

Legislative Analysis



NUMBER OF JUDGESHIPS: REVISE

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House Bill 5374 (Substitute H-2)
Sponsor: Rep. William Van Regenmorter
Committee: Judiciary

First Analysis (12-8-05)

BRIEF SUMMARY: The bill would adjust the number and location of judgeships based on the biennial report of the State Court Administrative Office

FISCAL IMPACT: By authorizing an increase in the number of judges statewide, the bill could increase costs for the state and local units of government. For additional information, see [Fiscal Information](#) later in the analysis.

THE APPARENT PROBLEM:

As communities grow or decline due to shifts in population, a community's need for district and circuit judgeships also may change. Growing communities may need more judges to handle the increased needs of the community, while communities that lose population may need fewer judges. The analysis of "judicial resources" (that is, whether or not communities need more or fewer judges) is the responsibility of the State Court Administrative Office (SCAO), the judicial branch office that, among other things, collects and analyzes information on judicial workloads. The SCAO uses the information it collects to allocate judicial resources through the temporary reassignment of judges and caseloads as necessary, and periodically recommends to the Michigan Supreme Court and the Legislature changes in the number of judgeships. As the SCAO has pointed out, estimating judicial workload and a community's corresponding need for judges is a complex process that involves both quantitative and qualitative factors.

The SCAO analyzes judicial resources by means of a two-step process: a preliminary statistical analysis and a secondary extended analysis. The SCAO first does a statistical review of the comparative workload of the courts, using a "weighted caseload analysis," which provides a means for the SCAO to distinguish between the varying degrees of time and effort involved in handling different types of cases. According to the SCAO, about one-half of the states use a weighted caseload methodology. The current report looked at caseload data reported by the state's trial courts over the past three years (2002, 2003, and 2004) in order to avoid having the estimate of the judicial resource needs be unduly influenced by temporary fluctuations in the numbers or types of cases heard by a trial court.

If the SCAO determines that there is a consistent difference of at least one judgeship (either high or low) between the current number of judges in a court and the estimated need for judges, based on the three-year weighted caseload measure, it then does an "extended analysis" of the courts so identified. It is on this "extended analysis" that the

SCAO bases its recommendations about whether to add or eliminate judgeships. However, according to the recent SCAO report, courts that are scheduled to switch from a part-time probate judge to a full-time probate with district court jurisdiction in 2007 were excluded from the extended analysis.

On October 19, 2005, the State Court Administrative Office issued its Judicial Resource Recommendations Report for the 2006 election cycle. The SCAO recommends the addition of five judgeships in five courts, and the elimination of two judgeships in two courts. Legislation has been introduced to address the SCAO's recommendations.

THE CONTENT OF THE BILL:

Every other year, the State Court Administrative Office (SCAO) completes a review of the judicial needs of trial courts and makes recommendations to the legislature regarding changes in the number of judges in circuit, probate, and district courts.

House Bill 5374 would amend the Revised Judicature Act (MCL 600.507 et al.) to adopt the recommendations of the SCAO biennial report. Specifically, the bill would add or delete the following judgeships:

Circuit Court

- The 6th Judicial Circuit (Oakland County) would have one additional circuit judge as of January 1, 2007.
- The 16th Judicial Circuit (Macomb County) would add one circuit judge as of January 1, 2007.
- The 17th Judicial Circuit (Kent County) would add one circuit judge as of January 1, 2007.
- The 49th Judicial Circuit (Mecosta and Osceola Counties) would add one judge as of January 1, 2007.
- The 55th Judicial Circuit (Clare and Gladwin Counties) would add one judge as of January 1, 2007.

Probate Court

- Wayne County would lose one probate judgeship as of 12 noon, January 1, 2007.

District Court

- The 70th District Court (Saginaw County) would lose one judgeship in the first election division (Cities of Saginaw and Zilwaukee and townships of Zilwaukee, Buena Vista, Carrollton, and Bridgeport) by attrition - either on the date on which a vacancy occurred or the beginning date of the term for which an incumbent district judge no longer sought reelection to that office, whichever came first. The

second division (the remaining portions of Saginaw County) would retain its current number of district judges (3).

