

# SENATE BILL NO. 1085

September 02, 2020, Introduced by Senators WOJNO and NESBITT and referred to the Committee on Elections.

A bill to amend 1961 PA 236, entitled  
"Revised judicature act of 1961,"  
by amending sections 550, 550a, 805, 8175, and 8176 (MCL 600.550,  
600.550a, 600.805, 600.8175, and 600.8176), section 550 as amended  
by 2009 PA 228, section 550a as amended by 2012 PA 36, section 805  
as amended by 2011 PA 300, section 8175 as amended by 1990 PA 54,  
and section 8176 as amended by 2002 PA 92.

## **THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 550. (1) An additional circuit judgeship permitted by  
2 this chapter ~~shall~~**must** not be authorized to be filled by election

1 unless each county in the circuit, by resolution adopted by the  
2 county board of commissioners, approves the creation of that  
3 judgeship and unless the clerk of each county adopting ~~such a~~ **that**  
4 resolution files a copy of the resolution with the state court  
5 administrator not later than 4 p.m. of the sixteenth Tuesday  
6 ~~preceding~~ **before** the ~~August~~ **June** primary for the election to fill  
7 the additional circuit judgeship. The state court administrator  
8 shall immediately notify the elections division of the department  
9 of state with respect to each new circuit judgeship authorized  
10 ~~pursuant to~~ **under** this subsection. If a circuit judgeship is  
11 permitted by law to be authorized without a resolution being  
12 adopted by the county board of commissioners, the state court  
13 administrator shall immediately notify the elections division of  
14 the department of state with respect to each new circuit judgeship  
15 authorized.

16 (2) A resolution required under subsection (1) that is filed  
17 before the effective date of the amendatory act that authorized  
18 that judgeship is a valid approval of the judgeship for purposes of  
19 this section only if the filing occurs within the 2-year state  
20 legislative session during which the amendatory act was enacted. A  
21 resolution required under subsection (1) that is filed after the  
22 effective date of the amendatory act that added that judgeship is a  
23 valid approval of the judgeship for purposes of this section only  
24 if the filing occurs not later than 4 p.m. of the sixteenth Tuesday  
25 ~~preceding~~ **before** the ~~August~~ **June** primary for the election  
26 immediately preceding the effective date of the additional  
27 judgeship.

28 (3) By permitting an additional judgeship, or by restoring a  
29 judgeship after a temporary reduction in judgeships as described in

subsection (5), the legislature is not creating that judgeship. If a county, acting through its board of commissioners, approves the creation of an additional circuit judgeship, that approval constitutes an exercise of the county's option to provide a new activity or service or to increase the level of activity or service offered in the county beyond that required by existing law, as the elements of that option are defined by 1979 PA 101, MCL 21.231 to 21.244, and a voluntary acceptance by the county of all expenses and capital improvements ~~which-that~~ may result from the creation of the judgeship. However, the exercise of the option does not affect ~~the-this~~ state's obligation to pay the same portion of the additional judge's salary ~~which-that~~ is paid by ~~the-this~~ state to the other judges of the same circuit, or to appropriate and disburse funds to the county for the necessary costs of state requirements established by a state law ~~which-that~~ becomes effective on or after December 23, 1978.

(4) Each additional circuit judgeship created ~~pursuant to~~ **under** subsection (1) ~~shall-must~~ be filled by election ~~pursuant to~~ **under** the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992. The first term of each additional circuit judgeship ~~shall-be-is~~ 6 years, unless the law permitting the additional judgeship provides for a term of a different length.

(5) If, by law, the number of judgeships in a judicial circuit is temporarily reduced for a period of not more than 6 years and then restored to the number of judgeships that existed before the temporary reduction, the restored judgeship or judgeships are not considered additional circuit judgeships for purposes of this section, and a resolution of approval under subsection (1) is not required.

1 (6) A temporary reduction in the number of circuit judgeships  
2 in a judicial circuit ~~shall~~**does** not take effect unless both of the  
3 following occur:

4 (a) Each county in the circuit, by resolution adopted by the  
5 county board of commissioners, supports the temporary reduction in  
6 the number of judgeships.

