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Senate Bill 654 (as introduced 9-28-21)  
Sponsor: Senator Jon Bumstead  
Committee: Judiciary and Public Safety

Date Completed: 11-1-21

### **CONTENT**

**The bill would amend Chapter 5 (Circuit Courts: Organization and Powers) of the Revised Judicature Act to do the following:**

- **Reorganize the 27<sup>th</sup> Judicial Circuit, which consists of Newaygo and Oceana Counties, to instead consist of Newaygo and Lake Counties.**
- **Reorganize the 51<sup>st</sup> Judicial Circuit, which consists of Lake and Mason Counties, to instead consist of Mason and Oceana Counties.**
- **Specify that the reorganization of the 27<sup>th</sup> and 51<sup>st</sup> Judicial Circuits would not require the approval of the county board of commissioners in each county in the circuit.**

**The bill also would amend Chapter 81 (District Court: Establishment; Districts) of the Act to do the following:**

- **Reorganize the 78<sup>th</sup> Judicial District, which consists of Newaygo and Oceana Counties, to instead consist of Newaygo and Lake Counties.**
- **Reorganize the 79<sup>th</sup> Judicial District, which consists of Lake and Mason Counties, to instead consist of Mason and Oceana Counties.**
- **Specify that the reorganization of the 78<sup>th</sup> and 79<sup>th</sup> Judicial Districts would not require the approval of the governing board of each district control unit in the district.**

#### 27<sup>th</sup> Judicial Circuit

Under Section 528 of the Act, the 27<sup>th</sup> Judicial Circuit consists of the Newaygo and Oceana Counties and has two judges. Beginning on the earlier of the following dates, the 27<sup>th</sup> Judicial Circuit has one judge:

- The date on which a vacancy occurs in the office of circuit judge in the 27<sup>th</sup> Judicial Circuit.
- The beginning date of the term for which an incumbent circuit judge in the 27<sup>th</sup> Judicial Circuit no longer seeks election or reelection to that office.

Instead, under the bill, until December 31, 2021, the 27<sup>th</sup> Judicial Circuit would consist of Newaygo and Oceana Counties and would have one judge. Beginning January 1, 2022, the 27<sup>th</sup> Judicial Circuit would consist of Newaygo and Lake Counties and would have one judge.

The incumbent judge of the 27<sup>th</sup> Judicial Circuit who resided in Newaygo County would become the judge of the reformed 27<sup>th</sup> Judicial Circuit on January 1, 2022, and would serve until the term for which he or she was elected in the 27<sup>th</sup> Judicial Circuit expired.

#### 51<sup>st</sup> Judicial Circuit

Section 549c of the Act specifies that the 51<sup>st</sup> Judicial Circuit consists of Lake and Mason Counties and has one judge. Under the bill, this provision would apply until December 31, 2021. Beginning January 1, 2022, the 51<sup>st</sup> Judicial Circuit would consist of Mason and Oceana Counties and would have one judge.

The incumbent judge of the 51<sup>st</sup> Judicial Circuit who resided in Mason County would become the judge of the reformed 51<sup>st</sup> Judicial Circuit on January 1, 2022, and would serve until the term for which he or she was elected in the 51<sup>st</sup> Judicial Circuit expired.

#### Judicial Circuit Reformation

Section 550a specifies that if a new judicial circuit is proposed by law, the new circuit may not be created and any circuit judgeship proposed for the circuit may not be authorized or filled by election unless the county board of commissioners in the each county in the circuit adopts a resolution approving the creation of the new circuit and each judgeship proposed for the circuit and the county clerk of each county adopting such a resolution files a copy of it with the State Court Administrator.

Under the bill, the reformation of the 27<sup>th</sup> and the 51<sup>st</sup> Judicial Circuits would not require a resolution of approval by the county boards of commissioners under Sections 550 or 550a. (Generally, Section 550 allows an additional circuit judgeship to be authorized if the county board of commissioners in the each county in the circuit adopts a resolution approving the creation of that judgeship and the county clerk of each county adopting such a resolution files a copy of it with the State Court Administrator.)

#### 78<sup>th</sup> Judicial District

Section 8143 of the Act species that the 78<sup>th</sup> Judicial District consists of Newaygo and Oceana Counties, is a district of the first class, and has one judge. Under the bill, this provision would apply until December 31, 2021. Beginning January 1, 2022, the 78<sup>th</sup> Judicial District would consist of Newaygo and Lake Counties, would be a district of the first class, and would have one judge.