BACKGROUND INFORMATION:

Local approval of additional judgeships. Since the state constitution requires that new judgeships be filled by election, any additions to the number of judgeships must be made in time for candidates to file for election to a newly created seat. Under the Revised Judicature Act, deadlines are established for the statutory creation and local approval of new judgeships. The Michigan Election Law places a deadline on filing for the primary election. Furthermore, the creation of new district judgeships requires the approval by the governing bodies of the appropriate district control units. In order for a new judgeship to be filled, a resolution must be adopted by the appropriate local unit of government and filed with the state court administrator. Thus, a new judgeship cannot be created and filled without the approval of the appropriate local unit of government.

FISCAL INFORMATION:

By authorizing an increase in the number of judges statewide, the bill could increase costs for the state and local units of government. Changes contemplated by the bill would increase the number of circuit and probate judgeships by five, reduce the number of probate judgeships by one, and reduce the number of district judgeships by one. All changes would take effect January 1, 2007, except for the elimination of the district judgeship, which would occur upon a vacancy. If all the proposed new judgeships took effect January 1, 2007, increased state costs for FY 2006-07 would be about \$472,600. Full-year costs for those judgeships would be \$630,100. Upon elimination of the district judgeship, annual state costs would decrease by about \$155,700, and continuing annual costs under the bill therefore would be about \$474,400. State costs of each type of judgeship are as follows:

	Salary	Standardization Payment	FICA	Travel	Retirement	Total
Circuit	\$94,195	\$45,724	\$7,609	\$200	\$9,794	\$157,522
Probate	\$94,195	\$45,724	\$7,619	\$200	\$9,794	\$157,522
District	\$92,548	\$45,724	\$7,585	\$200	\$9,679	\$155,736

Local expenses attendant on each judgeship are dependant on costs of staffing, support services, office space, and supplies.

ARGUMENTS:

For:

The bill would accomplish much of the reallocation of judicial resources as recommended by the State Court Administrative Office. The legislation is based on the October, 2005 report of the SCAO, which was based, in turn, on extensive analysis of

factors such as population, caseload, and so forth. The analysis also looked at the economy of scale demonstrated in larger courts. According to the SCAO report, it typically takes more judicial resources in smaller courts than in larger ones. Reportedly, this is because larger courts have a larger pool of judges available to assist each other on processing cases and have a larger availability of specialized staff assistance. And, for those counties facing an elimination of a judgeship, it is always accomplished by attrition, meaning that the offices are eliminated when incumbents leave office.

Against:

Representatives of Wayne and Saginaw County offered vigorous testimony as to why they each should not lose a judgeship. SCAO recommends that one district court judgeship be eliminated for the 70th District Court in Saginaw County based on declining caseloads and a stagnant population. However, the report also acknowledges that the county has had an increase in serious crimes and the court has therefore had an increase in felony cases and also an increase in civil filings – both types of cases which can be labor intensive. SCAO argues it considered these as factors and so recommended that only one judge be eliminated instead of two (the SCAO analysis reported a judicial excess of 2.11 judges). However, the judges of the 70th District Court maintain that to eliminate a trial judge would greatly overburden the remaining judges. They argue that the complexities involved in trying serious felonies and in the types of civil cases seen these days warrants, at the least, maintaining the current level of district judges.

A similar situation is happening in Wayne County. It is true that the population of the City of Detroit has decreased in recent years, and that some types of case filings in probate court have also decreased, but Wayne is experiencing an increase in the numbers of defendants needing court-appointed attorneys. In addition, in their jurisdiction people reportedly often fail to show up at hearings. The result is that a probate case can take longer to complete in Wayne County than in other courts in the state. County officials also expect an increase in guardianship appointments and probate-related filings as the population of the county continues to age. To eliminate a probate judgeship at this time would seriously delay justice and protection to many of the state's most vulnerable residents – the young and the elderly.

POSITIONS:

The State Court Administrative Office (SCAO) supports the bill. (11-30-05)

A representative of the Michigan Probate Judges Association and the Wayne County Probate Court testified in opposition to the loss of a Wayne County probate judgeship.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.