Legislative Analysis

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REINSTATEMENT OF 25TH CIRCUIT COURT JUDGESHIP

House Bill 4656 (H-1) as reported from committee
Sponsor: Rep. Sara Cambensy
Committee: Judiciary
Complete to 6-9-21

BRIEF SUMMARY: House Bill 4656 would amend the Revised Judicature Act to authorize the 25th Judicial Circuit, which consists of Marquette County, to have an additional judgeship.

FISCAL IMPACT: House Bill 4656 would result in costs for the state and the local unit of government. (See **Fiscal Information**, below, for a detailed discussion.)

THE APPARENT PROBLEM:

In 2011, the State Court Administrative Office (SCAO), in its biennial Judicial Resources Recommendations (JRR), determined that the 25th Judicial Circuit (which consists of Marquette County) had more judges than its caseload and the time needed to process those cases supported. That year, the JRR recommended that one of the judgeships be eliminated by attrition. Legislation to do so was subsequently enacted, and at the end of 2016 one of the circuit court judges retired and was not replaced. However, in the decade since the recommendation to eliminate a judgeship was made, the county has seen a significant increase in felony cases, with many of those involving methamphetamine. One result is that people sit in jail longer while waiting for their cases to be resolved. Another is that the court cannot offer specialty courts such as a veterans' court to serve the large veteran population, mental health court, or sobriety court, which are known to reduce recidivism. In February of this year, the Marquette County Board of Commissioners adopted a resolution supporting the restoration of the eliminated circuit court judgeship. Legislation is now needed to provide legislative authority for the additional judgeship.

THE CONTENT OF THE BILL:

House Bill 4656 would amend the Revised Judicature Act to authorize the 25th Judicial Circuit to have two judges. This circuit consists of Marquette County and currently has one judgeship. Prior to 2017, the circuit had two judgeships. A judgeship was eliminated under 2012 PA 22 based on the 2011 JRR report. The authorization of the additional judgeship would be subject to section 550 of the act. (See **Background**, below.)

The bill would take effect 90 days after its enactment.

MCL 600.526

BACKGROUND:

Judicial Resources Recommendations

To monitor judicial costs and caseloads, SCAO reviews the state's judicial needs every two years and compiles the findings in the JRR report, which provides recommendations regarding the addition or removal of judgeships so that judicial resources are equitably distributed across the state. The 2011 JRR report determined the 25th Judicial Circuit to have an excess of 1.3

probate/circuit judges and recommended that one judgeship be eliminated. 2012 PA 22 eliminated one of the judgeships. In general, reductions or consolidations take effect on the date a vacancy occurs or on the beginning date of the term for which an incumbent no longer seeks election or reelection to that office, whichever occurs first.

Adding a new judgeship

Section 550 of the Revised Judicature Act allows the legislature to authorize an additional circuit judgeship to be filled by election if the county board of commissioners in each county in the circuit adopts a resolution approving the creation of the judgeship and if certain filing requirements are met. The section provides that adoption of the resolution constitutes an exercise of the county's option to provide a new activity or service or to increase the level of activity or service offered in the county beyond that required by existing law and a voluntary acceptance by the county of all expenses and capital improvements that may result from the creation of the judgeship. The state retains an obligation to pay the same portion of the additional judge's salary that is paid by the state to other judges of the same circuit.

In addition, section 550(2) provides that a resolution filed before the effective date of legislation authorizing an additional judgeship constitutes a valid approval of the judgeship only if the filing occurs within the two-year legislative session (such as the current 2021-22 legislative session) during which the legislation is enacted.

The Marquette County Board of Commissioners adopted a resolution in support of reinstating a second judgeship in February 2021.

FISCAL INFORMATION:

Costs for restoring one circuit court judgeship and associated personnel would be incurred by the state and the county, respectively. Costs for adding an optional second judgeship and associated personnel would result in additional costs for the state and the county, respectively. One judgeship in Marquette was eliminated in FY 2017 when the judge retired. Since that time, the Judiciary budget has not included funding for the salary of the judgeship. The state pays the salary, the employer portion of FICA taxes, and retirement benefits for circuit court judges. Fringe benefits, personnel costs, and costs for supplies, equipment, and office space are paid for by the local court system. Currently, the cost to the state to restore one judgeship would be $182,525 annually. The cost to the state for two circuit court judgeships would be $365,050 annually. State costs are funded with roughly 97% state GF/GP revenue. The cost to the local unit for one or two judgeships is unknown, as local costs for judgeships vary by area.

ARGUMENTS:

For:

Since a 2011 determination that the 25th Judicial Circuit had one too many judgeships, the landscape has changed, according to the chief judge of the circuit, the county prosecutor, and the county sheriff. Felony caseloads have doubled, more involve methamphetamine, and a large veteran population presents with cases fueled by substance use. Long distances between courts, which increase travel times, present challenges in sharing available judges and staff. Some people have sat in jail for over a year waiting for trial. Further, unlike courts in more populous counties, Upper Peninsula courts typically lack the quasi-judicial officers (e.g., law clerks, referees, and staff attorneys) that can take on many related tasks. Instead, the judges are

often a one-man or one-woman show, conducting their own legal research and other tasks with no assistance. Supporters of the bill argue that adding an additional judgeship would enable cases to be processed more quickly, shorten the time people spend in jail before trial, and allow the county to explore creating one or more specialty courts that could focus on mental health issues, drunk or drugged driving, or the needs presented by veterans.

Against:

The most recent JRR report, released in 2019, did not find a need for Marquette County to have any additional judgeships. A more in-depth analysis conducted at the county's request, which took such things as distance and travel time between court buildings into consideration, found a need for two judges at the circuit/probate level (currently the court has one circuit and one probate judge) and 0.9 to 1.1 district judge (currently there are two district court judges). It is not known what the upcoming JRR report will recommend.

Response:

One complaint some have is that, although SCAO does on occasion conduct a more in-depth analysis of the needs of a particular court, the availability of support staff such as referees (who often provide assistance with domestic cases and juvenile cases) and law clerks (who can assist with legal research) are not typically included in a determination. It often is assumed that support staff handle up to 40% of administrative and research related tasks. However, most UP courts have no such support staff and the judge handles everything, while others may have only a limited support staff. Since Marquette County does not have law clerks or other staff that could lift some of the burden from the judges, supporters argue that the restoration of the judgeship eliminated beginning in 2017 would be a benefit to all who need to do business in a court, or who have a civil or criminal matter, in the 25th Judicial Circuit.

POSITIONS:

Representatives of the following entities testified in support of the bill (6-1-21):

- Marquette County
- Marquette County Prosecutor's Office
- Marquette County Sheriff's Office

A representative of SCAO testified with a neutral position on the bill. (6-1-21)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Robin Risko

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