

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.6404 Court of claims; assignment; jurisdiction; pending matters; transfer; disability, disqualification, or inability of judge to attend to matter; death of judge; term; assignment of judge to serve remainder of term; selection of chief judge.

Sec. 6404. (1) The court of claims consists of 4 court of appeals judges from at least 2 court of appeals districts assigned by the supreme court. A court of appeals judge while sitting as a judge of the court of claims may exercise the jurisdiction of the court of claims as provided by law.

(2) All matters pending in the court of claims as of the effective date of the amendatory act that added this subsection shall be transferred to the clerk of the court of appeals, acting as the clerk of the court of claims, for assignment to a court of appeals judge sitting as a court of claims judge pursuant to section 6410. The transfer shall be effective on the effective date of the amendatory act that added this subsection.

(3) Beginning on the effective date of the amendatory act that added this subsection, any matter within the jurisdiction of the court of claims described in section 6419(1) pending or later filed in any court must, upon notice of the state or a department or officer of the state, be transferred to the court of claims described in subsection (1). The transfer shall be effective upon the filing of the transfer notice. The state or a department or officer of this state shall file a copy of the transfer notice with the clerk of the court of appeals, who shall act as the clerk of the court of claims, for assignment to a court of appeals judge sitting as a court of claims judge pursuant to section 6410.

(4) If a judge assigned to serve on the court of claims is disabled, disqualified, or otherwise unable to attend to a matter, another judge assigned to sit as a judge of the court of claims may continue, hear, determine, and sign orders and other documents in the matter.

(5) In case a court of appeals judge designated to sit as the judge of the court of claims dies before signing a judgment and after filing a finding of fact or rendering an opinion upon proof submitted and argument of counsel disposing of all or part of the issues in the case involved, a successor as judge of the court of claims may proceed with that action in a manner consistent with the finding or opinion and the judge is given the same powers as if the finding of fact had been made or the opinion had been rendered by the successor judge.

(6) A judge assigned as a judge of the court of claims shall be assigned for a term of 2 years and may be reassigned at the expiration of that term.

(7) The term of a judge of the court of claims expires on May 1 of each odd-numbered year.

(8) When a judge who is sitting as a judge of the court of claims leaves office or is otherwise unable to serve as a judge of the court of claims, the supreme court may assign a court of appeals judge to serve for the remainder of the judge's term on the court of claims.

(9) The supreme court shall select a chief judge of the court of claims from among the court of appeals judges assigned to the court of claims.

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 145, Imd. Eff. June 7, 1974;—Am. 1978, Act 164, Eff. Jan. 1, 1979;—Am. 2013, Act 164, Imd. Eff. Nov. 12, 2013.

Compiler's note: Sections 2 to 7 of Act 145 of 1974 provide:

“Effective date of changes.

“Section 2. The changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1975.

“Election of additional circuit and district judges; assumption of office; appearance of new judgeships on ballot; nominating petitions; incumbent judges.

“Section 3. The additional circuit and district judges authorized by this amendatory act shall be elected in 1974 and shall assume office on January 1, 1975. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective judicial circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing his nominating petitions, whether he is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act must bear signatures affixed thereto after the effective date of this act. Any incumbent circuit or district judge whose term is expiring January 1, 1975, and who is seeking election to a judicial office of the same court in 1974 is entitled to the designation of his office even if he is a candidate for a new office of the same court authorized by this amendatory act.

“Nominating petitions.

“Section 4. Notwithstanding any other provision of law, nominating petitions for the offices added by this 1974 amendatory act shall contain not less than 1/2 of 1% nor more than 2% of the total number of votes cast in that judicial circuit for secretary of state at the last preceding general November election in which a secretary of state was elected.

“Nomination, election, and terms of candidates for new circuit judgeships.

“Section 5. Notwithstanding the provisions of sections 3 and 4 of Act No. 169 of the Public Acts of 1972, the 10 candidates for the new circuit judgeships in the third judicial circuit created by Act No. 169 of the Public Acts of 1972 who receive the highest votes in the August primary election shall be deemed nominated for the 5 new judgeships created thereby. Of the additional judgeships so created for the third judicial circuit the candidate receiving the highest number of votes in the 1974 general election shall be elected for a term of 10

years, the candidates receiving the second and third highest number of votes shall be elected for a term of 8 years, and the candidates receiving the fourth and fifth highest number of votes shall be elected for a term of 6 years.

“Terms of additional circuit judges.

