

# HOUSE BILL No. 5747

June 8, 2016, Introduced by Rep. Nesbitt and referred to the Committee on Elections.

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending sections 550, 550a, 805, 8175, and 8176 (MCL 600.550, 600.550a, 600.805, 600.8175, and 600.8176), section 550 as amended by 2009 PA 228, section 550a as amended by 2012 PA 36, section 805 as amended by 2011 PA 300, section 8175 as amended by 1990 PA 54, and section 8176 as amended by 2002 PA 92.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 550. (1) An additional circuit judgeship permitted by  
2 this chapter shall not be authorized to be filled by election  
3 unless each county in the circuit, by resolution adopted by the  
4 county board of commissioners, approves the creation of that  
5 judgeship and unless the clerk of each county adopting such a  
6 resolution files a copy of the resolution with the state court  
7 administrator not later than 4 p.m. of the sixteenth Tuesday

1 ~~preceding~~ **BEFORE** the ~~August~~ **JUNE** primary for the election to fill  
2 the additional circuit judgeship. The state court administrator  
3 shall immediately notify the elections division of the department  
4 of state with respect to each new circuit judgeship authorized  
5 pursuant to this subsection. If a circuit judgeship is permitted by  
6 law to be authorized without a resolution being adopted by the  
7 county board of commissioners, the state court administrator shall  
8 immediately notify the elections division of the department of  
9 state with respect to each new circuit judgeship authorized.

10 (2) A resolution required under subsection (1) that is filed  
11 before the effective date of the amendatory act that authorized  
12 that judgeship is a valid approval of the judgeship for purposes of  
13 this section only if the filing occurs within the 2-year state  
14 legislative session during which the amendatory act was enacted. A  
15 resolution required under subsection (1) that is filed after the  
16 effective date of the amendatory act that added that judgeship is a  
17 valid approval of the judgeship for purposes of this section only  
18 if the filing occurs not later than 4 p.m. of the sixteenth Tuesday  
19 ~~preceding~~ **BEFORE** the ~~August~~ **JUNE** primary for the election  
20 immediately preceding the effective date of the additional  
21 judgeship.

22 (3) By permitting an additional judgeship, or by restoring a  
23 judgeship after a temporary reduction in judgeships as described in  
24 subsection (5), the legislature is not creating that judgeship. If  
25 a county, acting through its board of commissioners, approves the  
26 creation of an additional circuit judgeship, that approval  
27 constitutes an exercise of the county's option to provide a new

1 activity or service or to increase the level of activity or service  
2 offered in the county beyond that required by existing law, as the  
3 elements of that option are defined by 1979 PA 101, MCL 21.231 to  
4 21.244, and a voluntary acceptance by the county of all expenses  
5 and capital improvements ~~which~~**THAT** may result from the creation of  
6 the judgeship. However, the exercise of the option does not affect  
7 the state's obligation to pay the same portion of the additional  
8 judge's salary ~~which~~**THAT** is paid by the state to the other judges  
9 of the same circuit, or to appropriate and disburse funds to the  
10 county for the necessary costs of state requirements established by  
11 a state law ~~which~~**THAT** becomes effective on or after December 23,  
12 1978.

13 (4) Each additional circuit judgeship created pursuant to  
14 subsection (1) shall be filled by election pursuant to the Michigan  
15 election law, 1954 PA 116, MCL 168.1 to 168.992. The first term of  
16 each additional circuit judgeship shall be 6 years, unless the law  
17 permitting the additional judgeship provides for a term of a  
18 different length.

19 (5) If, by law, the number of judgeships in a judicial circuit  
20 is temporarily reduced for a period of not more than 6 years and  
21 then restored to the number of judgeships that existed before the  
22 temporary reduction, the restored judgeship or judgeships are not  
23 considered additional circuit judgeships for purposes of this  
24 section, and a resolution of approval under subsection (1) is not  
25 required.

26 (6) A temporary reduction in the number of circuit judgeships  
27 in a judicial circuit shall not take effect unless both of the

1 following occur:

2 (a) Each county in the circuit, by resolution adopted by the  
3 county board of commissioners, supports the temporary reduction in  
4 the number of judgeships.

