

HOUSE BILL No. 6564

December 4, 2018, Introduced by Reps. Rendon, Whiteford and Crawford and referred to the Committee on Elections and Ethics.

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
 3 unless each county in the circuit, by resolution adopted by the
 4 county board of commissioners, approves the creation of that

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

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

26 (3) By permitting an additional judgeship, or by restoring a
27 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 state's obligation to pay the same portion of the additional
12 judge's salary ~~which~~**THAT** is paid by the state to the other judges
13 of the same circuit, or to appropriate and disburse funds to the
14 county for the necessary costs of state requirements established by
15 a state law ~~which~~**THAT** becomes effective on or after December 23,
16 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

1 section, and a resolution of approval under subsection (1) is not
2 required.

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

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

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

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

21 (a) A temporary reduction in the number of judgeships in a
22 judicial circuit.

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

25 Sec. 550a. (1) If a new judicial circuit is proposed by law,
26 that new circuit ~~shall~~**MUST** not be created and any circuit
27 judgeship proposed for the circuit ~~shall~~**MUST** not be authorized or

1 filled by election unless each county in the proposed circuit, by
2 resolution adopted by the county board of commissioners, approves
3 the creation of the new circuit and each judgeship proposed for the
4 circuit and unless the clerk of each county adopting that
5 resolution files a copy of the resolution with the state court
6 administrator not later than 4 p.m. of the sixteenth Tuesday
7 ~~preceding~~ **BEFORE** the ~~August~~ **JUNE** primary immediately following the
8 effective date of the amendatory act permitting the creation of the
9 new circuit. The state court administrator shall immediately notify
10 the elections division of the department of state with respect to
11 each new judicial circuit and circuit judgeship authorized under
12 this subsection.

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

1 funds to the county for the necessary costs of state requirements
2 established by a state law that takes effect on or after December
3 23, 1978.

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

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

14 Sec. 805. (1) The additional judges of probate permitted by
15 section 803 ~~shall~~**MUST** not be filled by election unless the county,
16 by resolution adopted by the county board of commissioners,
17 approves the creation of that judgeship and unless the clerk of
18 that county files a copy of the resolution with the state court
19 administrator not later than 4 p.m. of the thirteenth Tuesday
20 ~~preceding~~**BEFORE** the ~~August~~**JUNE** primary for the election to fill
21 the additional judge of probate. The state court administrator
22 shall immediately notify the county clerk with respect to any new
23 judge of probate authorized for that county under this subsection.

24 (2) By permitting an additional judgeship, the legislature is
25 not creating that judgeship. If a county, acting through its board
26 of commissioners, approves the creation of an additional judge of
27 probate, that approval constitutes an exercise of the county's

1 option to provide a new activity or service or to increase the
2 level of activity or service offered in the county beyond that
3 required by existing law, as the elements of that option are
4 defined by 1979 PA 101, MCL 21.231 to 21.244, and a voluntary
5 acceptance by the county of all expenses and capital improvements
6 that may result from the creation of the judgeship. However, the
7 exercise of the option does not affect the state's obligation to
8 pay the same portion of the additional judge's salary that is paid
9 by the state to the other judges of probate of the same county, or
10 to appropriate and disburse funds to the county for the necessary
11 costs of state requirements established by a state law that takes
12 effect on or after December 23, 1978.

13 (3) Each additional judgeship created under subsection (1)
14 ~~shall~~**MUST** be filled by election under the Michigan election law,
15 1954 PA 116, MCL 168.1 to 168.992. The first term of each
16 additional judgeship ~~shall be~~**IS** 6 years unless the law permitting
17 the additional judgeship provides for a term of a different length.

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

24 Sec. 8175. (1) The additional district judgeships permitted by
25 this chapter ~~shall~~**MUST** not be authorized to be filled by election
26 unless each district control unit of the district, by resolution
27 adopted by the governing body of the district control unit,

1 approves the creation of that judgeship and unless the clerk of
2 each district control unit adopting such a resolution files a copy
3 of the resolution with the state court administrator not later than
4 4 p.m. of the sixteenth Tuesday ~~preceding~~**BEFORE** the August ~~JUNE~~
5 primary for the election to fill the additional district judgeship.
6 The state court administrator shall immediately notify the
7 elections division of the department of state with respect to each
8 new district judgeship authorized ~~pursuant to~~**UNDER** this
9 subsection.

