

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.8271 Operation of district court; appropriation; employer; authority; collective bargaining; appointment, supervision, discipline, or dismissal of employees; transfer of employees; effect of existing collective bargaining agreement; control of employees; applicability of subsections (2) to (11) to employees in thirty-sixth district; employees of abolished courts; chief judge as principal administrator; “locally-funded employees of the district court” defined.

Sec. 8271.

(1) The governing body of each district funding unit shall annually appropriate, by line-item or lump-sum budget, funds for the operation of the district court in that district. However, before a governing body of a district funding unit may appropriate a lump-sum budget, the chief judge of the judicial district shall submit to the governing body of the district funding unit a budget request in line-item form with appropriate detail. A court that receives a line-item budget shall not exceed a line-item appropriation or transfer funds between line items without the prior approval of the governing body. A court that receives a lump-sum budget shall not exceed that budget without the prior approval of the governing body.

(2) The district funding unit is the employer of the locally-funded employees of the district court in that district, except as provided in subsections (3) and (4).

(3) In a multicounty district, the employer shall be as follows:

(a) As determined pursuant to a contract entered into by the counties in the district under Act No. 8 of the Public Acts of the Extra Session of 1967, being sections 124.531 to 124.536 of the Michigan Compiled Laws.

(b) If the counties in the district do not enter into an agreement described in subdivision (a), each county is the employer of the locally-funded employees of the district court who serve in that county or who are designated by agreement of the member counties as being employed by that county.

(4) In a district of the third class consisting of 2 or more municipalities, the employer of the employees appointed under subsection (1) is 1 of the following, as applicable:

(a) The employer provided by an agreement entered into by the municipalities for that purpose under Act No. 8 of the Public Acts of the Extra Session of 1967.

(b) If the municipalities do not enter into an agreement under subdivision (a), the employer is the district funding unit.

(5) The employer of locally-funded employees of the district court, in concurrence with the chief judge of the district court, has the following authority:

(a) To establish personnel policies and procedures, including, but not limited to, policies and procedures relating to compensation, fringe benefits, pensions, holidays, leave, work schedules, discipline, grievances, personnel records, probation, and hiring and termination practices.

(b) To make and enter into collective bargaining agreements with representatives of the locally-funded employees of the district court.

(6) If the employer of the locally-funded employees of the district court and the chief judge of the district court are not able to concur on the exercise of their authority as to any matter described in subsection (5)(a), that authority shall be exercised by either the employer or the chief judge as follows:

(a) The employer has the authority to establish policies and procedures relating to compensation, fringe benefits, pensions, holidays, and leave.

(b) The chief judge has authority to establish policies and procedures relating to work schedules, discipline, grievances, personnel records, probation, hiring and termination practices, and other personnel matters not included in subdivision (a).

(7) The employer of the locally-funded employees of the district court and the chief judge of the district court each may appoint an agent for collective bargaining conducted under subsection (5) or (6).

(8) The chief judge of the district court may elect not to participate in the collective bargaining process for locally-funded employees of the district court.

(9) Except as otherwise provided, the chief judge of the district court district shall appoint, supervise, discipline, or dismiss the employees of the district court in accordance with personnel policies and procedures developed pursuant to subsection (5) or (6) and any applicable collective bargaining agreement. Compensation of employees of the district court shall be paid by each district funding unit, except as otherwise provided in this act.

(10) If the implementation of the 1996 amendatory act that amended this section requires a transfer of court employees or a change of employers, all employees of the former court employer shall be transferred to, and appointed as employees of, the appropriate employer designated under this section subject to all rights and benefits they held with the former court employer. An employee who is transferred shall not, by reason of the transfer, be placed in any worse position with respect to worker's compensation, pension, seniority, wages, sick leave, vacation,

health and welfare insurance, or any other terms and conditions of employment that the employee enjoyed as an employee of the former court employer. The rights and benefits protected by this subsection may be altered by a future collective bargaining agreement or, for employees not covered by collective bargaining agreements, by benefit plans as established and adopted by the employer designated under this section. An employee who is transferred shall not be made subject to any residency requirements by the employer designated under this section.

(11) The employer designated under this section shall assume and be bound by any existing collective bargaining agreement held by the former court employer and, except where the existing collective bargaining agreement may otherwise permit, shall retain the employees covered by that collective bargaining agreement. A transfer of court employees shall not adversely affect any existing rights and obligations contained in the existing collective bargaining agreement.

(12) District court employees when performing services in the courtroom are subject to control of the judge holding court in the courtroom.