5 (b) The clerk of each county adopting the resolution files a  
6 copy of the resolution with the state court administrator not later  
7 than 4 p.m. of the sixteenth Tuesday ~~preceding~~ **BEFORE** the date on  
8 which the ~~August~~ **JUNE** primary would have been held for the  
9 judgeship that is being eliminated. A resolution required under  
10 subdivision (a) that is filed before ~~the effective date of the~~  
11 ~~amendatory act that added this subsection~~ **JANUARY 5, 2010** is valid  
12 if the filing occurs within the 2-year state legislative session  
13 during which the amendatory act was enacted.

14 (7) The state court administrator shall immediately notify the  
15 elections division of the department of state with respect to  
16 either of the following:

17 (a) A temporary reduction in the number of judgeships in a  
18 judicial circuit.

19 (b) The restoration of the number of judgeships in a judicial  
20 circuit, after a temporary reduction in that number.

21 Sec. 550a. (1) If a new judicial circuit is proposed by law,  
22 that new circuit shall not be created and any circuit judgeship  
23 proposed for the circuit shall not be authorized or filled by  
24 election unless each county in the proposed circuit, by resolution  
25 adopted by the county board of commissioners, approves the creation  
26 of the new circuit and each judgeship proposed for the circuit and  
27 unless the clerk of each county adopting that resolution files a

1 copy of the resolution with the state court administrator not later  
2 than 4 p.m. of the sixteenth Tuesday ~~preceding~~ **BEFORE** the ~~August~~  
3 **JUNE** primary immediately following the effective date of the  
4 amendatory act permitting the creation of the new circuit. The  
5 state court administrator shall immediately notify the elections  
6 division of the department of state with respect to each new  
7 judicial circuit and circuit judgeship authorized under this  
8 subsection.

9 (2) By proposing a new judicial circuit and 1 or more circuit  
10 judgeships for the circuit, the legislature is not creating that  
11 circuit or any judgeship in the circuit. If a county, acting  
12 through its board of commissioners, approves the creation of a new  
13 circuit and 1 or more circuit judgeships proposed by law for that  
14 circuit, that approval constitutes an exercise of the county's  
15 option to provide a new activity or service or to increase the  
16 level of activity or service offered in the county beyond that  
17 required by existing law, as the elements of that option are  
18 defined by 1979 PA 101, MCL 21.231 to 21.244, and a voluntary  
19 acceptance by the county of all expenses and capital improvements  
20 that may result from the creation of the new circuit and each  
21 judgeship. However, the exercise of the option does not affect the  
22 state's obligation to pay a portion of the circuit judge's or  
23 judges' salary as provided by law, or to appropriate and disburse  
24 funds to the county for the necessary costs of state requirements  
25 established by a state law that takes effect on or after December  
26 23, 1978.

27 (3) Each circuit judgeship created under subsection (1) shall

1 be filled by election under the Michigan election law, 1954 PA 116,  
2 MCL 168.1 to 168.992. The first term of each circuit judgeship is 6  
3 years, unless the law permitting the creation of the new circuit  
4 and 1 or more judgeships provides for a term of a different length.

5 (4) The reformation of the eleventh, twenty-third, twenty-  
6 sixth, thirty-fourth, fiftieth, and fifty-third judicial circuits  
7 under 2002 PA 92 does not require a resolution of approval by the  
8 county board of commissioners under this section or section 550.

9 Sec. 805. (1) The additional judges of probate permitted by  
10 section 803 shall not be filled by election unless the county, by  
11 resolution adopted by the county board of commissioners, approves  
12 the creation of that judgeship and unless the clerk of that county  
13 files a copy of the resolution with the state court administrator  
14 not later than 4 p.m. of the thirteenth Tuesday ~~preceding~~ **BEFORE**  
15 the ~~August~~ **JUNE** primary for the election to fill the additional  
16 judge of probate. The state court administrator shall immediately  
17 notify the county clerk with respect to any new judge of probate  
18 authorized for that county under this subsection.

