

SFA

BILL ANALYSIS

Senate Fiscal Agency

• Lansing, Michigan 48909

• (517) 373-5383

Senate Bills 298, 299, and 300

Sponsor: Senator Mitch Irwin

Committee: Judiciary

Date Completed: 11-13-90

SUMMARY OF SENATE BILLS 298, 299, and 300 as introduced 4-11-89:

Senate Bills 298, 299, and 300 would amend the Revised Judicature Act, the Judges' Retirement Act, and the Probate Judges Retirement Act, respectively, to provide for increased pay and retirement system contribution rates for probate judges in small counties.

The bills are tie-barred and include an effective date of October 1, 1990.

Senate Bill 298

The bill would amend the Revised Judicature Act to require that a probate judge in a county with a population under 15,000 that was not part of a probate court district could not "engage in the practice of law other than as a judge" and would have to receive the minimum annual salary specified in the Act. (Those provisions currently apply to probate judges in counties having a population of 15,000 or more.)

In addition to the Act's minimum pay rate (90% of the salary paid by the State to a circuit judge), the bill would require the State Court Administrator to pay a probate judge in a county of fewer than 15,000 people a per diem for not more than 10 days of vacation and not more than 10 days of judicial conferences and seminars annually plus necessary expenses for food, lodging, and mileage incidental to attending such conferences and seminars. Although the Act allows a county board of commissioners to increase a probate judge's salary during the judge's term of office, such an increase cannot cause the judge's total salary to exceed 88% of the annual salary of a justice of the Supreme Court. The bill would include any per diem earnings among the total amount that could not exceed that level.

The bill would require the Supreme Court, either through a direct order or through the State Court Administrator, annually to offer each probate judge in a county under 15,000 the opportunity to serve a 90-day assignment as a circuit, district, or probate judge. Each probate judge would have to accept at least 30 days of such assignments. For each day that a probate judge was compelled to accept a temporary assignment to another court under the Act's existing provisions, however, the number of days of required assignment under the bill would be reduced by one day in whatever year of his or her term that the probate judge chose. The Supreme Court's authority to compel assignment to other courts pursuant to existing sections of the Act would not be affected by the fact that the number of days for which a probate judge had to accept assignments under the bill was reduced to zero for the remainder of his or her term.

S.B. 298-300 (11-13-90)

The State Court Administrator would have to pay a per diem to a probate judge on assignment to another court pursuant to the bill. The per diem would have to be for "the amount of the judicial salary standardization payment available to counties and district control units per probate judge...divided by 110". Necessary expenses for food, lodging, and mileage that were incidental to the assignment would have to be paid by the county or district control unit responsible for the operation of the court to which the judge was assigned. Those expenses, however, would have to be paid by the State if the assignment were to the probate court in a county with a population under 15,000 that was not part of a probate court district and the assigned judge replaced a probate judge who had been assigned to that court from another.

The State Court Administrator would have to record the number of days a probate judge from a county having fewer than 15,000 people and not belonging to a probate court district served on assignment under the bill, and report that information to the judges' retirement system or the probate judges' retirement system, depending on the particular probate judge's membership.

The bill would repeal a section of the Act that provides for the annual salary of a probate judge in a county comprising part of a proposed probate court district in which the electors of one or more counties failed to approve the district (MCL 600.822).

Senate Bill 299

The bill would amend the Judges' Retirement Act to require that, beginning on October 1, 1990, the contribution rate for a probate judge who served in a single county having a population of less than 15,000 would be 7% of his or her annual salary plus per diem earnings pursuant to Senate Bill 298 and reported to the retirement system by the State Court Administrator. The contributions could not exceed the contributions paid by a probate judge pursuant to existing sections of the Act, however.

The bill also provides that, beginning on October 1, 1990, for a probate judge in a county smaller than 15,000 that was not part of a probate court district, "final salary" would mean the judge's annual salary plus per diem earnings paid pursuant to Senate Bill 298 and reported to the retirement system by the State Court Administrator in the year the judge retired. That amount could not exceed the final salary of a district court judge who converted the State salary standardization payment pursuant to the Act.

Senate Bill 300

The bill would amend the Probate Judges Retirement Act to require that, beginning on October 1, 1990, the contribution rate for a probate judge who served in a single county having a population under 15,000 would be 7% of his or her annual salary plus per diem earnings paid pursuant to Senate Bill 298 and reported to the retirement system by the State Court Administrator.

The bill also provides that, beginning October 1, 1990, for a judge who served a single county with a population under 15,000, "final salary" would include per diem earnings paid pursuant to Senate Bill 298 and reported to the retirement system by the State Court Administrator. That amount could not exceed the

maximum salary and per diem earnings payable to such a judge pursuant to Senate Bill 298.

The Act provides for a retirement annuity not to exceed 66-2/3% of the final salary of a member who is not a member of a county retirement system if he or she contributes an additional 5% of current salary for each year and month of service rendered as a probate judge prior to January 1, 1983, up to 20 years. The bill would include per diem earnings paid pursuant to Senate Bill 298 in the amount on which that 5% contribution is based.

MCL 600.821 (S.B. 298)

Legislative Analyst: P. Affholter

38.802 and 38.820 (S.B. 299)

38.902, 38.916, and 38.921 (S.B. 300)

FISCAL IMPACT

Fiscal information on the bills is not available at this time.

Fiscal Analyst: F. Sanchez

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