

SENATE BILL NO. 133

February 11, 2021, 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~~**is** 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

1 subsection (5), the legislature is not creating that judgeship. If
 2 a county, acting through its board of commissioners, approves the
 3 creation of an additional circuit judgeship, that approval
 4 constitutes an exercise of the county's option to provide a new
 5 activity or service or to increase the level of activity or service
 6 offered in the county beyond that required by existing law, as the
 7 elements of that option are defined by 1979 PA 101, MCL 21.231 to
 8 21.244, and a voluntary acceptance by the county of all expenses
 9 and capital improvements ~~which-that~~ may result from the creation of
 10 the judgeship. However, the exercise of the option does not affect
 11 ~~the-this~~ state's obligation to pay the same portion of the
 12 additional judge's salary ~~which-that~~ is paid by ~~the-this~~ state to
 13 the other judges of the same circuit, or to appropriate and
 14 disburse funds to the county for the necessary costs of state
 15 requirements established by a state law ~~which-that~~ becomes
 16 effective on or after December 23, 1978.

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

23 (5) If, by law, the number of judgeships in a judicial circuit
 24 is temporarily reduced for a period of not more than 6 years and
 25 then restored to the number of judgeships that existed before the
 26 temporary reduction, the restored judgeship or judgeships are not
 27 considered additional circuit judgeships for purposes of this
 28 section, and a resolution of approval under subsection (1) is not
 29 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 ~~preceding~~ **before** the ~~August~~ **June**
20 primary for the election immediately ~~preceding~~ **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. 130 of the 101st Legislature is enacted into
10 law.