State must reimburse the county or counties the amount the county or counties have paid to the judge.

Under the bill, each probate judge would have to receive an annual salary calculated as follows:

- A minimum annual salary of the difference between 85% of the salary of a Supreme Court Justice as of December 31, 2015, and \$45,724.
- In addition to the minimum annual salary, an additional salary paid by the county or the counties comprising a probate court district, as currently provided.
- In addition to the minimum annual salary and additional county salary, an amount equal to the those amounts multiplied by the compounded aggregate percentage pay increases, excluding lump-sum payments, paid to civil service NEREs classified as executives and administrators on or after January 1, 2016.

#### District Court Judges

Under the Act, each district court judge must receive an annual salary determined as follows:

- A minimum annual salary payable by the State of the difference between 84% of the salary of a Justice of the Supreme Court and \$45,724.
- An additional salary from the district funding unit or units.

If a district judge receives a total additional salary of \$45,724 from the district funding unit or units and does not receive less than or more than that amount, including any cost-of-living allowance, the State must reimburse the district funding unit or units the amount that the unit or units paid to the judge.

Under the bill, each district judge would receive an annual salary calculated as follows:

- A minimum annual salary payable by the State of the difference between 84% of the salary of a Supreme Court justice as of December 31, 2015, and \$45,724.
- An additional salary from the district funding unit or units, as currently provided.
- In addition to the minimum State salary and additional local salary, an amount equal to the those amounts multiplied by the compounded aggregate percentage pay increases, excluding lump-sum payments, paid to civil service NEREs classified as executives and administrators on or after January 1, 2016.

#### Effective Date of Salary Increase

Currently, for judges of the Court of Appeals, circuit court, probate court, and district court, an increase in the amount of salary payable to a judge caused by an increase in the salary of a Justice of the Supreme Court is not effective until February 1 of the year in which the Supreme Court justice's increase becomes effective, but is retroactive to January 1 of that year. The bill would delete those provisions.

Under the bill, the additional salary based on percentage pay increases to NEREs would take effect on the same date as the effective date of the pay increases paid to those employees, and could not be based on a pay increase paid to them if the effective date of the increase were before January 1, 2016.

MCL 600.304 et al.

Legislative Analyst: Patrick Affholter

#### **FISCAL IMPACT**

The bill would have no direct fiscal impact on State or local government. As the bill would change the process in which adjustments to judicial salaries (except salaries of Supreme Court Justices) are made to adjustments based on non-lump-sum increases given to nonexclusively represented employees classified as executives and administrators, an indirect fiscal impact can be estimated by analyzing historical judicial salaries as well as the adjustments that would have occurred had judges been considered NEREs for the respective fiscal years.

If the bill had been or were in effect over the five-year-period of fiscal year (FY) 2011-12 through FY 2015-16, the result would be approximately \$17.0 million in increased costs to the State, or \$3.4 million annually. This analysis is based on a historical trend analysis of past judicial salaries and adjustments made to NEREs classified as executives and administrators for FY 2011-12 through FY 2015-16.

As Table 1 shows, the actual NERE adjustments in any given year can range from 0% to 3% with an average of 2%.

**Table 1**

<b>Fiscal Year</b>	<b>NERE Adjustments</b>
FY 2011-12	0%
FY 2012-13	3%
FY 2013-14	1%
FY 2014-15	2%
FY 2015-16	2%

Tables 2 through 5 reflect the amounts of the judges' salaries under current law (based on appropriations) and the amounts of the salaries if the bill had been in effect since FY 2011-12.

**Table 2**

<b>Fiscal Year</b>	<b>Court of Appeals Judge Remuneration</b>	<b>Court of Appeals Judge Remuneration (with NERE Adjustment)</b>
FY 2011-12	\$151,438	\$151,438
FY 2012-13	\$151,439	\$155,982
FY 2013-14	\$151,439	\$157,541
FY 2014-15	\$152,841	\$160,692
FY 2015-16	\$151,404	\$163,906

**Table 3**

<b>Fiscal Year</b>	<b>Circuit Court Judge Remuneration</b>	<b>Circuit Court Judge Remuneration (with NERE Adjustment)</b>
FY 2011-12	\$139,920	\$139,920
FY 2012-13	\$140,080	\$144,117
FY 2013-14	\$139,920	\$145,558
FY 2014-15	\$140,742	\$148,470
FY 2015-16	\$139,922	\$151,439

**Table 4**

<b>Fiscal Year</b>	<b>Probate Court Judge Remuneration</b>	<b>Probate Court Judge Remuneration (with NERE Adjustment)</b>
FY 2011-12	\$138,812	\$138,812
FY 2012-13	\$139,261	\$142,976
FY 2013-14	\$138,811	\$144,406
FY 2014-15	\$138,811	\$147,294
FY 2015-16	\$138,811	\$150,240

**Table 5**

<b>Fiscal Year</b>	<b>District Court Judge Remuneration</b>	<b>District Court Judge Remuneration (with NERE Adjustment)</b>
FY 2011-12	\$138,271	\$138,271
FY 2012-13	\$138,549	\$142,420
FY 2013-14	\$138,272	\$143,844
FY 2014-15	\$138,841	\$146,721
FY 2015-16	\$138,272	\$149,655

The prospective indirect fiscal impact is uncertain as the annual NERE adjustments are neither preordained nor always above 0%. As the compounding effect from NERE base adjustments is shown in the historical scenario, the fiscal cost could increase over time if increases occur annually. Additionally, the total number of judges in each court category could change the total impact if judicial resources are increased or decreased.

For local governments, if any additional benefits or compensation are linked to the base judicial salaries, there could be an increase in fiscal costs.

Fiscal Analyst: John Maxwell

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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.