

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

SENATE BILL NO. 2121
(Judiciary Committee)
(At the request of the Supreme Court)

AN ACT to provide an appropriation for defraying expenses of the judicial branch of state government related to the establishment of two additional district court judgeships; and to amend and reenact sections 27-05-01 and 27-05-02.1 of the North Dakota Century Code, relating to the number of district court judges and vacancies in judicial office.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$875,094, or so much of the sum as may be necessary, to the judicial branch for the purpose of establishing two additional district court judgeships as provided in section 2 of this Act, for the biennium beginning July 1, 2009, and ending June 30, 2011.

SECTION 2. AMENDMENT. Section 27-05-01 of the North Dakota Century Code is amended and reenacted as follows:

27-05-01. Judicial districts - Number of judges.

4. The judicial districts in this state and the number of judges in each of the judicial districts are as designated by rule of the supreme court. ~~The number of judges in each of the judicial districts is as follows:~~
 - a. ~~The northwest judicial district shall have five judges.~~
 - b. ~~The northeast judicial district shall have three judges.~~
 - c. ~~The northeast central judicial district shall have four judges.~~
 - d. ~~The east central judicial district shall have four judges.~~
 - e. ~~The southeast judicial district shall have three judges.~~
 - f. ~~The south central judicial district shall have five judges.~~
 - g. ~~The southwest judicial district shall have three judges.~~
2. ~~Each judicial district has that number of additional judges as designated by rule of the supreme court pursuant to subsection 3 of section 27-05-00.1. The supreme court shall reduce the number of district judges pursuant to section 27-05-02.1 to forty two before January 2, 2001.~~

SECTION 3. AMENDMENT. Section 27-05-02.1 of the North Dakota Century Code is amended and reenacted as follows:

27-05-02.1. Vacancy in office of district judge - Transfer of judgeships - ~~Abolition of offices~~ - Hearing.

1. Notwithstanding section 44-02-03, when a vacancy occurs in the office of district court judge, the supreme court shall determine, within ninety days of receiving notice of the vacancy from the governor and in consultation with the judges and attorneys in the

affected judicial district, whether that office is necessary for effective judicial administration or whether ~~a~~ the district judgeship may be transferred to ~~the~~ another location to fulfill a need for judicial services. The supreme court may, consistent with that determination, order that:

- a. The vacancy be filled in the manner provided pursuant to chapter 27-25; or
 - b. ~~The vacant office be abolished, with or without transfer of a district judgeship as provided by subsection 5; or~~
 - e. The vacant office be transferred to a judicial district in which an additional judge is necessary for effective judicial administration, and that the vacancy be filled in the manner provided pursuant to chapter 27-25 with respect to that judicial district.
2. ~~Subject to subsection 3, the supreme court may, after consultation with district court judges and attorneys in the affected judicial district, abolish one or more offices of district court judge if the supreme court determines that the office is not necessary for effective judicial administration and abolition of the office is necessary to reduce the number of district court judges as required in subsection 2 of section 27-05-01. At least one year before the end of the term of office of a district court judge holding the judgeship, the supreme court shall notify the judges of the affected judicial district of a determination that the judgeship will be abolished. The abolition of an office of district court judge under this subsection is effective at the end of the term of office of the district court judge holding that judgeship. The district court judge holding the judgeship to be abolished may petition the supreme court, within thirty days after receiving notice that the judgeship will be abolished, for a hearing on the determination. The supreme court shall hold the hearing within thirty days after receipt of the petition. Within thirty days after the hearing, the supreme court shall affirm, reverse, or modify its previous determination.~~
3. ~~The authority conferred upon the supreme court in subsection 2 may be exercised:~~
- a. ~~From July 1, 1995, until June 30, 1997, if on July 1, 1995, the number of district court judges is more than forty eight;~~
 - b. ~~From July 1, 1997, until June 30, 1999, if on July 1, 1997, the number of district court judges is more than forty six; and~~
 - e. ~~From July 1, 1999, until December 31, 2000, if on July 1, 1999, the number of district court judges is more than forty two.~~
4. For purposes of subsection 1, a vacancy is also only deemed to have occurred in the office of district judge if the judge in the affected office declares the intention not to seek reelection or if a judge fails to timely file a petition for candidacy with the secretary of state pursuant to section 16.1-11-06. The secretary of state shall immediately notify the supreme court if a judge fails to timely file a petition. The supreme court may establish by rule procedures for providing notice of the intention not to seek reelection. The supreme court, within ninety days of receiving notice of a judge's intention not to seek reelection or within twenty-one days of receiving notice that a judge has failed to timely file a petition for candidacy, shall determine whether the office is necessary for effective judicial administration. The supreme court shall consult with the judges and attorneys of the affected judicial district in making the determination. The supreme court, consistent with that determination, may order any disposition available under subsection 1. The supreme court shall notify the secretary of state of its determination. ~~If the vacant office is abolished, an election for that office may not be held. This subsection applies to notice given by or the failure to timely file a petition for candidacy by a district judge otherwise eligible for reelection to the office of district judge or by a county judge otherwise eligible for election in 1994 to the district judgeship replacing the county judgeship.~~

- ~~5.~~ 3. The supreme court may transfer a district judgeship to any location in which a judge is necessary for effective judicial administration.
- ~~6.~~ 4. The supreme court shall notify the governor of its determinations made pursuant to this section.

SECTION 4. DISTRICT JUDGES. The appropriation provided in section 1 of this Act provides for two additional district court judges to be assigned pursuant to section 10 of article VI of the Constitution of North Dakota in the northwest and southeast judicial districts, and to be assigned to chambers by the supreme court. Within thirty days after January 1, 2010, the judgeship vacancies created by this section shall be filled in accordance with section 13 of article VI of the Constitution of North Dakota.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2121.

Senate Vote: Yeas 45 Nays 1 Absent 1

House Vote: Yeas 92 Nays 0 Absent 2

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,

at _____ o'clock _____ M.

Secretary of State