The incumbent judge of the 78<sup>th</sup> Judicial District who resided in Newaygo County would become the judge of the reformed 78<sup>th</sup> Judicial District on January 1, 2022, and would serve until the term for which he or she was elected in the 78<sup>th</sup> Judicial District expired.

#### 79<sup>th</sup> Judicial District

Section 8144 of the Act specifies that the 79<sup>th</sup> Judicial District consists of Lake and Mason Counties, is a district of the first class, and has one judge. Under the bill, this provision would apply until December 31, 2021. Additionally, beginning January 1, 2022, the 79<sup>th</sup> Judicial District would consist of Mason and Oceana Counties, would be a district of the first class, and would have one judge.

The incumbent judge of the 79<sup>th</sup> Judicial District who resided in Mason County would become the judge of the reformed 79<sup>th</sup> Judicial District on January 1, 2022, and would serve until the term for which he or she was elected in the 79<sup>th</sup> Judicial District expired.

## Judicial District Reformation

Section 8176 specifies that if a new judicial district is proposed by law, the new district may not be created and any district judgeship proposed for the district is not authorized or filled by election unless the governing body of each district control unit in the proposed district adopts a resolution approving the creation of the new district and each judgeship proposed for the district and the county clerk of each district control unit adopting such a resolution files a copy of it with the State Court Administrator.

Under the bill, the formation of the 78<sup>th</sup> and the 79<sup>th</sup> judicial districts would not require the approval of the district control units under Section 8176 or Section 8175. (Generally, Section 8175 allows an additional judgeship to be authorized if the governing body of each district control unit in each district control unit adopts a resolution approving the creation of the judgeship and the county clerk of each district control unit adopting such a resolution files a copy of it with the State Court Administrator.)

MCL 600.528 et al.

### **BACKGROUND**

Article VI, Section 3 of the Michigan Constitution specifies that the Michigan Supreme Court "shall appoint an administrator of the courts and other assistants of the supreme court as necessary to aid in the administration of the courts of this state". The Court exercises its oversight of Michigan courts through the State Court Administrative Office (SCAO). Among other things, SCAO is tasked with reviewing the State's judicial needs and, based on its findings, compiling the Judicial Resources Recommendations (JRR), a biennial report that assesses the workloads of the various courts across the State and makes recommendations to the Legislature.

The 2011 JRR recommended that a total of 45 judgeships be eliminated by attrition, including one district judgeship in Lake and Mason Counties and one circuit judgeship in Newaygo and Oceana Counties. Public Act (PA) 18 of 2012 eliminated through attrition one circuit judgeship in Newaygo and Oceana Counties and one district judgeship in Lake and Mason Counties. (Specifically, under PA 18, the elimination of the district judgeship would occur when a vacancy in the office of district judges occurred, or when the incumbent no longer seeks election, at which point the Lake County probate judge will serve as the district judge for the 79<sup>th</sup> Judicial District in Lake County and the Mason County probate judge will serve as the district judge for the 79<sup>th</sup> Judicial District in Mason County.)

The 2019 JRR recommended that Lake, Mason, Newaygo, and Oceana Counties be merged to create one circuit court and one district court, which would mean that the district judgeship scheduled for elimination through attrition would not be eliminated. The four-county circuit court would have two circuit judges, the four-county district court would have two district judges, and each county would have a probate judge.

Judge Peter J. Wadel, who previously served as the district court judge for the 79<sup>th</sup> Judicial District, was constitutionally mandated to retire on December 31, 2020,<sup>1</sup> which would have triggered the elimination of the district judgeship. However, PA 82 of 2020 amended the Revised Judicature Act to delete the provision specifying that the probate judge of Lake County serve as judge of the 79<sup>th</sup> Judicial District in Lake County, and that the probate judge

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<sup>1</sup> Article VI, Section 19 of the Michigan Constitution specifies that "no person shall be elected or appointed to a judicial office after reaching the age of 70 years"; however, a judge who reaches the age of 70 during his or her term is permitted to serve out the remainder of that term.

of Mason County serve as judge of the 79th Judicial District in Mason County, preventing the elimination of the district judgeship.

Legislative Analyst: Stephen Jackson

**FISCAL IMPACT**

The bill would have no fiscal impact on the State and could have a minimal fiscal impact on Mason, Lake, Oceana, and Newaygo Counties because of circuit and district court restructuring. The bill would not increase or decrease the number of circuit and district judges that currently sit in those counties.

Fiscal Analyst: Michael Siracuse

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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.