“Section 6. The additional circuit judges authorized by this amendatory act shall be elected for a term of 6 years except that the additional circuit judge authorized by this amendatory act in the forty-fourth judicial circuit shall be elected for a term of 8 years.

“Terms of additional district judges in certain districts.

“Section 7. In districts in which the district court is already functioning on the effective date of this amendatory act, the additional district judges authorized by this amendatory act shall be elected for a term of 6 years, except that the additional district judges authorized in the first election division of the ninth district and in the fifteenth district shall be elected for a term of 8 years and that the additional district judge authorized in the newly divided forty-first-a district shall be elected for a term of 4 years.”

Sections 2 to 7 of Act 164 of 1978 provide:

“Sections 600.6404, 600.6410, and 600.6413 effective January 1, 1979; effective date of changes in composition of judicial circuits or district court districts.

“Section 2. Sections 6404, 6410, and 6413 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.6404, 600.6410, and 600.6413 of the Compiled Laws of 1970, shall not take effect until January 1, 1979. Except as otherwise provided in sections 524, 527, and 534 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.524, 600.527, and 600.534 of the Compiled Laws of 1970, the changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1979.

“Election to fill new circuit and district judgeships; term.

“Section 3. Except as otherwise provided in sections 4, 5, 6 and 7, the new circuit and district judgeships created by this amendatory act shall be filled by election pursuant to Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Michigan Compiled Laws, for a term of 6 years commencing January 1, 1979.

“Ballot; nominating petition; affidavit of candidacy.

“Section 4. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuit and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act shall bear signatures affixed to the petition after the effective date of this act. An elected incumbent circuit judge in a circuit in which the number of circuit judges has been increased by this amendatory act may become a candidate in the primary election for that office for any term for which a circuit judge is to be elected at the 1978 general election in that circuit by filing an affidavit of candidacy with the secretary of state not later than 4 days after the effective date of this amendatory act.

“Terms of judges.

“Section 5. Of the 2 additional judgeships created for the third judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. Of the 3 additional judgeships created for the sixth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidates receiving the second and third highest number of votes shall be elected for a term of 6 years. Of the 2 additional judgeships created for the thirtieth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. The additional circuit judges authorized by this amendatory act in the eighth, seventeenth, and twenty-ninth judicial circuits shall be elected for a term of 8 years. The additional circuit judge authorized by this amendatory act in the eighteenth, thirty-first, thirty-eighth, and fortieth judicial circuits shall be elected for a term of 10 years. The additional district judges authorized in the thirty-fifth and forty-first-a districts and in the first division of the fifty-sixth district shall be elected for a term of 4 years.

“Election of additional judges; assumption and term of office.

“Section 6. (1) The additional district judges authorized by this amendatory act in the fifty-fourth-b district and the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 4 years.

“(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

“Residence of certain circuit judges; effect.

“Section 7. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of the county of Cheboygan on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the thirty-third judicial circuit and the second circuit judgeship authorized by law for the twenty-sixth judicial circuit shall be filled by election in 1980 for a term of 8 years. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of 1 of the counties of Alpena, Montmorency, or Presque Isle on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the twenty-sixth judicial circuit and the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years.”

Section 1 of Act 128 of 1980 provides:

“Enacting sections amended; revised judicature act of 1961.

“Section 1. Enacting sections 6 and 7 of Act No. 164 of the Public Acts of 1978 are amended to read as follows:

“Election of additional judges; assumption and terms of office.

“Section 6. (1) The additional district judge authorized by this amendatory act in the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

“(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

“Twenty-sixth judicial circuit; vacancy; residence of candidates; eligibility of electors; failure of Cheboygan county to approve creation of fifty-third judicial circuit and circuit judgeship.

“Section 7. (1) If a vacancy occurs in the twenty-sixth judicial circuit between the effective date of this section, as amended, and June 3, 1980, candidates to fill the unexpired portion of the term shall be residents of the twenty-sixth judicial circuit as that circuit will be constituted on January 1, 1981, pursuant to this act. Electors of the counties of Alcona, Alpena, Montmorency, and Presque Isle shall be eligible to vote in the primary and general elections of 1980 to fill that vacancy and electors of those counties are qualified to sign and circulate nominating petitions for candidates to fill the vacancy.

“(2) If the county of Cheboygan does not approve the creation of the fifty-third judicial circuit and the circuit judgeship proposed for it pursuant to House Bill No. 5553 of the 1980 regular session of the legislature, the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years.”