



**House
Legislative
Analysis
Section**

Manufacturer's Bank Building, 12th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

NEW JUDGESHIPS

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House Bill 5500 (Substitute H-2)
Revised First Analysis (2-28-90)

MAR 21 1990

Sponsor: Rep. David M. Gubow
Committee: Judiciary

Mich. State Law Library

THE APPARENT PROBLEM:

Many trial courts are having difficulty managing with existing resources, as case filings increase and backlogs develop. While clogged dockets can be eased by the use of judges temporarily assigned from other jurisdictions, it sometimes becomes necessary to create new judgeships in order to meet needs. The constitution requires that new judgeships be filled by election, which means that there is a biennial deadline for the necessary statutory changes and local resolutions to be enacted in time for candidates to file for election. (The Revised Judicature Act establishes deadlines for statutory creation and local approval of new judgeships, while the Michigan Election Law places a deadline on filing for the primary election.) With the approach of the biennial deadline for action, the State Court Administrative Office (SCAO) analyzed current judicial resources, caseloads (in the sense of caseload trends, and in the sense of comparisons between courts), and projections on future need. To develop a model for analyzing future need, the SCAO examined various objective factors that might serve as indicators for the number of judges needed, and settled on the number of new cases filed as the most useful single factor in predicting the need for new judgeships. Using statistical analysis in conjunction with indications of local support and consideration of special circumstances, the SCAO developed recommendations for additional judgeships for various courts. Many urge that new judgeships, including those recommended by the State Court Administrative Office, be created and that various changes in procedures be made to facilitate elections for those judgeships.

THE CONTENT OF THE BILL:

The bill would amend the Revised Judicature Act to authorize the creation of new circuit and district judgeships as shown below. The creation of each new judgeship would require local approval, by the appropriate boards of county commissioners (for circuit judgeships) or the governing bodies of appropriate district control units (for district judgeships). For a new judgeship to be filled, a resolution adopted by the appropriate local body must be filed with the state court administrator. The bill would specify that a resolution filed on or after the effective date of the amendatory act that authorized the judgeship would be a valid approval of that judgeship. However, a resolution filed before the effective date would be valid only if filed during the two-year legislative session during which the amendment was made. The deadline for filing a resolution approving of a circuit or district judgeship would be changed from the thirteenth to the sixteenth Tuesday preceding the August primary for the election to fill the additional judgeship. (This conforms to other recent legislation moving up filing deadlines for primaries to allow earlier ballot preparation.) The bill would provide that absent legislative action to terminate an authorization, a judicature act amendment authorizing an additional judgeship would continue in effect; this provision would apply to provisions added after December 23, 1978.

Some of the new judgeships would be effective January 1, 1991, while others would be authorized commencing January 1, 1993. In some cases, initial terms would be limited to four years in order to provide for staggered terms with existing judgeships. One additional judgeship would be authorized for each of the circuits and districts listed below, with the exception of the nineteenth district (Dearborn), for which two additional judgeships are proposed. New judgeships would be authorized as follows:

<u>Circuit</u>	<u>Effective Date</u>
16th (Macomb)	1-1-91
20th (Ottawa)	1-1-93
48th (Allegan)	1-1-91
<u>District</u>	
3rd (2nd division; St. Joseph county)	1-1-91
19th (Dearborn)	1-1-91 (both)
31st (Hamtramck)	1-1-91
33rd (Trenton, Gibraltar, Flat Rock)	1-1-93
34th (Romulus, Belleville)	1-1-91
35th (Northville, Plymouth)	1-1-91
47th (Farmington, Farmington Hills)	1-1-91
48th (Birmingham, Bloomfield Hills)	1-1-93
58th (Ottawa county)	1-1-91
64th-A (Ionia county)	1-1-93
82nd (Alcona, Oscoda, Ogemaw counties)	1-1-91
87th (Kalkaska, Antrim, Otsego counties)	1-1-91

MCL 600.550 et al.

FISCAL IMPLICATIONS:

The State Court Administrative Office puts the annual state cost, based on 1990 rates, of a circuit court judgeship at about \$100,000, and of a district court judgeship at about \$101,000. In addition, the creation of each new district court judgeship presents a one-time cost to the state of about \$5,000 for recording equipment. (Judicial Resource Recommendations, January 1990)

ARGUMENTS:

For:

Consistent with existing and projected needs, the bill would provide for new circuit and district court judgeships, thus helping to ease clogged dockets and improving the administration of justice. Unwanted judgeships would not be forced on any local units of government, for the bill would preserve requirements for local approval before a judgeship authorized by the state could be created and filled.

Against:

The bill presents a few matters of controversy, particularly where it diverges from SCAO recommendations. For example, the SCAO and the thirty-fourth circuit bench

H.B. 5500 (2-28-90)

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recommend the creation of an additional judgeship for that three-county (Arenac, Ogemaw, Roscommon) circuit, but local opinion is mixed, and the bill makes no provision for an additional judgeship for that circuit. Another matter of concern is the way the bill would provide continuing authorization for judgeships authorized after 1978 but lacking formal local approval. A number of judgeships already fit that description, and the more that do, the greater the financial implications. By having authorized-but-not-approved judgeships provided for indefinitely, the bill risks having the state either budget money for judgeships that are never created, or get caught short by having to pay for judgeships whose creation was unanticipated. Further, the bill disregards what presumably was legislative intent prior to 1988, when the law was changed to remove a deadline for local approval of a newly-authorized judgeship. Pre-1988 authorization for various judgeships was provided under a framework that required local approval by a certain date prior to the primary immediately following the effective date of the act that authorized an additional judgeship.

POSITIONS:

The eighty-seventh district court supports the creation of one additional judgeship each for the eighty-second and the eighty-seventh district courts. (2-21-90)

The Macomb County circuit bench (sixteenth circuit) supports the addition of a ninth judge to that circuit. (2-21-90)

The thirty-fourth circuit court supports the State Court Administrative Office's recommendation for one additional judgeship for that circuit. (2-21-90)

The Michigan District Judges Association does not customarily take positions on legislation regarding the needs of local communities for new judgeships. (2-22-90)

The Michigan Judges Association has no position at this time. (2-26-90)