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BILL ANALYSIS

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Senate Bill 653 (as introduced 10-24-13)
Sponsor: Senator Rick Jones
Committee: Judiciary

Date Completed: 10-29-13

CONTENT

The bill would amend the Revised Judicature Act (RJA) to do the following:

- Eliminate four circuit judgeships in the Third Judicial Circuit (Wayne County), effective January 1, 2015.
- Authorize the addition of a circuit judgeship in the Sixth Judicial Circuit (Oakland County) and in the 16th Judicial Circuit (Macomb County), effective January 1, 2019.
- Authorize the addition of a circuit judgeship in the 17th Judicial Circuit (Kent County), effective January 1, 2015, unless an additional district judgeship was added in the 63rd District (part of Kent County).
- Authorize the consolidation of the 18th and 29th Judicial Districts in Wayne County.
- Authorize the consolidation of the 27th and 28th Judicial Districts in Wayne County.
- Revise the potential date of a scheduled reduction of one judgeship in the 33rd Judicial District in Wayne County.
- Authorize the addition of a district judgeship in the 63rd Judicial District in Kent County, effective January 1, 2015, unless an additional circuit judgeship was added in the 17th Circuit.
- Authorize the consolidation of the 67th and 68th Judicial Districts in Genesee County, and revise the potential date of a scheduled reduction of one judgeship in the 68th District.
- Provide for the transfer of one judgeship from the first division to the second division of the 70th Judicial District (Saginaw County).
- Specify that a probate judge for Delta County would serve as judge of the 94th Judicial District, effective January 2, 2015.
- Indicate that if a district control unit approved a consolidation, the district control unit would voluntarily accept the resulting expenses and the consolidation would not affect the State's obligation to pay costs.

Circuit Court Judgeships

The Third Judicial Circuit consists of Wayne County and has 60 judges. Under the bill, beginning at noon on January 1, 2015, the Third Circuit would have 56 judges.

The Sixth Judicial Circuit consists of Oakland County and is authorized to have 19 judges, although it currently has 18 judges under a provision that temporarily eliminated one

judgeship until noon on January 1, 2015. Under the bill, subject to Section 550, the Sixth Judicial Circuit could have one additional judge beginning January 1, 2019.

The 16th Judicial Circuit consists of Macomb County and is authorized to have 13 judges, although it currently has 12 judges under a provision that temporarily eliminated one judgeship until noon on January 1, 2017. Under the bill, subject to Section 550, the 16th Judicial Circuit could have one additional judge beginning January 1, 2019.

The 17th Judicial Circuit consists of Kent County and has 10 judges. Under the bill, the 17th Circuit could have one additional judge beginning January 1, 2015. The county board of commissioners could not approve the additional judgeship, however, if the governing body of each district control unit approved the creation of an additional judgeship in the 63rd Judicial District, as the bill would allow.

(Under Section 550, additional circuit judgeships may not be created unless approved by each county in the circuit.)

District Court Judgeships

Consolidation of the 18th & 29th Districts. The 18th Judicial District consists of the City of Westland and has two judges. The 29th Judicial District consists of the City of Wayne and has one judge. Under the bill, if the governing bodies of Westland and Wayne approved by resolutions the consolidation of the 18th and 29th Districts before January 1, 2016, the 29th District would be abolished, and the 18th District would consist of the Cities of Westland and Wayne and have three judges, effective on that date.

The additional judgeship in the 18th District would have to be filled by the incumbent judge of the 29th District for the balance of the term to which he or she was elected or appointed. For purposes of the November 2018 general election only, the term of the candidate for district judge in the 18th District who received the most votes would be 10 years and the term of the candidate who received the second-most votes would be six years.

The city clerks of Westland and Wayne would have to file copies of the resolutions with the State Court Administrator, who would have to notify the elections division of the Department of State that the consolidation had been approved.