7 (b) The clerk of each county adopting the resolution files a  
8 copy of the resolution with the state court administrator not later  
9 than 4 p.m. of the sixteenth Tuesday ~~preceding~~**before** the date on  
10 which the ~~August~~**June** primary would have been held for the  
11 judgeship that is being eliminated. A resolution required under  
12 subdivision (a) that is filed before ~~the effective date of the~~  
13 ~~amendatory act that added this subsection~~**January 5, 2010** is valid  
14 if the filing occurs within the 2-year state legislative session  
15 during which the amendatory act was enacted.

16 (7) The state court administrator shall immediately notify the  
17 elections division of the department of state with respect to  
18 either of the following:

19 (a) A temporary reduction in the number of judgeships in a  
20 judicial circuit.

21 (b) The restoration of the number of judgeships in a judicial  
22 circuit, after a temporary reduction in that number.

23 Sec. 550a. (1) If a new judicial circuit is proposed by law,  
24 that new circuit ~~shall~~**must** not be created and any circuit  
25 judgeship proposed for the circuit ~~shall~~**must** not be authorized or  
26 filled by election unless each county in the proposed circuit, by  
27 resolution adopted by the county board of commissioners, approves  
28 the creation of the new circuit and each judgeship proposed for the  
29 circuit and unless the clerk of each county adopting that

1 resolution files a copy of the resolution with the state court  
2 administrator not later than 4 p.m. of the sixteenth Tuesday  
3 ~~preceding~~ **before** the ~~August~~ **June** primary immediately following the  
4 effective date of the amendatory act permitting the creation of the  
5 new circuit. The state court administrator shall immediately notify  
6 the elections division of the department of state with respect to  
7 each new judicial circuit and circuit judgeship authorized under  
8 this subsection.

9 (2) By proposing a new judicial circuit and 1 or more circuit  
10 judgeships for the circuit, the legislature is not creating that  
11 circuit or any judgeship in the circuit. If a county, acting  
12 through its board of commissioners, approves the creation of a new  
13 circuit and 1 or more circuit judgeships proposed by law for that  
14 circuit, that approval constitutes an exercise of the county's  
15 option to provide a new activity or service or to increase the  
16 level of activity or service offered in the county beyond that  
17 required by existing law, as the elements of that option are  
18 defined by 1979 PA 101, MCL 21.231 to 21.244, and a voluntary  
19 acceptance by the county of all expenses and capital improvements  
20 that may result from the creation of the new circuit and each  
21 judgeship. However, the exercise of the option does not affect ~~the~~  
22 **this** state's obligation to pay a portion of the circuit judge's or  
23 judges' salary as provided by law, or to appropriate and disburse  
24 funds to the county for the necessary costs of state requirements  
25 established by a state law that takes effect on or after December  
26 23, 1978.

27 (3) Each circuit judgeship created under subsection (1) ~~shall~~  
28 **must** be filled by election under the Michigan election law, 1954 PA  
29 116, MCL 168.1 to 168.992. The first term of each circuit judgeship

1 is 6 years, unless the law permitting the creation of the new  
2 circuit and 1 or more judgeships provides for a term of a different  
3 length.

4 (4) The reformation of the eleventh, twenty-third, twenty-  
5 sixth, thirty-fourth, fiftieth, and fifty-third judicial circuits  
6 under 2002 PA 92 does not require a resolution of approval by the  
7 county board of commissioners under this section or section 550.

8 Sec. 805. (1) The additional judges of probate permitted by  
9 section 803 ~~shall~~**must** not be filled by election unless the county,  
10 by resolution adopted by the county board of commissioners,  
11 approves the creation of that judgeship and unless the clerk of  
12 that county files a copy of the resolution with the state court  
13 administrator not later than 4 p.m. of the thirteenth Tuesday  
14 ~~preceding~~**before** the ~~August~~**June** primary for the election to fill  
15 the additional judge of probate. The state court administrator  
16 shall immediately notify the county clerk with respect to any new  
17 judge of probate authorized for that county under this subsection.