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

22 (3) By permitting an additional judgeship, the legislature is
23 not creating that judgeship. If a district control unit, acting
24 through its governing body, approves the creation of an additional
25 district judgeship, that approval constitutes an exercise of the
26 district control unit's option to provide a new activity or service
27 or to increase the level of activity or service offered in the

1 district control unit beyond that required by existing law, as the
2 elements of that option are defined by ~~Act No. 101 of the Public~~
3 ~~Acts of 1979, being sections 21.231 to 21.244 of the Michigan~~
4 ~~Compiled Laws, 1979 PA 101, MCL 21.231 TO 21.244~~, and a voluntary
5 acceptance by the district control unit of all expenses and capital
6 improvements ~~which~~**THAT** may result from the creation of the
7 judgeship. However, the exercise of the option does not affect the
8 state's obligation to pay the same portion of the additional
9 judge's salary ~~which~~**THAT** is paid by the state to the other
10 district judges in the same district, or to appropriate and
11 disburse funds to the district control unit for the necessary costs
12 of state requirements established by a state law ~~which~~**THAT** becomes
13 effective on or after December 23, 1978.

14 (4) Each additional district judgeship created ~~pursuant to~~
15 **UNDER** subsection (1) ~~shall~~**MUST** be filled by election ~~pursuant to~~
16 **UNDER** the Michigan election law, ~~Act No. 116 of the Public Acts of~~
17 ~~1954, as amended, being sections 168.1 to 168.992 of the Michigan~~
18 ~~Compiled Laws. 1954 PA 116, MCL 168.1 TO 168.992~~. The first term of
19 each additional district judgeship ~~shall be~~**IS** 6 years, unless the
20 law permitting the additional judgeship provides for a term of a
21 different length.

22 Sec. 8176. (1) If a new district is proposed by law, that new
23 district ~~shall~~**MUST** not be created and any district judgeship
24 proposed for the district ~~shall~~**MUST** not be authorized or filled by
25 election unless each district control unit in the proposed
26 district, by resolution adopted by the governing body of the
27 district control unit, approves the creation of the new district

1 and each judgeship proposed for the district and unless the clerk
2 of each district control unit adopting that resolution files a copy
3 of the resolution with the state court administrator not later than
4 4 p.m. of the sixteenth Tuesday ~~preceding~~**BEFORE** the August ~~JUNE~~
5 primary for the election immediately ~~preceding~~**BEFORE** the effective
6 date of the new district. The state court administrator shall
7 immediately notify the elections division of the department of
8 state with respect to each new judicial district and district
9 judgeship authorized ~~pursuant to~~**UNDER** this subsection.

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

21 (3) By proposing a new district and 1 or more district
22 judgeships for the district, the legislature is not creating that
23 district or any judgeship in the district. If a district control
24 unit, acting through its governing body, approves the creation of a
25 new district and 1 or more district judgeships proposed by law for
26 that district, that approval constitutes an exercise of the
27 district control unit's option to provide a new activity or service

1 or to increase the level of activity or service offered in the
2 district control unit beyond that required by existing law, as the
3 elements of that option are defined by 1979 PA 101, MCL 21.231 to
4 21.244, and a voluntary acceptance by the district control unit of
5 all expenses and capital improvements ~~which~~**THAT** may result from
6 the creation of the new district and each judgeship. However, the
7 exercise of the option does not affect the state's obligation to
8 pay the same portion of each judge's salary ~~which~~**THAT** is paid by
9 the state to other district judges as provided by law, or to
10 appropriate and disburse funds to the district control unit for the
11 necessary costs of state requirements established by a state law
12 ~~which~~**THAT** becomes effective on or after December 23, 1978.

13 (4) Each district judgeship created ~~pursuant to~~**UNDER**
14 subsection (1) ~~shall~~**MUST** be filled by election pursuant to the
15 Michigan election law, 1954 PA 116, MCL 168.1 to 168.992. The first
16 term of each district judgeship ~~shall be~~**IS** 6 years, unless the law
17 permitting the creation of the new district and 1 or more
18 judgeships provides for a term of a different length.

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

24 Enacting section 1. This amendatory act takes effect 90 days
25 after the date it is enacted into law.

26 Enacting section 2. This amendatory act does not take effect
27 unless Senate Bill No. _____ or House Bill No. 6562 (request no.

1 07225'18) of the 99th Legislature is enacted into law.