Consolidation of the 27th & 28th Districts. The 27th Judicial District consists of the Cities of Wyandotte and Riverview and has one judge. The 28th Judicial District consists of the City of Southgate and has one judge. Under the bill, if the governing bodies of Southgate, Wyandotte, and Riverview approved by resolutions the consolidation of the 27th and 28th Districts before January 1, 2016, the 27th District would be abolished and the 28th District would consist of the Cities of Southgate, Wyandotte, and Riverview and have two judges, effective on that date.

The additional judgeship in the 28th District would be filled by the incumbent judge of the 27th District, who would become a judge of the 28th Judicial District for the balance of the term to which he or she was elected or appointed.

The city clerks of Southgate, Wyandotte, and Riverview would have to file copies of the resolutions with the State Court Administrator, who would have to notify the elections division of the Department of State that the consolidation had been approved.

33rd District. The 33rd Judicial District consists of the Cities of Trenton, Gibraltar, Woodhaven, Rockwood, and Flat Rock and the Townships of Brownstown and Grosse Ile, and has three judges. The 33rd District will have two judges beginning on the earlier of the following dates:

- The date on which a vacancy occurs in the office of district judge in the district.
- The beginning date of the term for which an incumbent district judge no longer seeks election or re-election.

The bill would refer to the date on which a vacancy occurred in the office of district judge in the district, unless the vacancy occurred after the judge's successor in office had been elected but before that successor took office.

63rd District. The 63rd Judicial District consists of Kent County, except for the Cities of Grand Rapids, Walker, Grandville, Wyoming, and Kentwood, and is divided into two election divisions, each of which has one judge.

Under the bill, beginning January 1, 2014, the 63rd District would consist of the same portion of Kent County, but would not have separate election divisions. Subject to Section 8175, the 63rd District could have one additional judge beginning January 1, 2015. For purposes of the November 2014 general election, all of the following would apply:

- The term of the candidate for an existing judgeship who received the most votes would be eight years.
- The term of the candidate for an existing judgeship who received the second-most votes would be six years.
- If a new judgeship were added, the term of the candidate for the new judgeship who received the most votes would be four years.

The governing bodies of the district control units of the 63rd District could not approve the additional judgeship authorized under the bill if the county board of commissioners approved the creation of an additional judgeship in the 17th Judicial Circuit (Kent County) as the bill would allow.

(Under Section 8175, additional district judgeships may not be created unless approved by the local district control unit.)

Consolidation of the 67th & 68th Districts. The 67th Judicial District consists of Genesee County, except for the City of Flint. It is divided into four elections divisions, with a total of six judges. The 68th Judicial District consists of the City of Flint and has five judges. The 68th District will have four judges beginning on the earlier of the following dates:

- The date on which a vacancy occurs in the office of district judge in the district.
- The beginning date of the term for which an incumbent district judge no longer seeks election or re-election.

The bill would refer to the date on which a vacancy occurred in the office of district judge in the district, unless the vacancy occurred after the judge's successor in office had been elected but before that successor took office.

Under the bill, if the governing bodies of Genesee County and the City of Flint approved by resolutions the consolidation of the 67th and 68th Districts, beginning the first January 2 after the approval of both governing bodies, the 68th District would be abolished and the 67th District would consist of Genesee County. The consolidated district would be divided into the following election divisions with the indicated number of judges:

- The first division, consisting of the Cities of Flushing and Clio and the Townships of Flushing, Flint, Montrose, Thetford, and Vienna, with one judge.
- The second division, consisting of the Cities of Davison and Burton and the Townships of Davison, Forest, Richfield, and Atlas, with two judges.

- The third division, consisting of the City of Mt. Morris and the Townships of Mt. Morris and Genesee, with one judge.
- The fourth division, consisting of the Cities of Fenton, Grand Blanc, and Swartz Creek and the Townships of Fenton, Argentine, Grand Blanc, Mundy, Gaines, and Clayton, with two judges.
- The fifth division, consisting of the City of Flint, with judges as described below.