19 (2) By permitting an additional judgeship, the legislature is  
20 not creating that judgeship. If a county, acting through its board  
21 of commissioners, approves the creation of an additional judge of  
22 probate, that approval constitutes an exercise of the county's  
23 option to provide a new activity or service or to increase the  
24 level of activity or service offered in the county beyond that  
25 required by existing law, as the elements of that option are  
26 defined by 1979 PA 101, MCL 21.231 to 21.244, and a voluntary  
27 acceptance by the county of all expenses and capital improvements

1 that may result from the creation of the judgeship. However, the  
2 exercise of the option does not affect the state's obligation to  
3 pay the same portion of the additional judge's salary that is paid  
4 by the state to the other judges of probate of the same county, or  
5 to appropriate and disburse funds to the county for the necessary  
6 costs of state requirements established by a state law that takes  
7 effect on or after December 23, 1978.

8 (3) Each additional judgeship created under subsection (1)  
9 shall be filled by election under the Michigan election law, 1954  
10 PA 116, MCL 168.1 to 168.992. The first term of each additional  
11 judgeship shall be 6 years unless the law permitting the additional  
12 judgeship provides for a term of a different length.

13 (4) A combination of the office of probate judge with a  
14 judicial office of limited jurisdiction within a county under  
15 section 15 of article VI of the state constitution of 1963 that  
16 does not result in an increase in the total number of trial  
17 judgeships in the county does not require a resolution of approval  
18 by the county board of commissioners under this section.

19 Sec. 8175. (1) The additional district judgeships permitted by  
20 this chapter shall not be authorized to be filled by election  
21 unless each district control unit of the district, by resolution  
22 adopted by the governing body of the district control unit,  
23 approves the creation of that judgeship and unless the clerk of  
24 each district control unit adopting such a resolution files a copy  
25 of the resolution with the state court administrator not later than  
26 4 p.m. of the sixteenth Tuesday ~~preceding~~ **BEFORE** the ~~August~~ **JUNE**  
27 primary for the election to fill the additional district judgeship.

1 The state court administrator shall immediately notify the  
2 elections division of the department of state with respect to each  
3 new district judgeship authorized pursuant to this subsection.

4 (2) A resolution required under subsection (1) that is filed  
5 before the effective date of the amendatory act that authorized  
6 that judgeship is a valid approval of the judgeship for purposes of  
7 this section only if the filing occurs within the 2-year state  
8 legislative session during which the amendatory act was enacted. A  
9 resolution required under subsection (1) that is filed after the  
10 effective date of the amendatory act that added that judgeship is a  
11 valid approval of the judgeship for purposes of this section only  
12 if the filing occurs not later than 4 p.m. of the sixteenth Tuesday  
13 ~~preceding~~ **BEFORE** the ~~August~~ **JUNE** primary for the election  
14 immediately ~~preceding~~ **BEFORE** the effective date of the additional  
15 judgeship.

16 (3) By permitting an additional judgeship, the legislature is  
17 not creating that judgeship. If a district control unit, acting  
18 through its governing body, approves the creation of an additional  
19 district judgeship, that approval constitutes an exercise of the  
20 district control unit's option to provide a new activity or service  
21 or to increase the level of activity or service offered in the  
22 district control unit beyond that required by existing law, as the  
23 elements of that option are defined by ~~Act No. 101 of the Public~~  
24 ~~Acts of 1979, being sections 21.231 to 21.244 of the Michigan~~  
25 ~~Compiled Laws, 1979 PA 101, MCL 21.231 TO 21.244,~~ and a voluntary  
26 acceptance by the district control unit of all expenses and capital  
27 improvements ~~which~~ **THAT** may result from the creation of the

1 judgeship. However, the exercise of the option does not affect the  
2 state's obligation to pay the same portion of the additional  
3 judge's salary ~~which~~**THAT** is paid by the state to the other  
4 district judges in the same district, or to appropriate and  
5 disburse funds to the district control unit for the necessary costs  
6 of state requirements established by a state law ~~which~~**THAT** becomes  
7 effective on or after December 23, 1978.

