



Senate Fiscal Agency
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Senate Bill 754 (as enrolled)
Sponsor: Senator Curtis S. VanderWall
Senate Committee: Judiciary and Public Safety
House Committee: Judiciary

Date Completed: 4-1-20

RATIONALE

Article VI, Section 3 of the Michigan Constitution specifies that the Michigan Supreme Court "shall appoint an administrator of the courts and other assistants of the supreme court as necessary to aid in the administration of the courts of this state". The Court exercises its oversight of Michigan courts through the State Court Administrative Office (SCAO). Among other things, the SCAO is tasked with reviewing the State's judicial needs and, based on its findings, compiling the Judicial Resources Recommendations (JRR), a biennial report that assesses the workloads of the various courts across the State and makes recommendations to the Legislature. The 2011 JRR recommended the elimination by attrition of 45 trial (district, circuit, and probate) judgeships. Based on the SCAO's findings, the State enacted a legislative package eliminating over 40 judgeships. Public Act (PA) 18 of 2012 eliminated the district court judge position for the 79th Judicial District, which covers Lake and Mason Counties. Under PA 18, the elimination of the district judgeship occurs when a vacancy in the office of district judges occurs, or when the incumbent no longer seeks election, at which point the Lake County probate judge will serve as the district judge for the 79th district in Lake County and the Mason County probate judge will serve as the district judge for the 79th district in Mason County.

The current district court judge for the 79th district is constitutionally mandated to retire on December 31, 2020.¹ This will trigger the elimination of the district judge position, as prescribed by PA 18. Many people believe that eliminating this judgeship will impose additional burdens on Lake and Mason Counties and impede timely access to judicial resources, so it was suggested that this judgeship be retained.

CONTENT

The bill would amend the Revised Judicature Act delete a provision specifying that the probate judge of Lake County serves as judge of the 79th Judicial District in Lake County, and that the probate judge of Mason County serves as judge of the 79th Judicial District in Mason County.

Under the Act, until the date determined below, the 79th Judicial District consists of Lake County and Mason County, is a district of the first class, and has one judge.

Beginning on the date on which a vacancy occurs in the office of the district judge in the 79th Judicial District or the beginning date of the term for which the incumbent 79th district judge no longer seeks election or reelection to that office, whichever is earlier, the 79th Judicial District consists of Lake County and Mason County and is a district of the first class. Under Section 810a,

¹ Article VI, Section 19 of the Michigan Constitution specifies that "no person shall be elected or appointed to a judicial office after reaching the age of 70 years"; however, a judge who reaches the age of 70 during his or her term is permitted to serve out the remainder of that term.

the probate judge for Lake County must serve as the 79th district judge within Lake County and the probate judge for Mason County must serve as the 79th district judge within Mason County.

The bill would delete these provisions. Instead, under the bill, the 79th Judicial District would consist of Lake County and Mason County, be a district of the first class, and have one judge.

MCL 600.8144

BACKGROUND

Section 810a specifies that the probate judges in Alcona, Arenac, Baraga, Benzie, Crawford, Iron, Kalkaska, Lake, Missaukee, Montmorency, Ontonagon, Oscoda, and Presque Isle Counties have the jurisdiction, powers, duties, and title of district judge within their respective counties, in addition to the jurisdiction, powers, duties, and title of probate judge. In counties where the only district judgeship is being eliminated and Chapter 81 (District Court: Establishment; Districts) provides that Section 810a applies, a probate judge in that county has the jurisdiction, powers, duties, and title of district judge within their respective counties, in addition to the jurisdiction, powers, duties, and title of probate judge.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Retaining this district judge position is critical to ensuring that Lake and Mason County residents continue to have access to Michigan's judicial system, and allowing the 79th Judicial District to continue to provide high level service and timely case processing for the residents of Lake and Mason Counties. Increased caseload and other burdens to the local court system, such as geographic barriers and unpredictable weather-related conditions in the area, present a significant challenge to Lake and Mason County residents' access to judicial resources. Eliminating the 79th district judgeship would worsen this situation. The State Court Administrative Office has reevaluated its position and agrees with retaining this judgeship.

Additionally, retaining this judgeship would allow the court to continue to pursue specialty court opportunities. The judges in the 79th district believe that drugs and sobriety courts, mental health courts, and veterans treatment courts would be a benefit to residents in that district. The planning process to implement these courts has begun at both the adult and juvenile court levels; however, implementation and operation of specialty courts will not be possible with the elimination of the 79th district judgeship because of the substantial judicial resources required to operate those systems.

Furthermore, retaining this 79th district judgeship would give the court the ability to assist with caseload equalization efforts with neighboring counties, such as Oceana and Newaygo Counties, as those counties already have been affected by judicial downsizing.

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bill would have no direct fiscal impact on State or local government. Although the bill would eliminate a sunset provision for a district court judgeship in the 79th District, the position is filled by the Honorable Peter J. Wadel, who will be aged out of office at the end of the calendar year. Elimination of the sunset provision would maintain the financial status quo in regard to the State's spending on district court judge salaries and benefits. The current salary for a district court judge is \$149,655, with an annual cost to the State of \$170,541.

The elimination of the judgeship was part of the State Court Administrative Office's Annual Judicial Resources Recommendations as recently as 2018; however, the most recent report (from December 2019), recommends that the 79th and 78th District Courts be merged to form a single district. According to the report, the merger would remove the need to eliminate the 79th District Court judgeship.

Notwithstanding the language contained in the Judicial Resources Recommendations, the bill would maintain the current district court judgeship beyond the calendar year and, likewise, would maintain current spending.

Fiscal Analyst: Michael Siracuse

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.