

State Notes

TOPICS OF LEGISLATIVE INTEREST

January/February 2006



Judicial Resource Recommendations **By Stephanie Yu, Fiscal Analyst**

In general, the State Court Administrative Office (SCAO) recommends changes to the current number of judgeships every two years. Typically, the Legislature then passes legislation to implement some or all of the changes.

In 2003, however, none of the changes recommended by the SCAO were enacted. Budget constraints and other considerations affected the decision-making process. Two years later, in October 2005, the SCAO released a new set of Judicial Resource Recommendations (JRR). Legislation is pending in both houses in response to this report.

Background

Article VI, Section 3 of the State Constitution requires the Supreme Court to appoint “an administrator of the courts”, who must perform administrative duties assigned by the court.

In addition, Section 8171 of the Revised Judicature Act states:

The supreme court may make recommendations to the legislature in regard to changes in the number of judges, the creation, alteration and discontinuance of districts based on changes in judicial activity.

Therefore, in keeping with its constitutional and statutory responsibilities, the SCAO issues a biennial set of recommendations for changes in the number of judgeships. The two-year period was chosen to coincide with the election cycle, in order to facilitate the election process for judges. Since 1996, when the Trial Court Assessment Commission (TCAC) was formed to develop a new methodology, the JRR has employed a weighted caseload system of assessment to identify courts for an extended analysis. The weighted caseload formula entails analyzing the amount of time spent on cases based on case type, and identifying the types of cases each court faces and in what numbers. The formula uses data from a three-year period to control for yearly fluctuations. This information translates into the respective need for judgeships in the courts. For any court whose estimated needs outweigh the number of judges by one or more, or whose judges outweigh need by one or more, the SCAO then performs an extended analysis. This extended analysis considers many different factors, including population shifts, changes in crime rates, and additional court resources. On completion of the extended analysis, which includes seeking information from the local courts, the SCAO issues its recommendations.

The Legislature typically responds with legislation to amend the Revised Judicature Act to implement some or all of the changes recommended in the JRR. The Legislature has the authority to reduce judgeships, but the Revised Judicature Act requires a resolution by the local funding unit for the addition of judgeships.



2003 Judicial Resource Recommendations

In 2003, the SCAO released the following list of recommendations:

Table 1

Judgeship Changes Recommended By State Court Administrative Office - 2003			
Court	Circuit	District	Probate
Clare & Gladwin 55 th Circuit	+1		
Kalamazoo 8 th District		-1	
Kent 17 th Circuit	+1		
Macomb 16 th Circuit	+1		
Mecosta & Osceola 77 th District		+1	
Saginaw 70 th District		-1	
Wayne 3 rd Circuit	Retain 1		
Wayne			-1

In November 2003, Senate Bill 823 was introduced to implement all of the changes in the JRR. The bill was reported by the Judiciary Committee, and subsequently sent to the Appropriations Committee, where multiple substitutes were proposed. After a lengthy process, a Substitute S-5 was passed by both houses and signed by the Governor. The enacted bill contained none of the changes advocated in the JRR. The final version of the bill made changes to several probate court districts, elevated nine of the 10 remaining part-time probate judges to full-time status, and granted those probate judges the powers of a district judge.

Several other bills that would have addressed the judicial resource needs of individual courts were vetoed by Governor Granholm in April 2004. These included House Bills 5479 and 5480, and Senate Bills 788 and 829, which proposed to authorize the addition of judgeships in the 77th District, the 55th Circuit, the 17th Circuit, and the 16th Circuit, respectively. The Governor's veto message for Senate Bill 788 reads:

While the creation of this new judgeship was recommended by the State Court Administrative Office last fall in its biennial review of judicial resources, the Legislature has not yet acted to alleviate insufficient judicial resources in other areas of the State. Given the importance of this issue, I do not intend to support Senate Bill 788 unless legislation addressing the need for additional judicial resources in all areas of this State is on my desk at the same time.

The veto messages for Senate Bill 829 and the House bills were identical, but the House bills' message also included the following statement: "The creation of this additional judgeship would also negatively impact the Fiscal Year 2004-2005 budget."

2005 Judicial Resource Recommendations

In October 2005, the SCAO released the Judicial Resource Recommendations for 2005. The SCAO recommended the following changes:

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Table 2

Judgeship Changes Recommended By State Court Administrative Office – 2005			
Court	Circuit	District	Probate
Clare & Gladwin 55 th Circuit	+1		
Dickinson, Iron & Menominee 41 st Circuit	-1		
Genesee 7 th Circuit	+1		
Genesee 68 th District		-1	
Kent 17 th Circuit	+1		
Macomb 16 th Circuit	+1		
Mecosta & Osceola 49 th Circuit	+1		
Oakland 6 th Circuit	+2*		
Oakland			-1*
Saginaw 70 th District		-1	
Wayne			-1

*The JRR recommends adding one judgeship immediately and another January 1, 2009 upon the retirement of an Oakland County probate judge.