18 (2) By permitting an additional judgeship, the legislature is  
19 not creating that judgeship. If a county, acting through its board  
20 of commissioners, approves the creation of an additional judge of  
21 probate, that approval constitutes an exercise of the county's  
22 option to provide a new activity or service or to increase the  
23 level of activity or service offered in the county beyond that  
24 required by existing law, as the elements of that option are  
25 defined by 1979 PA 101, MCL 21.231 to 21.244, and a voluntary  
26 acceptance by the county of all expenses and capital improvements  
27 that may result from the creation of the judgeship. However, the  
28 exercise of the option does not affect ~~the~~**this** state's obligation  
29 to pay the same portion of the additional judge's salary that is

1 paid by ~~the~~**this** state to the other judges of probate of the same  
 2 county, or to appropriate and disburse funds to the county for the  
 3 necessary costs of state requirements established by a state law  
 4 that takes effect on or after December 23, 1978.

5 (3) Each additional judgeship created under subsection (1)  
 6 ~~shall~~**must** be filled by election under the Michigan election law,  
 7 1954 PA 116, MCL 168.1 to 168.992. The first term of each  
 8 additional judgeship ~~shall be~~**is** 6 years unless the law permitting  
 9 the additional judgeship provides for a term of a different length.

10 (4) A combination of the office of probate judge with a  
 11 judicial office of limited jurisdiction within a county under  
 12 section 15 of article VI of the state constitution of 1963 that  
 13 does not result in an increase in the total number of trial  
 14 judgeships in the county does not require a resolution of approval  
 15 by the county board of commissioners under this section.

16 Sec. 8175. (1) The additional district judgeships permitted by  
 17 this chapter ~~shall~~**must** not be authorized to be filled by election  
 18 unless each district control unit of the district, by resolution  
 19 adopted by the governing body of the district control unit,  
 20 approves the creation of that judgeship and unless the clerk of  
 21 each district control unit adopting ~~such a~~**that** resolution files a  
 22 copy of the resolution with the state court administrator not later  
 23 than 4 p.m. of the sixteenth Tuesday ~~preceding~~**before** the ~~August~~  
 24 **June** primary for the election to fill the additional district  
 25 judgeship. The state court administrator shall immediately notify  
 26 the elections division of the department of state with respect to  
 27 each new district judgeship authorized ~~pursuant to~~**under** this  
 28 subsection.

29 (2) A resolution required under subsection (1) that is filed

1 before the effective date of the amendatory act that authorized  
 2 that judgeship is a valid approval of the judgeship for purposes of  
 3 this section only if the filing occurs within the 2-year state  
 4 legislative session during which the amendatory act was enacted. A  
 5 resolution required under subsection (1) that is filed after the  
 6 effective date of the amendatory act that added that judgeship is a  
 7 valid approval of the judgeship for purposes of this section only  
 8 if the filing occurs not later than 4 p.m. of the sixteenth Tuesday  
 9 ~~preceding~~**before** the ~~August~~**June** primary for the election  
 10 immediately ~~preceding~~**before** the effective date of the additional  
 11 judgeship.

12 (3) By permitting an additional judgeship, the legislature is  
 13 not creating that judgeship. If a district control unit, acting  
 14 through its governing body, approves the creation of an additional  
 15 district judgeship, that approval constitutes an exercise of the  
 16 district control unit's option to provide a new activity or service  
 17 or to increase the level of activity or service offered in the  
 18 district control unit beyond that required by existing law, as the  
 19 elements of that option are defined by ~~Act No. 101 of the Public~~  
 20 ~~Acts of 1979, being sections 21.231 to 21.244 of the Michigan~~  
 21 ~~Compiled Laws, 1979 PA 101, MCL 21.231 to 21.244,~~ and a voluntary  
 22 acceptance by the district control unit of all expenses and capital  
 23 improvements ~~which~~**that** may result from the creation of the  
 24 judgeship. However, the exercise of the option does not affect ~~the~~  
 25 **this** state's obligation to pay the same portion of the additional  
 26 judge's salary ~~which~~**that** is paid by ~~the~~**this** state to the other  
 27 district judges in the same district, or to appropriate and  
 28 disburse funds to the district control unit for the necessary costs  
 29 of state requirements established by a state law ~~which~~**that** becomes

1 effective on or after December 23, 1978.

