

SENATE BILL No. 1170

February 24, 2010, Introduced by Senator McMANUS and referred to the Committee on Campaign and Election Oversight.

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), sections 550 and 8175
as amended by 1990 PA 54, sections 550a and 8176 as amended by 2002
PA 92, and section 805 as amended by 1988 PA 134.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 550. (1) An additional circuit judgeship permitted by
2 this chapter shall not be authorized to be filled by election
3 unless each county in the circuit, by resolution adopted by the
4 county board of commissioners, approves the creation of that
5 judgeship and unless the clerk of each county adopting such a
6 resolution files a copy of the resolution with the state court

1 administrator not later than 4 p.m. of the sixteenth Tuesday
2 ~~preceding-BEFORE~~ the ~~August-MAY~~ primary for the election to fill
3 the additional circuit judgeship. The state court administrator
4 shall immediately notify the elections division of the department
5 of state with respect to each new circuit judgeship authorized
6 pursuant to this subsection.

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

19 (3) By permitting an additional judgeship, the legislature is
20 not creating that judgeship. If a county, acting through its board
21 of commissioners, approves the creation of an additional circuit
22 judgeship, that approval constitutes an exercise of the county's
23 option to provide a new activity or service or to increase the
24 level of activity or service offered in the county beyond that
25 required by existing law, as the elements of that option are
26 defined by ~~Act No. 101 of the Public Acts of 1979, being sections~~
27 ~~21.231 to 21.244 of the Michigan Compiled Laws 1979 PA 101, MCL~~

1 21.231 TO 21.244, and a voluntary acceptance by the county of all
2 expenses and capital improvements ~~which~~ **THAT** may result from the
3 creation of the judgeship. However, the exercise of the option does
4 not affect the state's obligation to pay the same portion of the
5 additional judge's salary which is paid by the state to the other
6 judges of the same circuit, or to appropriate and disburse funds to
7 the county for the necessary costs of state requirements
8 established by a state law which becomes effective on or after
9 December 23, 1978.

10 (4) Each additional circuit judgeship created pursuant to
11 subsection (1) shall be filled by election pursuant to the Michigan
12 election law, ~~Act No. 116 of the Public Acts of 1954, as amended,~~
13 ~~being sections 168.1 to 168.992 of the Michigan Compiled Laws 1954~~
14 **PA 116, MCL 168.1 TO 168.992.** The first term of each additional
15 circuit judgeship shall be 6 years, unless the law permitting the
16 additional judgeship provides for a term of a different length.

17 Sec. 550a. (1) If a new judicial circuit is proposed by law,
18 that new circuit shall not be created and any circuit judgeship
19 proposed for the circuit shall not be authorized or filled by
20 election unless each county in the proposed circuit, by resolution
21 adopted by the county board of commissioners, approves the creation
22 of the new circuit and each judgeship proposed for the circuit and
23 unless the clerk of each county adopting that resolution files a
24 copy of the resolution with the state court administrator not later
25 than 4 p.m. of the sixteenth Tuesday ~~preceding~~ **BEFORE** the ~~August~~
26 **MAY** primary immediately following the effective date of the
27 amendatory act permitting the creation of the new circuit. The

1 state court administrator shall immediately notify the elections
2 division of the department of state with respect to each new
3 judicial circuit and circuit judgeship authorized pursuant to this
4 subsection.

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

23 (3) Each circuit judgeship created pursuant to subsection (1)
24 shall be filled by election pursuant to the Michigan election law,
25 1954 PA 116, MCL 168.1 to 168.992. The first term of each circuit
26 judgeship shall be 6 years, unless the law permitting the creation
27 of the new circuit and 1 or more judgeships provides for a term of

1 a different length.

2 (4) The reformation of the eleventh, twenty-third, twenty-
3 sixth, thirty-fourth, fiftieth, and fifty-third judicial circuits
4 pursuant to the 2002 amendatory act that added this subsection does
5 not require the approval of the county board of commissioners under
6 this section or section 550.

