

# Legislative Analysis



## LEGISLATIVE INTERVENTION IN COURT CASES

Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**House Bill 6553 as enrolled**  
**Sponsor: Rep. Rob VerHeulen**  
**House Committee: Government Operations**  
**Senate Committee: Government Operations**  
**Complete to 2-4-19**

Analysis available at  
<http://www.legislature.mi.gov>

*(Vetoed by the Governor 12-28-18)*

### SUMMARY:

House Bill 6553 would amend Chapter 2 of the Revised Statutes of 1846 (“Of the Legislature”) by adding a new section to authorize the legislature and each house of the legislature to intervene in any action in any court of this state if the legislature or house felt the intervention necessary to protect a right or interest of that body because a party to the action challenges the constitutionality of a state statute or the validity of legislation or any action of the legislature.

The right of intervention proposed by the bill would exist at any stage of the proceeding. Each house could prosecute an appeal or apply for a rehearing or take any other action that could be taken by any of the parties to the litigation. This right of intervention would apply to all matters pending when the bill takes effect and to any filed later. The new section would not limit any right or duty of the attorney general provided by law. Intervention under the new section would not be a waiver of legislative immunity. Each house could adopt rules to facilitate the bill’s provisions.

Proposed MCL 4.83a

### FISCAL IMPACT:

House Bill 6553 could potentially create new costs for the legislature, which would be directly related to the number and complexity of cases in which the legislature chose to intervene. It is unclear if the legislature would hire additional staff or contract with outside legal counsel to perform any functions authorized under the bill. According to the State Bar of Michigan 2017 Economics of Law Practice Attorney Income and Billing Rate Summary Report, the median hourly billing rate for a private attorney is \$250. Using the average cost of an Assistant Attorney General, each legal staff person hired could increase costs by approximately \$180,000 annually.

The bill could also have an indeterminate fiscal impact on local court funding units. Any new costs would depend on how provisions of the bill affected court caseloads and related administrative costs.

**Vetoed 12-28-18:**

In his veto message, Governor Snyder wrote that “[t]he governor, as chief executive officer of the state, is responsible for managing the litigation position of the State as an entity. This legislation, while well-intentioned to ensure that the laws duly passed by the legislature and signed by the governor are properly defended, would serve only to complicate the management of that litigation.”

He also noted that “legislators routinely seek intervention in litigation in which they are interested through the ordinary intervention process in the Michigan Court Rules. That process has seemingly worked well at ensuring legislators have a say in litigation in which they are interested. Moreover, legislators are permitted to request permission to file amicus briefs to ensure that courts are made aware of their unique perspectives on matters.”

He concluded that “the current process has worked well to ensure the legislature’s position is considered.”

He added: “Furthermore, were this legislation in place during my term as governor, I believe it would have limited my office’s ability to coordinate and manage the defense of the state in lawsuits. Accordingly, I do not believe it prudent to sign this legislation as my term as governor comes to an end.”

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.