8 (4) Each additional district judgeship created pursuant to  
9 subsection (1) shall be filled by election pursuant to the Michigan  
10 election law, ~~Act No. 116 of the Public Acts of 1954, as amended,~~  
11 ~~being sections 168.1 to 168.992 of the Michigan Compiled Laws. 1954~~  
12 **PA 116, MCL 168.1 TO 168.992.** The first term of each additional  
13 district judgeship shall be 6 years, unless the law permitting the  
14 additional judgeship provides for a term of a different length.

15 Sec. 8176. (1) If a new district is proposed by law, that new  
16 district shall not be created and any district judgeship proposed  
17 for the district shall not be authorized or filled by election  
18 unless each district control unit in the proposed district, by  
19 resolution adopted by the governing body of the district control  
20 unit, approves the creation of the new district and each judgeship  
21 proposed for the district and unless the clerk of each district  
22 control unit adopting that resolution files a copy of the  
23 resolution with the state court administrator not later than 4 p.m.  
24 of the sixteenth Tuesday ~~preceeding~~**BEFORE** the ~~August~~**JUNE** primary  
25 for the election immediately ~~preceeding~~**BEFORE** the effective date of  
26 the new district. The state court administrator shall immediately  
27 notify the elections division of the department of state with

1 respect to each new judicial district and district judgeship  
2 authorized pursuant to this subsection.

3 (2) A resolution required under subsection (1) that is filed  
4 before the effective date of the amendatory act that authorized  
5 that new district is a valid approval for purposes of this section  
6 only if the filing occurs within the 2-year state legislative  
7 session during which the amendatory act was enacted. A resolution  
8 required under subsection (1) that is filed after the effective  
9 date of the amendatory act that authorized that new district is a  
10 valid approval for purposes of this section only if the filing  
11 occurs not later than 4 p.m. of the sixteenth Tuesday ~~preceding~~  
12 **BEFORE** the ~~August~~**JUNE** primary for the election immediately  
13 ~~preceding~~**BEFORE** the effective date of the new district.

14 (3) By proposing a new district and 1 or more district  
15 judgeships for the district, the legislature is not creating that  
16 district or any judgeship in the district. If a district control  
17 unit, acting through its governing body, approves the creation of a  
18 new district and 1 or more district judgeships proposed by law for  
19 that district, that approval constitutes an exercise of the  
20 district control unit's option to provide a new activity or service  
21 or to increase the level of activity or service offered in the  
22 district control unit beyond that required by existing law, as the  
23 elements of that option are defined by 1979 PA 101, MCL 21.231 to  
24 21.244, and a voluntary acceptance by the district control unit of  
25 all expenses and capital improvements ~~which~~**THAT** may result from  
26 the creation of the new district and each judgeship. However, the  
27 exercise of the option does not affect the state's obligation to

1 pay the same portion of each judge's salary ~~which~~ **THAT** is paid by  
2 the state to other district judges as provided by law, or to  
3 appropriate and disburse funds to the district control unit for the  
4 necessary costs of state requirements established by a state law  
5 ~~which~~ **THAT** becomes effective on or after December 23, 1978.

6 (4) Each district judgeship created pursuant to subsection (1)  
7 shall be filled by election pursuant to the Michigan election law,  
8 1954 PA 116, MCL 168.1 to 168.992. The first term of each district  
9 judgeship shall be 6 years, unless the law permitting the creation  
10 of the new district and 1 or more judgeships provides for a term of  
11 a different length.

12 (5) The reformation of the seventy-eighth, seventy-ninth,  
13 eighty-first, eighty-second, eighty-third, and eighty-seventh  
14 judicial districts pursuant to ~~the 2002 amendatory act that added~~  
15 ~~this subsection~~ **2002 PA 92** does not require the approval of the  
16 district control unit under this section or section 8175.

17 Enacting section 1. This amendatory act takes effect 90 days  
18 after the date it is enacted into law.

19 Enacting section 2. This amendatory act does not take effect  
20 unless Senate Bill No. \_\_\_\_ or House Bill No. 5744 (request no.  
21 05606'16) of the 98th Legislature is enacted into law.