7 Sec. 805. (1) The additional judges of probate permitted by
8 section 803 shall not be authorized to be filled by election unless
9 the county, by resolution adopted by the county board of
10 commissioners, approves the creation of that judgeship and unless
11 the clerk of that county files a copy of the resolution with the
12 state court administrator not later than 4 p.m. of the thirteenth
13 Tuesday ~~preceding~~ **BEFORE** the ~~August~~ **MAY** primary for the election to
14 fill the additional judge of probate. The state court administrator
15 shall immediately notify the county clerk with respect to any new
16 judge of probate authorized for that county pursuant to this
17 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 ~~Act No. 101 of the Public Acts of 1979, being sections~~
26 ~~21.231 to 21.244 of the Michigan Compiled Laws 1979 PA 101, MCL~~
27 **21.231 TO 21.244**, and a voluntary acceptance by the county of all

1 expenses and capital improvements which may result from the
2 creation of the judgeship. However, the exercise of the option does
3 not affect the state's obligation to pay the same portion of the
4 additional judge's salary which is paid by the state to the other
5 judges of probate of the same county, or to appropriate and
6 disburse funds to the county for the necessary costs of state
7 requirements established by a state law which becomes effective on
8 or after December 23, 1978.

9 (3) Each additional judgeship created pursuant to subsection
10 (1) shall be filled by election pursuant to the Michigan election
11 law, ~~Act No. 116 of the Public Acts of 1954, as amended, being~~
12 ~~sections 168.1 to 168.992 of the Michigan Compiled Laws 1954 PA~~
13 **116, MCL 168.1 TO 168.992**. The first term of each additional
14 judgeship shall be 6 years unless the law permitting the additional
15 judgeship provides for a term of a different length.

16 Sec. 8175. (1) The additional district judgeships permitted by
17 this chapter shall 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 resolution files a copy
22 of the resolution with the state court administrator not later than
23 4 p.m. of the sixteenth Tuesday ~~preceding~~ **BEFORE** the ~~August~~ **MAY**
24 primary for the election to fill the additional district judgeship.
25 The state court administrator shall immediately notify the
26 elections division of the department of state with respect to each
27 new district judgeship authorized pursuant to this subsection.

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

(3) By permitting an additional judgeship, the legislature is not creating that judgeship. If a district control unit, acting through its governing body, approves the creation of an additional district judgeship, that approval constitutes an exercise of the district control unit's option to provide a new activity or service or to increase the level of activity or service offered in the district control unit beyond that required by existing law, as the elements of that option are defined by ~~Act No. 101 of the Public Acts of 1979, being sections 21.231 to 21.244 of the Michigan Compiled Laws 1979 PA 101, MCL 21.231 TO 21.244,~~ and a voluntary acceptance by the district control unit 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 state's obligation to pay the same portion of the additional judge's salary which is paid by the state to the other district

1 judges in the same district, or to appropriate and disburse funds
 2 to the district control unit for the necessary costs of state
 3 requirements established by a state law which becomes effective on
 4 or after December 23, 1978.

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

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

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

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

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

1 necessary costs of state requirements established by a state law
2 which becomes effective on or after December 23, 1978.

3 (4) Each district judgeship created pursuant to subsection (1)
4 shall be filled by election pursuant to the Michigan election law,
5 1954 PA 116, MCL 168.1 to 168.992. The first term of each district
6 judgeship shall be 6 years, unless the law permitting the creation
7 of the new district and 1 or more judgeships provides for a term of
8 a different length.

9 (5) The reformation of the seventy-eighth, seventy-ninth,
10 eighty-first, eighty-second, eighty-third, and eighty-seventh
11 judicial districts pursuant to the 2002 amendatory act that added
12 this subsection does not require the approval of the district
13 control unit under this section or section 8175.

14 Enacting section 1. This amendatory act does not take effect
15 unless Senate Bill No. 1168

16 of the 95th Legislature is enacted into law.