2 (4) Each additional district judgeship created ~~pursuant to~~  
 3 ~~under~~ subsection (1) ~~shall must~~ be filled by election ~~pursuant to~~  
 4 ~~under~~ the Michigan election law, ~~Act No. 116 of the Public Acts of~~  
 5 ~~1954, as amended, being sections 168.1 to 168.992 of the Michigan~~  
 6 ~~Compiled Laws. 1954 PA 116, MCL 168.1 to 168.992.~~ The first term of  
 7 each additional district judgeship ~~shall be~~ **is** 6 years, unless the  
 8 law permitting the additional judgeship provides for a term of a  
 9 different length.

10 Sec. 8176. (1) If a new district is proposed by law, that new  
 11 district ~~shall must~~ not be created and any district judgeship  
 12 proposed for the district ~~shall must~~ not be authorized or filled by  
 13 election unless each district control unit in the proposed  
 14 district, by resolution adopted by the governing body of the  
 15 district control unit, approves the creation of the new district  
 16 and each judgeship proposed for the district and unless the clerk  
 17 of each district control unit adopting that resolution files a copy  
 18 of the resolution with the state court administrator not later than  
 19 4 p.m. of the sixteenth Tuesday ~~preceeding before~~ **before** the ~~August~~ **June**  
 20 primary for the election immediately ~~preceeding before~~ **before** the effective  
 21 date of the new district. The state court administrator shall  
 22 immediately notify the elections division of the department of  
 23 state with respect to each new judicial district and district  
 24 judgeship authorized ~~pursuant to~~ **under** this subsection.

25 (2) A resolution required under subsection (1) that is filed  
 26 before the effective date of the amendatory act that authorized  
 27 that new district is a valid approval for purposes of this section  
 28 only if the filing occurs within the 2-year state legislative  
 29 session during which the amendatory act was enacted. A resolution

1 required under subsection (1) that is filed after the effective  
 2 date of the amendatory act that authorized that new district is a  
 3 valid approval for purposes of this section only if the filing  
 4 occurs not later than 4 p.m. of the sixteenth Tuesday ~~preceding~~  
 5 **before** the ~~August-June~~ primary for the election immediately  
 6 ~~preceding-before~~ the effective date of the new district.

7 (3) By proposing a new district and 1 or more district  
 8 judgeships for the district, the legislature is not creating that  
 9 district or any judgeship in the district. If a district control  
 10 unit, acting through its governing body, approves the creation of a  
 11 new district and 1 or more district judgeships proposed by law for  
 12 that district, that approval constitutes an exercise of the  
 13 district control unit's option to provide a new activity or service  
 14 or to increase the level of activity or service offered in the  
 15 district control unit beyond that required by existing law, as the  
 16 elements of that option are defined by 1979 PA 101, MCL 21.231 to  
 17 21.244, and a voluntary acceptance by the district control unit of  
 18 all expenses and capital improvements ~~which-that~~ may result from  
 19 the creation of the new district and each judgeship. However, the  
 20 exercise of the option does not affect ~~the-this~~ state's obligation  
 21 to pay the same portion of each judge's salary ~~which-that~~ is paid  
 22 by ~~the-this~~ state to other district judges as provided by law, or  
 23 to appropriate and disburse funds to the district control unit for  
 24 the necessary costs of state requirements established by a state  
 25 law ~~which-that~~ becomes effective on or after December 23, 1978.

26 (4) Each district judgeship created ~~pursuant to-under~~  
 27 subsection (1) ~~shall-must~~ be filled by election ~~pursuant to-under~~  
 28 the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992. The  
 29 first term of each district judgeship ~~shall-be-is~~ 6 years, unless

1 the law permitting the creation of the new district and 1 or more  
2 judgeships provides for a term of a different length.

3 (5) The reformation of the seventy-eighth, seventy-ninth,  
4 eighty-first, eighty-second, eighty-third, and eighty-seventh  
5 judicial districts ~~pursuant to the 2002 amendatory act that added~~  
6 ~~this subsection~~ **under 2002 PA 92** does not require the approval of  
7 the district control unit under this section or section 8175.

8 Enacting section 1. This amendatory act does not take effect  
9 unless Senate Bill No. 1082 of the 100th Legislature is enacted  
10 into law.