

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

600.805 Additional probate judgeship; creation; approval by county; resolution; filing; notice to county clerk; effect of approval; state's obligation; election; first term; exception to resolution requirement.

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

(2) By permitting an additional judgeship, the legislature is not creating that judgeship. If a county, acting through its board of commissioners, approves the creation of an additional judge of probate, that approval constitutes an exercise of the county's option to provide a new activity or service or to increase the level of activity or service offered in the county beyond that required by existing law, as the elements of that option are defined by 1979 PA 101, MCL 21.231 to 21.244, and a voluntary acceptance by the county of all expenses and capital improvements that may result from the creation of the judgeship. However, the exercise of the option does not affect the state's obligation to pay the same portion of the additional judge's salary that is paid by the state to the other judges of probate of the same county, or to appropriate and disburse funds to the county for the necessary costs of state requirements established by a state law that takes effect on or after December 23, 1978.

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

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

History: Add. 1980, Act 129, Imd. Eff. May 22, 1980;—Am. 1988, Act 134, Imd. Eff. May 27, 1988;—Am. 2011, Act 300, Imd. Eff. Dec. 22, 2011.

Compiler's note: Sections 2 to 5 of Act 129 of 1980 provide:

“New circuit and district judgeships; appearance on ballot; duty of candidate; petitions; filing fee.

“Section 2. The new circuit and district 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 circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit, county, or district, a candidate for a new judgeship authorized in that circuit, county, 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 1980. Petitions for a new judgeship created pursuant to this amendatory act shall bear signatures affixed to the petition after the date by which all counties in the circuit, all district control units in the district, or, in the case of a probate judgeship, the county, have adopted the resolutions required by law to create that office. Notwithstanding any other provision of law, a nonreturnable filing fee of \$250.00 may be paid up to 4 p.m. on June 3, 1980 in lieu of petitions for new judgeships authorized by this 1980 amendatory act which are to be filled by election in 1980.

“Additional circuit judgeship for third judicial circuit; terms.

“Section 3. If the additional circuit judgeship permitted by this amendatory act for the third judicial circuit is created pursuant to law, the candidate receiving the highest number of votes in the 1980 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.

“Additional circuit judgeship for sixteenth judicial circuit; term.

“Section 4. If the additional circuit judgeship permitted by this amendatory act for the sixteenth judicial circuit is created pursuant to law, the first term of that judgeship shall be 8 years.

“Change in composition of affected judicial circuits; effective date.

“Section 5. If a new judicial circuit of the circuit court is created pursuant to section 550a, the change in the composition of the affected judicial circuits shall take effect for judicial purposes on January 1, 1981. If the fifty-fourth judicial circuit is created pursuant to this act, the incumbent circuit judge of the fortieth judicial circuit who resides in Tuscola county shall become the judge of the fifty-fourth judicial circuit on January 1, 1981, and shall serve until the term for which he was elected in the fortieth judicial circuit expires.”

Section 2 of Act 134 of 1988 provides:

“Any additional circuit judgeship to be added by election in 1988 shall not be authorized to be filled by election unless each county in the circuit, by resolution adopted by the county board of commissioners, approves the creation of the judgeship and unless the clerk of each county adopting such a resolution files a copy of the resolution with the state court administrator not later than 4 p.m. of the tenth Tuesday preceding the August primary for the election to fill the additional circuit judgeship.”