Currently, there are six bills before the Legislature that would address the number of judgeships: House Bill 5374 (H-2), which was passed by the House on January 18, 2006, and Senate Bills 883, 907 (S-3), 925, 946, and 955, which were passed by the Senate on January 25, 2006. The bills propose the following changes:

Table 3

Judgeship Changes Recommended By State Court Administrative Office Pending Legislation January 2006									
Court	JRR	H.B. 5374	H.B. 5374 (H-2)	S.B. 907	S.B. 907 (S-3)	S.B. 925	S.B. 883	S.B. 946	S.B. 955
Clare & Gladwin 55 th Circuit	+1	+1	+1	+1					+1
Dickinson, Iron & Menominee 41 st Circuit	-1	-1							
Genesee 7 th Circuit	+1	+1	+1	+1	+1				
Genesee 68 th District	-1	-1		-1					
Kent 17 th Circuit	+1	+1	+1	+1			+1		
Macomb 16 th Circuit	+1	+1	+1	+1		+1			
Mecosta & Osceola 49 th Circuit	+1	+1	+1	+1	+1				
Oakland 6 th Circuit	+2*	+2*	+1	+2*				+1	
Oakland County Probate	-1*	-1*		-1*					
Saginaw 70 th District	-1	-1		-1					
Wayne County Probate	-1	-1		-1					

* The JRR and the legislation before the Senate propose to add one judgeship to the 6th Circuit immediately and another on January 1, 2009 upon the retirement of an Oakland County probate judge.

As can be seen in the table above, the original version of House Bill 5374 contained all of the changes in the SCAO's 2005 report. The current substitute (H-2) omits the elimination of judgeships in the 41st Circuit, the 68th District, the 70th District, Oakland County Probate, and Wayne County Probate, as well as the addition of a second judgeship in the 6th Circuit.

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Senate Bill 907 (S-3) omits the eliminations of judgeships in Wayne County Probate, the 68th District, and the 70th District, which were contained in the original version of the bill. The second judgeship to be added to the 6th Circuit would have replaced an Oakland County probate judge, so the bills eliminate both aspects of that exchange.

Several of these changes were recommended in the 2003 JRR, but none was implemented. The 2005 report reiterates the need for additional judgeships in the 16th, 17th, and 55th Circuits, and for the elimination of judgeships in Wayne County Probate Court and the 70th District. The recommendation for the elimination of a judgeship in the 8th District was not included in 2005, and the recommendation for an additional judgeship in the 77th District became a recommendation for an additional judgeship in the 49th Circuit, both of which serve Mecosta and Osceola Counties.

Fiscal Impact

Based on current judicial salaries, the bills would cost the State the following annual amounts for each new judgeship, or save the same amount for each elimination:

Table 4
Cost to the State Per Judgeship - 2006

Costs to the State	Circuit/Probate	District
Salary	\$139,919	\$138,272
Social Security	5,840	5,840
Medicare	2,029	2,005
Defined Contribution Retirement	9,794	9,679
Total	\$157,582	\$155,796

If all of the changes in the JRR were implemented, it would add six circuit judgeships in 2007 and one in 2009, which would cost the State \$1,103,074 per year when completed.

The implementation of all of the JRR changes also would eliminate one circuit judgeship, two district judgeships, and two probate judgeships, for net savings to the State of \$784,338 per year. These changes would occur either when a vacancy occurs or when an incumbent does not seek reelection; therefore, the savings would be staggered over several years. There also could be small differences in savings as some judges due to retire are participants in the defined benefit plan and not the defined contribution plan.

Local expenses would include the cost of benefits for judges, support staff wages and benefits, and facility space.

The fiscal impact of each bill would vary considerably. House Bill 5374 (H-2) would have an annual net cost of \$945,492 when fully implemented. The most recent version of Senate Bill 907 (S-3) would have an annual net cost of \$315,164. Each remaining Senate bill would add one circuit judgeship, for an annual cost of \$157,582 per judgeship. If all of the Senate bills were passed, they would have an annual net cost of \$945,492.

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Conclusion

Until 2003, the Legislature made many of the changes recommended in the biennial JRR. In fact, since the 1980 report, the Legislature has consistently changed the number of judgeships throughout the State in response to the court's recommendations. However, for various reasons, legislation was not enacted to implement the 2003 JRR. Several different bills have emerged from the 2005 report and are being deliberated by the Legislature. Currently, House Bill 5374 has been passed by the House and referred to the Senate Committee on Judiciary, and the Senate bills have been passed by the Senate and referred to the House Committee on Judiciary.

As the process begins again, the obstacles of 2003 remain. The economy continues to struggle, and State spending continues to be curtailed. In addition to fiscal difficulties, changing the number of judgeships in an area can be controversial. The City of Flint already has voiced objections to the reduction of one judgeship, and other areas are challenging the recommendations as well. For the 2006 primary and general elections, legislation must be enacted by April 2006 to grant counties and candidates for judgeships sufficient time to file the paperwork required by law.