



House
Legislative
Analysis
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PROBATE JUDGES; TECH. AMEND.

House Bill 5746 as enrolled
Public Act 389 of 1994
Second Analysis (3-9-95)

Sponsor: Rep. Michael E. Nye
House Committee: Judiciary
Senate Committee: Judiciary

THE APPARENT PROBLEM:

Public Act 343 of 1990 addressed concerns about part-time probate judges who also practiced law; the act barred those judges, who were in counties with less than 15,000 population, from practicing law other than as a judge, and extended to them full-time pay. That act was to take effect January 1, 1995. In 1994, as a bill (House Bill 5328) providing for the creation of new judgeships was under debate, the issue of full-time pay for probate judges in the smaller counties was revisited, and a compromise agreement to postpone full-time pay for another two years was developed. However, the proposed effective date of January 1, 1997 was inadvertently appended to salary provisions for current full-time judges in certain larger counties, as well as to the provisions for the part-time judges in the smaller counties. A statutory amendment to correct the error is needed.

However, argue many, if full-time pay for part-time judges is to be delayed another two years, some consideration should be given to the fact that these judges have not received an increase in their base salary for decades. Thus, additional amendments have been developed that would raise the statutory cap on total salary for these judges, allowing counties to extend additional pay if they so choose.

THE CONTENT OF THE BILL:

The bill would amend the Revised Judicature Act (MCL 600.821 and 600.822) to delete an effective date of January 1, 1997 that Public Act 138 of 1994 (enrolled House Bill 5328) appended to currently-effective provisions that prohibit probate judges in larger counties from practicing law other than as a judge and that extend the full base salary to these judges. The bill also would authorize higher locally-funded salaries for part-time probate judges. The act provides for a maximum annual salary of \$29,000 for part-time probate judges. The

applicable base salary depends on the size of the county: it is \$9,000 for counties with under 10,000 population, and \$10,000 for counties with populations of 10,000 to 15,000. One-half of that salary is paid by the state and one-half by the county. In addition, a part-time probate judge may receive additional salary, up to the \$29,000 maximum, from any county in which the judge regularly holds court. The bill would instead allow a part-time probate judge's salary to be up to \$43,000, so that the maximum allowable pay would be \$52,000 for judges in the counties with under-10,000 population, and \$53,000 in the counties with 10,000 to 15,000 population.

FISCAL IMPLICATIONS:

The Senate Fiscal Agency reported that the bill would have no fiscal impact on the state. There would be a local impact on those counties that chose to increase probate judges' salaries to the new limit. (12-6-95)

ARGUMENTS:

For:

The bill would correct an error made by Public Act 138 of 1994 (enrolled House Bill 5328), which inadvertently placed an effective date of January 1, 1997 on currently-effective provisions for full-time pay for probate judges in certain counties (those provisions also prohibit these judges from having private law practices). Speedy enactment is important to ensure that these judges' state base pay is not reduced. In addition, by raising the salary cap on pay for part-time probate judges and allowing counties to increase their portion of these judges' salaries commensurately, the bill would address continuing concerns regarding the adequacy of pay for part-time probate judges.

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