The incumbent judges of the 68th District would become judges of the proposed fifth division for the balance of the term to which they were elected or appointed. If there were five judges in the 68th District at the time of the consolidation, the fifth division would have five judges. The fifth division would have four judges beginning on the date on which a vacancy occurred in the office of district judge in the division, unless the vacancy occurred after a judge's successor in office had been elected but before that successor took office, or the beginning date of the term for which an incumbent district judge in the fifth division no longer sought election or re-election to that office, whichever was earlier.

If there were four judges in the 68th District at the time of consolidation, the fifth division would have four judges.

The Genesee County clerk and the city clerk of Flint would have to file copies of the resolutions with the State Court Administrator, who would have to notify the elections division of the Department of State that the consolidation had been approved and the date on which it would take effect.

The bill specifies that Section 8177 would not apply to the consolidation of the 67th and 68th Districts.

(Under Section 8177, consolidation of a district of the third class with a district of the second class may not take effect unless approved by the local district control units in each of the two districts. A district of the third class is a district consisting of one or more political subdivisions within a county and in which each political subdivision comprising the district is responsible for maintaining, financing, and operating the district court within its respective political subdivision, except as otherwise provided in the RJA. A district of the second class is a district consisting of a group of political subdivisions within a county and in which the county is responsible for maintaining, financing, and operating the district court, except as otherwise provided in the RJA.)

The court facilities of the 67th and 68th Districts, as the facilities existed on the bill's effective date, could not be closed before the second January 2 after the approval of both governing bodies.

70th District. The 70th Judicial District consists of Saginaw County and is divided into the following election divisions:

- The first division, consisting of the Cities of Saginaw and Zilwaukee and the Townships of Zilwaukee, Buena Vista, Carrollton, and Bridgeport, with three judges.
- The second division, consisting of the rest of Saginaw County, with three judges.

Under the bill, the second division would have two judges. The first division would have two judges, and the second division would have three judges, beginning on the date on which a vacancy occurred in the office of district judge in the first division, unless the vacancy occurred after a judge's successor in office had been elected but before that successor took office, or the beginning date of the term for which an incumbent district judge in the first division no longer sought election or re-election, whichever was earlier. The judgeship transferred from the first division to the second division under the bill would not be

considered an additional judgeship for purposes of Section 8175 and could be filled by appointment by the Governor if it were the result of a vacancy in the first division.

94th District. The 94th Judicial District consists of Delta County and has one judge. Under the bill, beginning January 2, 2015, pursuant to Section 810a of the RJA, a probate judge for Delta County would serve as judge of the 94th District.

(Under Section 810a, in a county in which the only district judgeship is being eliminated, the probate judge in that county has the jurisdiction, powers, duties, and title of a district judge within the county, in addition to the jurisdiction, powers, duties, and title of a probate judge.)

Option to Consolidate Districts.

The bill specifies that, by proposing and authorizing the consolidation of the 18th and 29th Districts, the 27th and 28th Districts, and the 67th and 68th Districts, the Legislature would not create a new obligation for any affected district control unit. If a district control unit, acting through its governing body, approved the consolidation, the approval would constitute an exercise of the unit's option to increase the level of activity and services offered in that district control unit beyond that required by existing law and a voluntary acceptance by that district control unit of all expenses and capital improvements that could result from the consolidation. The exercise of the option would not affect the State's obligation to pay the same portion of each judge's salary that is paid by the State to other district judges, or to appropriate and disburse funds to the district control unit for the necessary costs of State requirements established by law that became effective on or after December 23, 1978.

MCL 600.504 et al.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would call for a variety of additions and reductions to the judiciary in Michigan, resulting in a net reduction of two judgeships. The composition of those two reductions would be either two circuit court judgeships, or one circuit court judgeship and one district court judgeship, depending on whether a judge was added in the 63rd District or the 17th Circuit in Kent County.

The salaries, payroll taxes, and retirement benefits of both circuit and district judges are paid for by the State, while fringe benefits such as health care and any associated staff and overhead costs are paid for by the local court system. Each circuit court judgeship costs the State \$158,364, while each district court judgeship costs the State \$156,578. The associated local costs vary from circuit to circuit and district to district.

Fiscal Analyst: Dan O'Connor

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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.