

Legislative Analysis



TEMPORARY REDUCTION IN JUDGESHIPS: OAKLAND & MACOMB COUNTIES

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House Bill 5458 (Substitute H-4)
Sponsor: Rep. Jon Switalski
Committee: Judiciary

First Analysis (11-10-09)

BRIEF SUMMARY: The bill would allow two judicial circuits to temporarily reduce their number of judgeships, specify the judgeship or judgeships to be temporarily eliminated and the time period of the reduction, allow the judgeship to be restored without a resolution under certain circumstances, and specify the conditions under which a judgeship could be temporarily eliminated.

FISCAL IMPACT: The bill would have a positive fiscal impact on both state and local governments, as discussed in greater detail later in the analysis.

THE APPARENT PROBLEM:

Revenue to counties has continued to drop year by year as the recession in Michigan continues. As a result, county officials must look to new ways to reduce costs. One proposal that both Oakland and Macomb Counties have considered is to not replace – at least temporarily – judges who will soon be retiring due to mandatory age restrictions. The state would save money on the salaries of judges elected to those judgeships, but the greatest savings would be to the counties, who must pay for a judge's fringe benefits and court staff attached to each judgeship. Officials for both counties anticipate a yearly savings of over a half million dollars for each year a judgeship is temporarily reduced. The boards of commissioners for both Oakland and Macomb Counties have already adopted resolutions to temporarily reduce the number of circuit court judgeships in their respective counties. However, legislation is needed to implement the measure.

THE CONTENT OF THE BILL:

House Bill 5458 would amend the Revised Judicature Act (MCL 600.507 et al.) to allow a temporary reduction in the number of circuit judgeships in the Sixth Judicial Circuit (consisting of Oakland County) and Sixteenth Judicial Circuit (consisting of Macomb County) if both of the following conditions were met:

- Each county in the circuit, by resolution adopted by the county board of commissioners, supported the measure.
- The clerk of each county adopting such a resolution filed a copy with the State Court Administrator not later than 4 p.m. of the sixteenth Tuesday preceding the date on which the August primary would have been held for the judgeship being eliminated. A resolution filed before the bill's effective date would be valid if the

filing occurred within the two-year legislative session during which the bill was enacted.

In addition, the State Court Administrator would have to immediately notify the Elections Division of the Department of State with respect to any temporary reduction in the number of judgeships in a judicial circuit.

The judgeships eligible for temporary reduction would be those occupied by judges who, due to constitutional limitation (e.g., age), are not eligible to run for reelection. Under the bill, the Sixth Judicial Circuit, consisting of Oakland County, would have 18 judges (instead of 19 which it has currently) beginning noon, January 1, 2011, and ending noon, January 1, 2015. In the 2014 election, the initial term of office of the judgeship being restored would be eight years. The Sixteenth Judicial Circuit, consisting of Macomb County, would have 11 judges (instead of 13 which it currently has) beginning noon, January 1, 2011, and ending noon, January 1, 2013. In the 2012 election, the initial term for each of the judgeships being restored would be four years.

A judgeship temporarily reduced under the bill could be restored – without being considered an additional circuit judgeship and without needing a resolution of approval under the RJA – as long as it had not been reduced for more than six years. The bill would specify that by restoring these judgeships after a temporary reduction, the legislature would not be creating the restored judgeship.

BACKGROUND INFORMATION:

The bill is similar to provisions contained in House Bills 5512 and 5513, which are pending House floor action, but those bills only pertain to the Sixth Judicial Circuit/Oakland County.

FISCAL INFORMATION:

House Bill 5458 would have a positive fiscal impact on state and local government. The bill would temporarily eliminate three circuit court judgeships. In the sixth circuit consisting of Oakland County, the temporary elimination would last for four years. In the sixteenth circuit consisting of Macomb County, the temporary elimination would last for two years. The state is responsible for the salary, retirement, FICA, and, in some instances, travel reimbursement. The current salary of a circuit court judge is \$139,919. The retirement contribution, FICA, and travel reimbursement are \$18,644. Therefore, total annual savings to the state would be \$158,563 per eliminated judgeship.

The local unit of government would also realize savings through a reduction in any fringe benefits offered to the judge; a reduction in court personnel (i.e. clerks, legal assistants, etc.); and a reduction in technology equipment associated with the judge and court personnel. The local cost savings will depend on the characteristics of each circuit court.

ARGUMENTS:

For:

Simply put, counties and circuit courts are facing unprecedented budget shortfalls. The bill would allow two counties, Oakland and Macomb, to save money by not filling judgeships that will become vacant at the end of next year. The state constitution prohibits a judge from being elected or appointed to a post once they turn 70 years of age. The judgeships that would be temporarily reduced are currently held by judges who are too old to run for reelection.

According to an editorial in the *Oakland Press* dated Aug. 5, 2009, the remaining circuit court judges are in support of the proposal, even though it means that the judges in the criminal/civil division may have to take on an additional 80 to 90 cases each year to their already heavy dockets. By some accounts, the court is already understaffed and could use more, not fewer judges, but in light of the tight economy, drastic measures must be taken. Though circuit court judgeships last six years, the judgeship affected by the bill would be reduced for only four years. Thus, instead of eliminating the judgeship altogether, the bill would enable the judgeship to be preserved for a period of time during which it is hoped the economy will improve. Meanwhile, the county expects to save about \$1.8 million during the time the judgeship is suspended.

Macomb County also faces a dire fiscal forecast. With two judges ineligible to run for reelection next year due to age restrictions, the board of commissioners expects a savings of at least \$550,000 a year for each seat not filled. Savings would be realized from the reduction in operational costs and ancillary court employees attached to the judgeships, such as court reporters, judicial secretaries, court clerks, and court officers. The board has already adopted a resolution supporting the two-year reduction of the two judgeships. According to a recent article in *The Macomb Daily*, most of the circuit court judges also support the measure, even though it means more work for each of them.

According to media reports, the Michigan Judges Association, Michigan Judicial Conference, and Oakland County Circuit Court judges are in support the temporary reductions. In such a time of financial crisis, the bills represent a tough, but realistic way of saving money.

Against:

Not all of the judges in the affected counties support the measure, and it is not clear if either court can operate sufficiently with the reduced judgeships – even temporarily. Some are concerned that reducing the judgeships will cause even greater backlogs in criminal and civil cases coming to trial. And, some may say that the projections in savings are overly optimistic, especially if not all of the ancillary staff can be terminated (e.g., if the employee is still needed or, if a position operates under a collective bargaining agreement, the staffer is shifted to another court or county position).

POSITIONS:

A representative of Macomb County indicated support for the bill. (11-4-09)

A representative of Michigan Association of Counties (MAC) indicated support for the bill. (11-4-09)

A representative of the Oakland County Circuit Court indicated a neutral position on the bill. (11-4-09)

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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.