

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 566 (as enrolled)
Sponsor: Senator William Van Regenmorter
Senate Committee: Judiciary
House Committee: Judiciary

PUBLIC ACT 182 of 1997

Date Completed: 4-16-98

RATIONALE

The Court of Appeals requested increased funding in the fiscal year (FY) 1997-98 Judiciary budget bill (Public Act 105 of 1997) for additional employees and the Court's operational expenses. Court officials suggested that the State could raise some of the revenue for additional appropriations by increasing filing and motion fees in the Revised Judicature Act. Public Act 105 increased the Court of Appeals appropriation, but also specified that, if legislation to increase Court of Appeals filing and motion fees were not enacted and effective by October 1, 1997, the Court's appropriation for FY 1997-98 would be reduced by not more than \$425,000 and its FTE (full-time equated) positions would be reduced by not more than 10. In order to provide the Court of Appeals with the additional authorized appropriation and employees, it was suggested that the Court's filing and motion fees should be statutorily increased and that the October 1 deadline should be dropped.

CONTENT

The bill amended the Revised Judicature Act (RJA) to increase certain fees payable to the Court of Appeals, and create a new fee for a motion for immediate consideration or to expedite an appeal. Prosecuting attorneys are exempt from the new fee. The bill also repealed the section of Public Act 105 of 1997 that provided for decreased appropriations if the new fees were not enacted and effective by October 1, 1997. The bill took effect on January 1, 1998.

The bill increased to \$250 from \$200 the fee for an appeal as of right, an application for leave to appeal, or an original proceeding. The RJA specifies that this fee must be paid only once for appeals that are taken by multiple parties from the

same lower court order or judgment and can be consolidated.

The bill also increased from \$50 to \$75 the fee for entry of any motion upon the motion docket. Upon entry of a motion for immediate consideration or a motion to expedite appeal upon the motion docket, however, the fee is \$150. The bill specifies that this new \$150 fee must be paid only once, regardless of the number of lower court files involved in the appeal. A prosecuting attorney is exempt from paying the \$150 fee when filing a motion for immediate consideration or a motion to expedite appeal with regard to an appeal arising out of a criminal proceeding.

MCL 600.321

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

The bill facilitates the generation of additional revenue necessary to provide the Court of Appeals with its authorized appropriation increase in the Judiciary budget for FY 1997-98. Public Act 105, which provides for this year's Judiciary budget, specified that if Court of Appeals filing and motion fees were not legislatively enacted and effective by October 1, the Court's FY 1997-98 appropriation was to be reduced by up to \$450,000. Senate Bill 566 enacted the necessary increases as well as repealed the deadline specified in Public Act 105, so it meets the requirement for the Judiciary's operational expenses.

In addition, the bill provides for a larger increase for motion fees when a motion is for immediate

consideration or to expedite an appeal upon the motion docket. Previously, there was one fee for filing a motion, regardless of whether it was for immediate consideration or expediting appeal or for any other purpose. It stands to reason, however, that if priority or expediency is sought, the fee for filing that motion should be greater than for filing other motions. The bill's higher fee for such a motion is fair and equitable.

Response: The bill's increase of the motion fee for motions for immediate consideration or to expedite an appeal is insufficient to cover the costs involved in dealing with these motions. Reportedly, processing an emergency appeal costs on average \$433.45 (and this figure applies in situations in which there are only two parties and the pleadings are filed correctly); the bill's \$150 motion fee will not cover these costs.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The fee increases in the bill will generate approximately \$362,500 in FY 1997-98 and \$375,000 on a full-year basis. The FY 1997-98 budget included appropriations based on fee increases that would generate \$425,000. Therefore, the Court of Appeals will have a revenue shortage of approximately \$62,500 in FY 1997-98.

Fiscal Analyst: B. Bowerman

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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.