(13) Subsections (2) to (11) shall not apply to employees serving in the district court in the thirty-sixth district.

(14) Except as provided in section 8273, full-time employees of abolished municipal courts in districts of the third class are transferred to the district court for the city in which they were previously employed and all other full-time employees of abolished courts shall have preferential employment rights in the district court.

(15) Except as provided in section 8273, seniority rights, annual leave, sick leave, and longevity pay and retirement benefits to which employees of abolished courts are now entitled shall be preserved and continued in their positions in the district court in a manner not inferior to their prior status.

(16) Except as provided in section 8275, the obligations of municipalities or other agencies of government for retirement benefits to employees and personnel of abolished courts for their accrued service in such courts shall not be transferred from their present system. Any retirement system available to district court personnel shall provide retirement benefits to employees of abolished courts not inferior to those provided therefor under their prior status.

(17) The role of the chief judge under this section is that of the principal administrator of the officers and personnel of the court and is not that of a representative of a source of funding. The state is not a party to the contract. Except as otherwise provided by law, the state is not the employer of court officers or personnel and is not liable for claims arising out of the employment relationship of court officers or personnel or arising out of the conduct of court officers or personnel.

(18) As used in this section, "locally-funded employees of the district court" means persons employed in the district court in a district who receive any compensation as a direct result of an annual budget appropriation approved by the governing body of 1 or more district funding units of that district, but does not include a judge of the district court.

History: Add. 1968, Act 154, Imd. Eff. June 17, 1968 ;-- Am. 1980, Act 438, Eff. Sept. 1, 1981 ;-- Am. 1996, Act 374, Eff. Oct. 1, 1996 ;-- Am. 1996, Act 388, Eff. Oct. 1, 1996

Constitutionality: The Michigan Supreme Court held in *Judicial Attorneys Association v Michigan*, 459 Mich 291; 597 NW2d 113 (1999), that MCL 600.593a (3)-(10) and parallel provisions of MCL 600.591, 600.837, 600.8271, 600.8273, and 600.8274 violate the separation of powers clause of Const 1963, art 3, § 2 and are unconstitutional. 1996 PA 374 provided that a local council created pursuant to the act or Wayne County became the employer of the employees of the Third Circuit and Recorder's Courts. The Court ruled that because subsections (3)-(10) of MCL 600.593a are not a sufficiently limited exercise by one branch of another branch's power that they impermissibly interfere with the judiciary's inherent authority to manage its internal operations and, therefore, are unconstitutional because they violate the separation of powers clause of Const 1963, art 3, § 2.

Compiler's Notes: Sections 2 and 4 of Act 438 of 1980 provide: "Conditional effective date; action constituting exercise of option; effect of exercising option." Section 2. (1) This amendatory act shall not take effect unless the city of Detroit and the county of Wayne, by resolutions adopted not later than May 1, 1981, by the governing bodies of the city and the county, respectively, agree to assume responsibility for any expenses required of the city or the county by this amendatory act, and the bills listed in enacting section 7 which are enacted and take effect. "(2) If the city of Detroit and the county of Wayne, acting through their governing bodies, agree to assume responsibility for any expenses required of the city and the county by this amendatory act, and the bills listed in enacting section 7 which are enacted and take effect, that action constitutes an exercise of the city's and the county's option to provide a new activity or service or to increase the level of activity or service offered in the city of Detroit and the county of Wayne 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, and a voluntary acceptance by the city and the county of all expenses and capital improvements which may result from establishment of the district court in the thirty-sixth district and the reorganization of the circuit court in the third judicial circuit and the recorder's court of the city of Detroit. However, the exercise of the option does not affect the state's obligation to pay the same portion of each district or circuit judge's salary which is paid by the state to the other district or circuit judges, or to appropriate and disburse funds to the district control units, city, or county, for the necessary costs of state requirements established by a state law, other than this amendatory act or the bills listed in enacting section 7 which becomes effective on or after December 23, 1978." The resolutions referred to in Section 2 were adopted by the city council of the city of Detroit on April 29, 1981, and by the board of commissioners of the county of Wayne on April 30, 1981. "Effective date of certain sections." Section 4. Sections 304, 555, 563, 564, 567, 591, 592, 593, 594, 595, 641, 821, 1114, 1123, 1168, 1302, 1303, 1306, 1417, 1471, 1481, 5706, 8202, 8271, 8272, 8273, 8275, 8281, 8283, 8302, 8314, 8322, 8501, 8521, 8525, 8535, 8621, 9924, 9944, and 9947 shall take effect September 1, 1981."